

A Critical Feminist Assessment of Nigeria's Response to Conflict-Related Sex and Gender-Based Violence in the Light of the United Nations Women Peace and Security Agenda

Seember Aondoakura

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**Common Law Section
Faculty of Law
University of Ottawa**

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Definition of Terms

This section lists and explains the terms used in the study and how their meaning is construed relative to the study.

Colonial Structures: refers to socio-economic and political relics of colonisation in the former colonial territories that ensure the continued domination of the legal, political and economic landscape by the former colonial powers.

Conflict-Related Sexual Violence (CRSV): sexual violence committed during the course of warfare, whether directly connected to violent conflict or made possible by the presence of violent conflict.

Conflict-Related SGBV refers to sexual and gender-based violence committed in the context of violent conflicts in Nigeria, both by armed non-state actors and state security forces.

Feminist Peace: feminist ideas of resolving violent conflict that transcend the cessation of violent conflicts to account for the transformation of structural factors that negatively affect women and girls in society, leading to the aggravation of their experiences of violent conflict.

Gender as a Construct: In this study, gender as a construct refers to the understanding that gender is not an innate or fixed characteristic, but a social and cultural concept created and reinforced through societal norms, expectations, and practices. It recognises that gender is not determined solely by biology but is shaped by the social, cultural, and historical context in which individuals live and that these socially constructed ideas could be imposed on people and, in the case of women and girls, become the basis upon which they are subjected to egregious oppressive practices that undermine their humanity.

Gendered Crimes: crimes that people experience during conflicts due to societal perceptions of their roles and relevance to society and how these roles and positions can be manipulated for the furtherance of the violent conflict enterprise

Gender Justice: justice models intended to address or be made responsive to the victimisation that comes as a result of gender crimes.

Gender Responsive Laws/Policies: laws and policies made to address and redress the uniqueness of victims' experiences based on societal constructions of gender.

International/State Security Architecture: An interconnected set of laws and policies across the UN or state spectrum intended to address several aspects of insecurity challenges in society. The WPS Agenda is a component of this architecture.

Militarism: refers to a policy or belief prioritising military power over other values such as economic empowerment, access to healthcare and education, and more. This can take various forms, including glorifying military strength, increasing military spending and influence, and preferring military solutions to conflicts. Militarism promotes the idea that military force is the best way to resolve disputes, even when other options are available. It can also foster a culture that values aggression and dominance, making peaceful conflict resolution and diplomacy more challenging. During a war, Militarism may lead to the belief that victory can only be achieved through overwhelming military force rather than negotiation or compromise. Militarism and war are closely linked, as Militarism can encourage the acceptance of war as a solution to conflicts and contribute to the continuation of wars once they have started.¹

Security: The term security, as used here, refers to protection from all physical, economic, political and psychological threats that women and girls are exposed to as a result of violent conflict. This understanding of women's security is inspired by the United Nations Development Programme (UNDP) definition of human security, which defines security as encompassing physical,

¹ Anne Leander, "Militarization Matters: Rhetorical Resonances and Market Militarism" (2022) 10:2 Critical Military Studies, 147.

economic, political and psychological threats to people in any given context.² This report introduced the concept of human security and expanded the understanding of security beyond traditional military concerns to include economic, food, health, environmental, personal, community, and political aspects. The focus on human security touches on the physical and psychological threats individuals face, including those specific to women and girls in violent conflicts.

Sex and Gender-Based Violence (SGBV): refers to the forms of violence directed at women and girls due to their biological sex and the societal roles and expectations imposed on them. This encompasses the violence they endure in conflict situations, rooted not only in their sex but also in the gendered roles they are expected to fulfil, such as being wives, caregivers, or objects for fulfilling male sexual desires. It is important to clarify that while my research focuses on SGBV, in the literature review, terms like sexual violence and conflict-related sexual violence (CRSV) may be used interchangeably, especially in the literature review section. This variation in terminology reflects how different scholars have chosen to define or emphasise certain aspects of this violence in their studies, aiming to capture specific nuances or contexts within their research.

Sexual Violence: an act committed against a person's sexual integrity without the consent of the person.

Third World: The term Third World here is not seen strictly in geographic or economic terms but as a political and intellectual project, representing a collective of states, peoples, and movements that have historically been marginalised or oppressed by colonialism, imperialism, and global power structures. I use the term in this study to highlight the inequalities and injustices, which are usually known to be perpetuated by powerful (Western, and highly industrialised) states through

²See United Nations Development Programme (UNDP), Human Rights Report (New York: Oxford University Press, 1994), 22. See also Richard Jolly and Deepayan Basu Ray, "The Human Security Framework and National Human Development Reports" (2006) 5 United Nations Development Programme Occasional Paper, 5.

the instrumentality of international law but, in the context of the study, are used by national authorities that apply the same oppressive principles to achieve control and subjugation of the masses. The term Third World is preferred over the term Global South because the term Global South is sometimes viewed as a more geographically oriented term that may not fully capture the political and historical dimensions that the term Third World addresses.

Violent Conflict: refers to any type of armed conflict or war, including civil wars, insurgencies, sustained acts of disruptive violence, and terrorism.

Abstract

This study examines the implementation of the Women, Peace, and Security Agenda (WPS) within national boundaries, focusing on the protection of women and girls' rights against sexual and gender-based violence (SGBV) during conflicts. The WPS Agenda aims to safeguard women in conflict situations and prioritise their rights and participation in peacebuilding and post-conflict reconstruction. A crucial aspect of advancing the WPS Agenda is the role of states, which are expected to fulfil their commitments by developing National Action Plans (NAPs). While the creation of NAPs can be considered an indication of a state's commitment to the WPS Agenda, this study demonstrates that the existence of NAPs alone does not provide sufficient insight into a state's actual implementation efforts or willingness to advance the Agenda's goals. Taking examples from Nigeria, this research illustrates that the mere existence of NAPs only sometimes translates into effective implementation. The study delves into Nigeria's NAPs and subsequent developments to assess how the WPS Agenda has been integrated into the country's legal framework to lay the structures necessary to enhance the protection of women from conflict-related SGBV when enforcement is done. By analysing the gap between policy formulation (NAP), laying of legal structures and enforcement or lack thereof, this study highlights the importance of evaluating the tangible actions states take beyond the creation of NAPs to truly measure their commitment to the WPS Agenda.

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Declaration on Use of Artificial Intelligence (AI)

I declare that I have employed various AI tools, including Grammarly, ChatGPT, and Google, to assist in this research. Specifically, I used Grammarly to refine my sentences and to ensure that there are no similarities between my work and other materials. Additionally, I relied on Google and ChatGPT for research purposes. I used ChatGPT to generate summarised ideas on topics that I subsequently researched further and developed.

CHAPTER ONE: Introduction

1.0 Background to the Study

This thesis undertakes a critique of how member states of the United Nations (UN), such as Nigeria, undertake the requirements of protecting women and girls from conflict-related sexual and gender-based violence (conflict-related SGBV) resulting from violent conflict as stipulated by the Women, Peace and Security Agenda (WPS Agenda, the Agenda) Resolutions passed by the UN Security Council (UNSC).

The WPS Agenda serves as a framework aimed at tackling the disproportionate effects of violent conflict on women and girls. It seeks to alleviate their suffering, empower them, promote their involvement in peace initiatives, and guarantee their access to relief and recovery resources. A key aspect of implementing the WPS Agenda involves the responsibility of states to convert global commitments into actionable plans at national and local levels. States thus create National Action Plans (NAPs) that detail strategies for boosting women's engagement in peace efforts, safeguarding women and girls from SGBV and embedding gender considerations into security and defence policies. By dedicating resources, passing laws, and collaborating with civil society organisations, states also play a critical role in tracking and reporting progress, ensuring accountability to international standards and obligations.³

States are encouraged to commit to implementing the WPS Agenda by creating NAPs. This is evident through the WPS Agenda Resolutions, technocratic initiatives, and efforts by UN entities. For example, in 2007, the UN Secretary-General (UNSG) urged member states to incorporate gender considerations into their peace efforts by developing NAPs.⁴ UN Women explains that

³ More details on these subsequently in this chapter.

⁴ UN Security Council, Report of the Secretary-General on conflict-related sexual violence, S/2018/250, 23 March 2018. Online: <<https://www.refworld.org/reference/countryrep/unsc/2018/en/120954>>, 2.

NAPs are “the main mechanisms by which global WPS frameworks are translated into concrete strategies, actions and outcomes at the national level.”⁵ Through NAPs, national governments are seen expressing their priorities, committing resources to meet the goals of the WPS Agenda, and soliciting important international partnerships.⁶ Consequently, NAPs have become a crucial yardstick for measuring states’ compliance with the implementation of the WPS Agenda not just within the UN but also among the international community.⁷ For example, Peace Women meticulously tracks the NAPs of states as a way of keeping the international community informed of states’ commitments to the implementation of the WPS Agenda.⁸

In this study, I demonstrate that while the creation of NAPs is a crucial first step in the process of states domesticating WPS commitments, they must not be seen as a guarantee that states are committed to implementing the Agenda. This study illustrates that apart from the existence of NAPs, the commitment of states to advance the WPS Agenda can be assessed by looking at other policy and legal initiatives that states have set in place as part of the implementation process. In other words, how many of the WPS Agenda ideas one can find within states’ legal and administrative structures will provide a critical layer to assess states’ commitment to implement the WPS Agenda.

WPS imperatives are commonly used by civil society organisations (CSOs) and non-governmental organisations (NGOs), where they are employed to advocate for women’s rights and

⁵ UN Women Independent Evaluation Service, The Women, Peace and Security National Action Plan Issue. (2021) 21 Transform: The Magazine for Gender-Responsive Evaluation, 4-5. Online: <<https://www.unwomen.org/sites/default/files/Headquarters/Attachments/Sections/Library/Publications/2021/TRANSFORM-issue21-202106-en.pdf>>

⁶ Peace Women, National Action Plans at a Glance. Online: <<https://1325naps.peacewomen.org/>>

⁷ *Ibid.*

⁸ *Ibid.*

gender equality.⁹ While CSOs and NGOs have done commendable work and remain vital actors in advancing the WPS Agenda,¹⁰ the state is a strategic and critical actor, necessitating an assessment of their commitments beyond NAPs. One way to continue evaluating states' commitment is to identify and assess states' initiatives following the formulation of NAPs. As will be evident subsequently in this chapter, conflict-related SGBV remains a significant challenge in Nigeria and in many other places subjected to violent conflict, even more than twenty years after the introduction of the WPS Agenda in international peace and security. As the study reveals in Chapter Two, while there is a vast body of literature that offers various explanations for the gap between what the WPS Agenda promises and what is being achieved, there is still the need to understand more deeply how states incorporate, or fail to incorporate, WPS Agenda obligations. Evaluating how WPS Agenda ideas are incorporated nationally will provide essential clues on why this challenge continues.

The present study contributes to understanding the dynamic incorporation of the WPS Agenda within states by assessing the broad process of domesticating the WPS Agenda within Nigeria's legal system. The intention is to unveil what potential these efforts reveal about the capacity of the WPS Agenda ideas to provide avenues for legal redress and accountability for conflict-related SGBV. In essence, this study's contribution is solely to understand the legal measures in place to implement the WPS Agenda in ways that can ensure that perpetrators of conflict-related SGBV are held accountable for their crimes and that victims access justice for such crimes.

⁹ See, for example, the work of Women's Rights Advancement and Protection Alternatives (WRAPA). Online: < <https://www.wrapanigeria.org/>> WRAPA leverages the WPS Agenda in its programs and gender advocacy initiatives by promoting women's participation in peacebuilding and conflict resolution processes, advocating for women's rights in conflict situations, and addressing gender-based violence. WRAPA also ensures that women's voices are heard in decision-making processes related to peace and security. Through its programs and initiatives, WRAPA aims to promote gender equality and empower women to participate fully in all aspects of society.

¹⁰ See generally Vanessa F Newby, Alanna O'Malley, "Introduction: WPS 20 Years On: Where Are the Women Now?" (2021) 1:3 Global Studies Quarterly, 1. DOI: <https://doi.org/10.1093/isagsq/ksab017>

1.1 The WPS Agenda: Development and Thematic Focus

The WPS Agenda was developed around four thematic areas: prevention, protection, participation, relief and recovery. The Agenda is advanced primarily by UNSC Resolutions intended to address several aspects of the problem of SGBV.¹¹ Its inaugural resolution, United Nations Security Council Resolution 1325, was adopted in 2000 (Resolution 1325). Resolution 1325 sets out the four primary areas of the Agenda highlighted above—prevention, participation, protection, relief and recovery. The table below illustrates the key focal points of the Agenda and what they address.

Thematic depiction of the WPS Agenda		
<i>S/N</i>	<i>Pillar</i>	<i>Description</i>
1	Prevention	This pillar focuses on preventing conflict and all forms of violence against women and girls, including sexual and gender-based violence. It emphasises the importance of women's roles in conflict prevention and the need for gender-sensitive early warning systems and conflict analysis.
2	Protection	This pillar aims to protect the rights of women and girls during and after conflicts. It includes measures to ensure their safety, physical and mental health, and economic security. Protection efforts also address the specific needs of women and girls in humanitarian settings and seek to prevent and respond to sexual and gender-based violence.
3	Participation	The participation pillar advocates for the inclusion of women in all peace and security decision-making processes. This includes their involvement in peace negotiations, peacebuilding, and post-conflict reconstruction. The goal is to ensure that women's perspectives and needs are considered in all aspects of peace and security.
4	Relief and Recovery	This pillar focuses on ensuring that relief and recovery efforts address the specific needs of women and girls. It promotes gender-responsive approaches in humanitarian aid, reconstruction, and development programs. This includes ensuring women's access to resources, services, and economic recovery and empowerment opportunities.

¹¹ There was a 10th Resolution passed in 2020 because of the covid-19 pandemic, but that Resolution did not add to the Agenda in any substantive way. This resolution emphasises the importance of women's participation in peace and security efforts, particularly in the context of the COVID-19 pandemic. It calls for the protection of women and girls caught up in conflict situations during the COVID-19 pandemic and stresses the need for their involvement in decision-making processes related to peace and security. Basically, the Resolution reinforced the commitments to the WPS Agenda during the COVID-19 pandemic. See <[UN Documents - S/RES/2532 \(2020\)](#)>

Each of the Resolutions passed to advance the WPS Agenda stipulates how the Agenda should safeguard various aspects of women's rights and security in conflict contexts. The table below gives a concise overview of each Resolution and its primary focus within the WPS Agenda.

The WPS Agenda Resolutions and Their Key Stipulations

<i>S/No</i>	<i>Resolutions</i>	<i>Key Stipulation</i>
1	UNSC Resolution 1325 (2000)	Reaffirms women's key role in conflict resolution and peacebuilding. Recognises the impact of conflict on women and girls; calls for increased participation of women in peace processes and decision-making; emphasises the protection of women and girls in conflict zones.
2	UNSC Resolution 1820 (2008)	Addresses sexual violence as a tactic of war; calls for the prevention of sexual violence and the protection of women and girls; emphasises accountability for perpetrators.
3	UNSC Resolution 1888 (2009)	Strengthens efforts to end sexual violence in conflict; calls for the appointment of a special representative on sexual violence in conflict; emphasises the need for leadership and coordination.
4	UNSC Resolution 1889 (2009)	Focuses on women's participation in peacebuilding and post-conflict recovery; calls for the development of indicators to measure progress on Resolution 1325.
5	UNSC Resolution 1960 (2010)	Establishes a monitoring and reporting mechanism on sexual violence in conflict; calls for the listing of parties credibly suspected of committing sexual violence.
6	UNSC Resolution 2106 (2013)	Reinforces previous resolutions on sexual violence; emphasises the importance of women's participation in combating sexual violence; calls for improved monitoring and reporting and the need for accountability.
7	UNSC Resolution 2242 (2015)	Links the WPS Agenda with counter-terrorism and countering violent extremism; calls for increased funding for gender-responsive training and capacity-building.
8	UNSC Resolution 2467 (April 2019)	Emphasises a survivor-centred approach to addressing sexual violence in conflict; calls for improved access to justice and services for survivors.
9	UNSC Resolution 2493 (October 2019)	Reiterates the need for the full implementation of all previous WPS Resolutions. It calls for increased support for women's participation in peace processes and the integration of gender perspectives into all aspects of peace and security. Additionally, it stresses the importance of ensuring women's rights and addressing barriers to their participation in peacebuilding efforts.

Given that the goal of this research is to critique how states fulfil their responsibility to protect women from SGBV resulting from violent conflict, rather than conducting a complete review of the WPS Resolution, the following section highlights the Resolutions which calls for states' direct action.¹²

1.2 The WPS Resolutions: Calls for State Action

The WPS Agenda Resolutions include provisions that call on different actors, such as state parties, the UNSC, UN entities, and civil society organisations (CSOs), to address the challenges women face during violent conflicts. In the following explanation, I will outline the responsibilities of states as stated in the Resolutions and highlight the implicit duties that states are expected to fulfil throughout the Resolutions.

Resolution 1325 (2000) urges states to increase representation of women in all decision-making at all “levels in national, regional and international institutions and mechanisms for the prevention, management, and resolution of conflict.”¹³ It also encourages states to increase financial support, technical, and logistical support to enhance gender-sensitive training. This includes support for initiatives by organisations such as the United Nations Fund for Women, UN Children’s Fund, the UN High Commissioner for Refugees, and other relevant bodies.¹⁴

Resolution 1325 also requests the UNSG to provide “training guidelines and materials on the protection, rights and the particular needs of women, as well as on the importance of involving women in peacekeeping and peace-building measures”,¹⁵ urging states to incorporate these measures in national training programmes for the military and civilian police personnel in

¹² To access the information I have tabulated above, go to Peacewomen, “Resolutions texts and Translations”.
Online: <<http://www.peacewomen.org/resolutions-texts-and-translations>>

¹³ UN Security Council, Security Council Resolution 1325 (2000) [on women and peace and security] S/RES/1325 (31 October 2000), Paragraph 1. [Hereafter Resolution 1325 (2000)]

¹⁴ Paragraph 7, Resolution 1325 (2000).

¹⁵ Paragraph 6, Resolution 1325 (2000).

preparation for deployment.¹⁶ Resolution 1325 also calls on all parties to armed conflicts “to take special measures to protect women and girls from gender-based violence, particularly rape and other forms of sexual abuse, and all other forms of violence in situations of armed conflicts”.¹⁷ Resolution 1325 also stresses the role of states to work towards ending impunity and to prosecute those responsible for war crimes, especially those relating to SGBV, and where possible, such crimes should not be included in amnesty provisions.¹⁸

Resolution 1820 (2008) urges member-states to comply with their obligation to prosecute sexual violence; ensure that all victims, particularly women and girls are equally protected by law; and end impunity for such acts.¹⁹ It also calls for all involved parties to enhance the capabilities of national institutions in aiding victims of sexual violence. It urges all involved parties, including member states, UN entities, and financial institutions, to support the development and enhancement of the capabilities of national institutions, particularly judicial and health systems, as well as local civil society networks.²⁰

Resolution 1888 (2009) also encourages a greater deployment of female military and police peacekeepers by states and offer gender-based training.²¹ Resolution 1888 encourages UN collaboration with member states in developing joint government-UN comprehensive strategies to combat sexual violence.²²

Resolution 1960 (2010) acknowledges that sexual violence can constitute a crime against humanity or be an integral act of genocide. It further emphasises that rape and other severe types

¹⁶ *Ibid.*

¹⁷ Paragraph 10, Resolution 1325 (2000).

¹⁸ Paragraph 10, Resolution 1325 (2000).

¹⁹ UN Security Council, Security Council Resolution 1820 (2008) [on acts of sexual violence against civilians in armed conflicts], S/RES/ 1820 (2008), (19 October 2008), Paragraph 4. [Hereafter Resolution 1325 (2008)].

²⁰ Paragraph 13, Resolution 1325 (2008).

²¹ Paragraph 19, Resolution 1888 (2008).

²² UN Security Council, Security Council Resolution 1888 (2009) [on acts of sexual violence against civilians in armed conflicts], S/RES/1888(2009) (September 2009), Paragraph 23. [Hereafter Resolution 1888 2009].

of sexual violence found in armed conflict are considered war crimes. Member states are urged to fulfil their obligations by investigating and prosecuting individuals within their jurisdiction who are responsible for such crimes, thereby combating impunity. Additionally, the Resolution encourages member states to incorporate the full spectrum of sexual violence crimes into their national penal codes to facilitate legal trials. Resolution 1960 encourages effective investigation and documentation of sexual violence in armed conflict is crucial for both bringing perpetrators to justice and ensuring survivors have access to justice.²³

The Resolution encourages member states to increase funding for WPS initiatives. This includes providing more aid in conflict and post-conflict situations to support programs that promote gender equality and women's empowerment. It also involves supporting civil society and assisting countries in conflict and post-conflict situations through capacity-building efforts to implement WPS Resolutions. The Resolution calls for enhanced international development cooperation focused on empowerment and gender equality.²⁴

Resolution 2242 (2015) also requests member states to integrate their programs on WPS with counter-terrorism measures generated within the state or in partnership with external bodies such as the UN.²⁵ Resolution 2242 encourages member states and relevant UN bodies to conduct gender-sensitive research and data collection on the factors driving radicalisation for women. The Resolution also calls for the assessment of the impacts of counter-terrorism strategies on the rights of women. The purpose is to develop targeted and evidence-based policy and programming responses. Additionally, it aims to ensure that UN monitoring, and assessment mechanisms have

²³ UN Security Council, Security Council Resolution 1969 (2010) [on women peace and security], S/RES/1960(2010), (16 December 2010), Paragraph 2. [Hereafter Resolution 1969 (2010)].

²⁴ Paragraph 3, Resolution 1960 (2010).

²⁵ UN Security Council, Security Council Resolution 2242 (2015) [on women and peace and security] S/RES/2242 (2015), (13 October 2015), Paragraph 11. [Hereafter Resolution 2242 (2015)].

the necessary gender expertise to prevent and respond to violent extremism conducive to terrorism. This includes relevant sanctions expert groups and bodies established to conduct fact-finding and criminal investigations.²⁶

Resolution 2242 urges states and the UN to involve women and women's organisations in developing strategies to counter terrorism and violent extremism. It also emphasises the importance of addressing conditions that contribute to the spread of terrorism and violent extremism, including empowering women, youth, and religious and cultural leaders.²⁷

Resolution 1960 (2010) urges member states to strengthen access to justice for women in conflict and post-conflict situations, including through the prompt investigation, prosecution and punishment of perpetrators of sexual and gender-based violence, as well as reparation for victims as appropriate, notes that the fight against impunity for the most severe crimes of international concern committed against women and girls has been strengthened through the work of the International Criminal Court, ad hoc and mixed tribunals, as well as specialised chambers in national tribunals and reiterates its intention to continue forcefully to fight impunity and uphold accountability with appropriate means.²⁸

Resolution 1960 (2010) urges member states, UN entities, and intergovernmental, regional, and subregional organisations to consider the unique impact of conflict and post-conflict environments on the security, mobility, education, economic activity, and opportunities for women and girls. This is to reduce the risk of women becoming involved in the illicit transfer of small arms and light weapons.²⁹

²⁶ Paragraph 12, 2242 (2015).

²⁷ Paragraph 13, 2242 (2015).

²⁸ Paragraph 14, Resolution 1960 (2010).

²⁹ Paragraph 15, Resolution 1960 (2010).

Resolution 2467 (April 2019) encourages national legislatures to strengthen legislation to foster accountability for sexual violence. The Resolution “stresses the critical role of the domestic investigation and judicial systems of member states to prevent and eliminate sexual violence in conflict and to ensure accountability for those responsible.”³⁰ Resolution 2467 (April 2019) encourages support capacity building for women-led and survivor-led organisations and urges member states to support CSOs to improve informal community-level protection mechanisms in conflict and post-conflict situations, and to enhance CSOs support of women’s engagement in peace processes as a way of conflict prevention.³¹

Resolution 2467 (April 2019) also calls upon member states and the UN to support countries affected by armed conflicts to address sexual violence in the context of security sector reform processes, including enhancing military structures and putting in place safeguards through vetting to prevent the employment of sexual offenders, or their being retained or promoted within the security forces.³²

Resolution 2467 (April 2019) affirms that victims of sexual violence in conflict should have access to national relief and reparations programs, as well as healthcare, “psychosocial care, safe shelter, livelihood support, and legal aid.”³³ Additionally, the Resolution aims to reduce the sociocultural stigma attached to this type of crime and to facilitate rehabilitation and reintegration efforts.³⁴

Resolution 2493 (October 2019) urges member states to commit to implementing the WPS Agenda and its priorities by ensuring and promoting the full, equal and meaningful participation

³⁰ UN Security Council, Security Council Resolution 2467 (2019) [on women and peace and security], S/RES/2467 (2019), (23 April 2019), Paragraph 3. [Hereafter Resolution 2467 (23 April 2019)].

³¹ Paragraph 20, Resolution 2467 (23 April 2019).

³² *Ibid.*

³³ Paragraph 28, Resolution 2467 (23 April 2019).

³⁴ Paragraph 28, Resolution 2467 (23 April 2019).

of women in all stages of peace processes, including through mainstreaming a gender perspective, and remain committed to increasing the number of civilian and uniformed women in peacekeeping at all levels and in key positions.³⁵ It notes the importance for member states to support peace processes by ensuring the full, equal, and meaningful inclusion and participation of women in peace talks from the beginning. This includes having women represented in negotiating parties' delegations and in the mechanisms established to implement and monitor agreements. Member states are encouraged to provide timely support to women to enhance their participation and build their capacity in peace processes, addressing the current unequal representation and participation of women in peace and security processes.

Additionally, member states are strongly encouraged to create safe and supportive environments for civil society, including formal and informal community women leaders, women peacebuilders, political actors, and human rights advocates, to independently carry out their work without interference, especially in armed conflict. It is crucial to address any threats, harassment, violence, and hate speech against them.³⁶

The above stipulations require the state to act or refrain from certain activities considered harmful to the peace and security of women caught up in conflict-affected areas. This further underscores the relevance of states' incorporation of the WPS Agenda, as this marks an essential first step in fulfilling the responsibilities stipulated in the Resolutions. As highlighted later in Chapter Two (literature review), the unique role of states in implementing the WPS Agenda has largely escaped critical scholarly attention.

³⁵ UN Security Council, Security Council Resolution 2493 (2019) [on women and peace and security agenda], S/RES/2493 (2019), (October 29, 2019), Paragraph 2. [Hereafter Resolution 2493 (2019)].

³⁶ Paragraph 7, 2493 (October 29, 2019).

While states are not the only entities responsible for implementing the WPS Agenda, as even a review of the WPS Resolutions above reveals the significant roles the Resolutions have assigned to other actors, such as UN entities like UN Women, technocrats like the UNSG, and civil society organisations, in advancing the Agenda. However, much of the scholarly critique has focused on the UN as an organisation, its entities, technocrats, and, to a lesser extent, regional organisations like the African Union (AU) and the European Union (EU). While these critiques have enriched our understanding of the WPS Agenda, they provide little insight into how the Agenda is being integrated within state boundaries and local contexts where SGBV occurs. As the next section on the study's objectives will explain, this research aims to evaluate state initiatives in localising and advancing the WPS Agenda as important to a fuller understanding of the limits and potential of the Agenda.

1.3 Objectives of the Research

The objective of this study is to track the domestication of the WPS Agenda's Protection pillar in the Nigerian context with a focus on state accountability measures specific to acts of SGBV during conflict. The study explores how Nigeria has integrated the WPS Agenda into its legal and policy frameworks to enhance its implementation in ensuring protection and by extension accountability through legal redress for conflict-related SGBV. It specifically examines the legal and policy initiatives that have emerged in the country, identifying those that can be linked to and could play significant roles in advancing accountability for conflict-related SGBV. The study critiques how the WPS Agenda is integrated into Nigeria's legal system as a necessary step for its effective implementation, aiming to ensure that those who commit SGBV crimes are held accountable.

1.4 Motivation for the Study

My motivation for embarking on this project is borne out of my own experiences of violent conflicts, which marked my late teen and early adult years. The uncertainty and constant fear these events evoked left me with an understanding that every day I am offered is precious and should be used to make the world a better place. This project is one such attempt.

I initiated this study to investigate the persistent challenge of women's sexual and gender-based victimisation during conflict that has remained despite a lot of rhetorical commitments from the Nigerian government. Growing up in Tivland, a small farming community in north-central Nigeria, I observed a recurring threat of violent extremism that posed a significant risk to my community and several others. While everyone was affected, these events particularly affected women and children gravely. Initially perceived as isolated incidents of violence possibly stemming from disputes over limited farmlands versus grazing lands, these conflicts, despite their temporary nature, left enduring impacts on the affected communities, regardless of the outcome.

As I progressed into the university, the escalation of the Boko Haram conflict in northeast Nigeria expanded to encompass the entire north-central region, including my community. Concurrently, the incursions of Fulani militias into farming communities in the north-central areas exacerbated the prevailing insecurity that intensified from the early 2000s. While I witnessed and experienced the brutal acts of violence perpetrated against peaceful farming communities, often under the cover of darkness, it revealed a striking absence of timely state intervention and protection for unarmed citizens. The disproportionate burden of insecurity borne by women and girls prompted a critical inquiry into the perceived inadequacies of state responses to these challenges.

Throughout my career as a legal practitioner following graduation from law school, I encountered communities ravaged by these conflicts, with Boko Haram gaining global notoriety

as a terrorist organisation and the Fulani militias³⁷ becoming more audacious and brazen in their attacks on farming communities. While completing my master's degree in international humanitarian law and conflict, I became aware that the UN had an international framework meant to address these challenges and that Nigeria had committed to implementing the Agenda since 2013. This contrasted my experiences, and I became interested in how the WPS Agenda can be employed to bring timely intervention to people who need it. This ignited in me a resolve to explore the implementation of the WPS Agenda in Nigeria. Initial research I conducted confirmed my experience: that despite the WPS Agenda, women continue to bear the brunt of armed violence in their communities. What, then, is the missing link? That became my preoccupation. This project is my humble attempt to connect the dots between the UN WPS Agenda, Nigeria's commitment to implement that Agenda, and the reality that women and girls still suffer egregious harm resulting from violent conflicts occurring in Nigeria.

1.5 Project Statement

Despite over two decades since the inception of the WPS Agenda, academic discourse reveals a divide regarding the Agenda's potential to address SGBV during violent conflict and its aftermath. Proponents laud the Agenda for revolutionising the traditionally male-dominated discourse on security at the UN and beyond, suggesting a significant paradigm shift.³⁸ Conversely,

³⁷Fulani militias in Nigeria are armed groups primarily composed of members of the Fulani ethnic group. They have been involved in various conflicts and clashes with farmers, leading to a significant increase in violence in certain regions of the country. The Fulani militias are often referred to as "bandits" and have been responsible for a range of criminal activities, including attacks on communities, cattle rustling, kidnapping for ransom, and other forms of terroristic violence. It is important to note that not all members of the Fulani community are involved in these militias, and the actions of these groups do not represent the entire Fulani population. For more see generally Andrew McGregor "The Fulani Crisis: Communal Violence and Radicalisation in the Sahel", (February 2017) 10:2 Point CTC Sentinel, 34.

³⁸See Heidi Hudson, "The Power of Mixed Messages: Women, Peace, and Security Language in National Action Plans from Africa" (2017)52:3 Africa Spectrum. 4; Heidi Hudson & Natalie Florea, "Gender, Human Security and the UN: Security Language as a Political Framework for Women" (2009) 8:1 Journal of Human Rights, 53-70; Torun Tryggstad, "Trick or Treat? The UN and Implementation of Security Council Resolution on Women, Peace, and Security (2009) 15:4 Global Governance, p. 539-557; Torun Tryggstad, "The UN Peacebuilding Commission and Gender: A Case of Norm Reinforcement" (2010) 17:2, International Peacekeeping, p. 159-171.

other commentators argue that the WPS Agenda has faced challenges in fully transforming established gender power dynamics within the conceptualisation and response to security issues.³⁹ In other words, while the Agenda has made significant strides in promoting a gendered perspective and enhancing women's participation in peace processes, there remain areas where further progress is needed to ensure a more comprehensive integration of gender considerations in security frameworks. A phenomenon commonly known as the “implementation gap.”⁴⁰ However, little is known about this implementation gap that has persisted since the WPS Agenda was introduced. According to Barbara Miller, Milad Pournik and Aisling Swaine:

While around one-fourth of the world’s countries have adopted a 1325 National Action Plans (NAPs) as of 2013, other countries have used 1325 principles without a NAP. In spite of all this activity – with or without a 1325 NAP – a few studies exist documenting how countries came to support 1325 through adopting a NAP or how countries are pursuing principles of gender equality without a 1325 NAP.⁴¹

Part of understanding the implementation gap requires understanding how WPS norms, values and commitments are transplanted into state systems and how they function in the context of violent conflicts. As empirical evidence has shown, women in conflict-affected regions across the globe continue to experience serious abuses that remain unaltered despite the WPS Agenda.⁴² It is important to recognise that, although the WPS Agenda is not the sole gender-specific framework developed within the UN, its distinct emphasis on violent conflict makes it particularly pertinent for women in regions affected by violent conflicts.

³⁹Nicola Pratt & Sophie Richter-Devroe, “Introduction: Critically Examining UNSCR 1325 on Women, Peace and Security” (2011) 13:4 International Feminist Journal of Politics, 489-503; Laura Shepherd, “Sex, Security and Superhero(in)es: From 1325 to 1820 and Beyond” (2011) 13:4, International Feminist Journal of Politics, 504-521

⁴⁰ Barbara Miller, Milad Pournik, and Aisling Swaine, “Literature Review, Content Analysis of Action Plans, and Implementation” (2014) Working Paper 13, Institute for Global and International Studies, George Washington University, Washington, DC, 6.

⁴¹ *Ibid* at 18.

⁴² Christine Binder, Karin Lukas, & Romana Schweiger, “Empty Words or Real Achievement? The Impact of Security Council Resolution 1325 on Women in Armed Conflicts” (2008) 101 Radical History Review, 22-41; Carol Cohn, “Mainstreaming Gender in UN Security Policy: A Path to Political Transformation? In Shirin M. Rai and Georgina Waylen (eds) Global Governance: Feminist Perspectives (New York: Palgrave Macmillan, 2008) 185-206.

In this research, I have undertaken to understand further whether and how Nigeria embodies the WPS Agenda locally, particularly in ensuring accountability for conflict-related SGBV. Accordingly, the study identifies and analyses the laws and policies relevant to women's security in Nigeria—a country facing multiple forms of conflicts. I look at the groundwork done or the structures set in place to implement the WPS Agenda, like making a local strategy document in the form of the NAP and making local gender laws that provide the legal backdrop against which enforcement can be premised.

This study seeks fundamentally to understand how the Agenda is operationalised locally to ensure that victims of SGBV access justice and perpetrators are held accountable. It is my conviction that a critical assessment of local laws and policies intended to operationalise aspects of the Agenda will provide insights as to whether such accountability is possible and also help to explain the continuous existence of the gap between the promises of the WPS Agenda and the realities of ongoing SGBV. Although the primary focus of this research is Nigeria, the theory, method and analysis could find broader application in similar contexts. The following section explains the decision to focus on Nigeria.

1.6 Context: Nigeria

1.6.1 Nigeria: Brief History

Nigeria has been home to several diverse nationalities and ethnicities over the epochs. The modern state is a conglomeration of the various nationalities into a single entity, previously under British colonial rule until 1960, when it officially gained independence. Nigeria is often referred to as the “Giant of Africa” due to its large population⁴³ and economy. The country is a multi-national and multi-cultural state due to its diverse ethnic and cultural composition. Nigeria is home

⁴³ The projected population of Nigeria in 2022 was 216,783,381, comprising 108,350,410 males and 108,432,971 females. See National Bureau of Statistics, “Demographic Statistical Bulletin 2022” (December 2023). Online: < <https://www.nigerianstat.gov.ng/elibrary/read/1241422> >

to at least 250 ethnic groups, of which the three largest are the Igbo, Yoruba, and Hausa, together accounting for 70% of the population,⁴⁴ while the Urhobo-Isoko, Edo, Ijaw, Kanuri, Ibibio, Ebir, Nupe, Gbagyi, Jukun, Igala, Idoma, and Tiv accounts for about 25% and other minorities making up the 5%.⁴⁵

These ethnic groups claim their various identities through different languages and cultural practices. Despite the diversity of indigenous languages, the official language of Nigeria is English, laying tribute to Nigeria's colonial history. Nigeria holds the reputation as the most religious nation in the world, with Christianity and Islam as the predominant religions and a minority of the population practising traditional religion.⁴⁶

Nigeria operates a federal republic system of government, meaning a central government oversees the whole country and state governments oversee matters within their smaller areas. Nigeria currently comprises 36 states broadly divided into six regions: the north-east, north-west, north-central, south-east, south-west and south-south. Nigeria operates a constitutional system of government, with its most recent (written) constitution being the Constitution of the Federal Republic of Nigeria, 1999 (so-called 'Nigerian Constitution') amended in 2004.⁴⁷ The Nigerian constitution recognises the ethnocultural and religious diversity of its citizens. It provides for autonomy in this respect by creating states and local governments along ethnocultural lines. It grants states autonomy over cultures on matters of customs and traditions⁴⁸ to the extent that such customs are not in contravention of the Nigerian Constitution.⁴⁹ Any law, policy or custom that

⁴⁴ *Ibid.*

⁴⁵ Random House, "Nigeria" in *Geographica: The Complete Atlas of the World*, 2002

⁴⁶ *Ibid.*

⁴⁷ Constitution of the Federal Republic of Nigeria, Act No. 24, 5 May 1999. [Hereafter Nigerian Constitution].

⁴⁸ Nigerian constitution ss 3(1)(6), 7(2) (ii), 21.

⁴⁹ *Nigerian Constitution* s 1(1) provides for its supremacy.

contradicts the Nigerian Constitution is considered null and void to the extent of such contradiction.⁵⁰

The Nigerian constitution proscribes any form of discrimination, whether on the grounds of state of origin (that is, discrimination on the grounds of which state within the country a person originates from), sex, religion, social status, ethnic or linguistic association.⁵¹ It further guarantees the fundamental rights of all its citizens regardless of sexual, religious, linguistic or any other affiliation.⁵² Significant among these rights is the guarantee of equality before the law. The Nigerian Constitution legitimises the operation of customs and traditions to the extent that they advance human dignity and are consistent with the fundamental objectives of the Constitution.⁵³ However, the Nigerian Constitution's allowance for ethnic and religious practices often finds tension with these equality standards.

Still, the Nigerian constitution establishes the equality of men and women and prohibits any unequal treatment, holding such as null and void and of no effect.⁵⁴ It, therefore, suffices that any customary, religious or cultural practice that discriminates against a sect of the population is illegal. Even as the constitution is very clear on the rights of every citizen in Nigeria, the rights of citizens are made more complex by the plurality of the Nigerian legal system.

The multiplex nature of the country Nigeria also means that unavoidably, there are diverse ideological perspectives among the various nationalities, which sometimes fail to align with each other. This often creates friction, which often becomes violent and protracted. In recent times, the economy of the country has steadily grown worse, and this has further created friction among

⁵⁰ Nigerian Constitution s1(3).

⁵¹ Nigerian Constitution s15 subsection 2.

⁵² See *Nigerian constitution*, c IV. The whole chapter is dedicated to the fundamental rights of the Nigerian citizen.

⁵³ Nigerian Constitution s 21.

⁵⁴ Nigerian Constitution s 15.

groups and various interests. The reality on grounds, therefore, is that Nigeria is presently grappling with several protracted violent uprisings. Some, such as Boko Haram, have existed since the mid-1990s. In the following section, I explain in more detail the various factions that have created and continue to sustain violence in the country.

1.6.2 An Overview of the Conflict Situation in Nigeria

Several armed groups have emerged from different regions within the country, challenging the state's governing systems, including the political distribution of power, economic resources, religious affiliations, and the demand for the control of land and other natural resources. In the following subsections, I have tried to explain some of the most widespread armed groups operating in the country.

(a) Boko Haram

Boko Haram (which is a phrase in the Hausa language for Western education is evil and therefore forbidden) is an armed group whose official name is “Jama ‘atu Ahl as-Sunnah li-Da ‘awati wal-Jihad”, meaning Group of the Sunni People for the Calling and Jihad. The group has terrorised the northeastern parts of Nigeria for more than two decades. This group, which began its terror operations in the mid to late 1990s, seeks to overthrow the Nigerian government built on liberal and multi-cultural principles and replace it with a regime based on radical Islamic doctrines. The sect employs armed violence as a method of achieving their goals.

Boko Haram's violence—including the kidnapping of 276 schoolgirls in Borno State, Nigeria, in April 2014—sparked international condemnation and, in February 2015, provoked a large regional counter-terrorism offensive against the group that displaced it from many of its strongholds in Nigeria. Although the group's offensives have become weaker over the years, they

are far from defeated as they continue to terrorise communities and cities in northeast Nigeria.⁵⁵ They also conduct attacks in neighbouring Cameroon, Chad, and Niger, emphasising the threat the group poses to lives and properties in the whole West African region.

The Boko Haram conflict has displaced approximately 2.6 million people in northeast Nigeria, with a substantial amount of this population being women and children.⁵⁶ The sect's activities continue to impact women and children in the region heavily. On March 3, 2024, suspected Boko Haram fighters abducted at least 400 persons living in IDP camps in northeast Nigeria, most of whom were women and children.⁵⁷ Another report on February 2024 records at least 200 abductions of women and children by the sect.⁵⁸ Only in 2024, more than 35,000 people are estimated to have died due to Boko Haram terror attacks.⁵⁹ These statistics illustrate the severe impact that the Boko Haram terrorist group continues to have on Nigeria, particularly on women and children.

(b) Bandits in the Northwest

Bandits terrorising northwest Nigeria have been a significant security concern in the region. They function in the northwest region of Nigeria and have been responsible for various attacks and acts of violence. The bandits, who often come riding on motorcycles, operate out of abandoned forest reserves and have been attacking communities in Nigeria's northwest for close to a decade. They have been involved in attacks on citizens and public amenities like passenger trains in the

⁵⁵ "Violent Extremism in the Sahel", (February 14, 2024) Global Conflict Tracker. Online: <<https://www.cfr.org/global-conflict-tracker/conflict/violent-extremism-sahel>>

⁵⁶ "Those Who Returned are Suffering' Impact of Camp Shutdowns on People Displaced by Boko Haram Conflict in Nigeria", (November 2, 2022) Human Rights Watch. Online: <<https://www.hrw.org/report/2022/11/02/those-who-returned-are-suffering/impact-camp-shutdowns-people-displaced-boko>>

⁵⁷ "Nigeria: Fresh Abduction is a Sign that Impunity Reigns" (March 13, 2024) Amnesty International. Online: <<https://www.amnesty.org/en/latest/news/2024/03/nigeria-fresh-abduction-is-a-sign-that-impunity-reigns/>>

⁵⁸ "What Does the Recent Escalation of Mass Abductions in Nigeria Tell Us?" (March 15, 2024) Global Initiative Against Transnational Organised Crime. Online: <<https://globalinitiative.net/analysis/mass-abductions-kidnappings-nigeria/>>

⁵⁹ "Nigeria: Population at Risk" Global Centre for the Responsibility to Protect. Online: <<https://www.globalr2p.org/countries/nigeria/>>

region.⁶⁰ There seem to be no ideological or political agenda behind these acts, except that the high rates of poverty in that region serve as a strong motivator.

Armed banditry in northwest Nigeria continues to cause security concerns, with regular attacks targeting civilians (including sexual assaults, forceful abductions and looting). The attacks have created a severe humanitarian crisis in the region, with many residents displaced from their homes and forced to live in IDP camps.⁶¹

The frequency of attacks and violence perpetrated by these groups has escalated in recent years, leading to heightened tensions in the region.⁶² There is a growing concern about the banditry-terrorism nexus in northwest Nigeria. The groups involved in banditry activities are known to deploy tactics that are reminiscent of terrorist organisations such as Boko Haram, raising concerns about the true nature of their operations.⁶³

These armed attacks pose a significant threat in general to the population of northwest Nigeria, but the impact on women and girls has been particularly devastating. For instance, in a single incident, 317 female students were abducted by armed bandits.⁶⁴ The fear of abduction has reduced school attendance in the northwest region as many parents have become reluctant to send their children to school.⁶⁵ The constant threat or experience of violence has been shown to result in severe psychological trauma for women and girls, resulting in mental health challenges that

⁶⁰ Eromo Egbejule, “Who are the “bandits” Terrorising Nigeria’s “Wild West”? *Aljazeera* (29, March 2022) Online: <<https://www.aljazeera.com/features/2022/3/29/who-are-the-armed-bandits-of-northwest-nigeria>>

⁶¹ “Suspected Bandits Attack Passenger Train in Northern Nigeria” *Aljazeera* (March 29, 2022) Online: <<https://www.aljazeera.com/news/2022/3/29/suspected-bandits-attack-passenger-train-in-northern-nigeria>>

⁶² Uche Igwe, “What do the Armed Bandits Terrorising Nigeria Want?” (September 14, 2022) LSE Blogs. Online (blog): <<https://blogs.lse.ac.uk/africaatlse/2022/09/14/what-do-the-armed-bandits-terrorising-nigeria/>>

⁶³ Hassane Kone and Malik Samuel, “Banditry on the Border Needs Joint Nigeria-Niger Efforts” (October 24, 2023) Institute for Security Studies. Online: <<https://issafrica.org/iss-today/banditry-on-the-border-needs-joint-nigeria-niger-efforts>>

⁶⁴ John Sunday Ojo, “Forces of Terror: Armed Banditry and Insecurity in North-West Nigeria” (2023) 19:4, *Democracy and Security*, 319.

⁶⁵ “‘I Will Never Go Back to School’: The Impact of Attacks on Education for Nigerian Women and Girls – Summary” (October 10, 2018) Relief Web. Online: <<https://reliefweb.int/report/nigeria/i-will-never-go-back-school-impact-attacks-education-nigerian-women-and-girls-summary>>

negatively impact their ability to lead everyday lives.⁶⁶ In addition, research has shown that these attacks create severe hardship in communities, and women and girls often bear the brunt of the resulting economic hardships as the loss of family members, displacement, and destruction of property leave women without support and increase their vulnerability.⁶⁷ These reports illustrate the severe impact of armed banditry on the human security of women and girls in the affected parts.

(c) Herdsmen Attacks on Farming Communities

The issue of herdsmen violating communities in Nigeria has been a significant and ongoing concern. The conflict primarily involves herdsmen and farming communities. Cattle herders are local to the northeastern part of the country, which has been affected by desertification. As the herdsmen journey down south in search of pasture for their animals, they meet resistance from the largely crop-cultivating and sedentary communities in northcentral regions who struggle with reduced landmass due to population explosion, generating violent clashes. In other words, the violence is driven by competition over land and resources, exacerbated by climate change and population growth.⁶⁸

Many of the operations of the herdsmen intersect with attacks by the Boko Haram terror group, leading some to the conclusion that the herdsmen are working in affiliation with the Boko Haram

⁶⁶ Ojewale Oluwale, “‘ We Don’t Have Government Here’: Banditry and the Polycrisis of Governance in Northwest Nigeria” (2024) Development in Practice, 1. DOI: <<https://doi.org/10.1080/09614524.2024.2381041>>

⁶⁷ “Nigeria: Population at Risk” Global Centre for the Responsibility to Protect. Online: <<https://www.globalr2p.org/countries/nigeria/>>

⁶⁸ Jayson Casper, “Christmas Massacres Challenge Secular Explanations of Nigeria Conflict” (December 29, 2023) Christianity Today. Online: <<https://www.christianitytoday.com/news/2023/december/nigeria-christmas-massacre-plateau-fulani-herders-farmers.html>>

terror group.⁶⁹ The Human Rights Watch’s World Report of 2023 highlights ongoing violence between herdsman and farming communities, including kidnappings, killings, and looting.⁷⁰

The attacks on farming communities disproportionately affect women who are overwhelmingly represented in the subsistence farming sector due to a lack of broader opportunities like lack of education opportunities for the girl child and discriminatory employment practices against women who continue to be seen as child bearers and at-home care providers. Women and girls are also subjected to sexual violence during these attacks, leaving lasting physical and psychological scars.⁷¹ Displacement of families due to these violent attacks has further exacerbated the precarious nature of human security within the country. As of 2022, approximately 1.5 million residents were displaced in Benue state, one of the six states that make up the northcentral region.⁷² The clashes between cattle herders and farmers have significantly compromised the security of lives and properties in the northcentral region and, more recently, in some states in the southern parts of the country.⁷³

(d) Separatist Agitations in the Southeast

Nigeria is also affected by violent conflicts arising from separatist movements in Southeast Nigeria, particularly involving the Indigenous People of Biafra (IPOB). The agitations for an independent state by this group, which is an extraction from the Igbo ethnic group—the third largest demographic in the country—has been a significant source of instability and violence in

⁶⁹ “Report on International Religious Freedom” (2023) US Department of State. Online: <<https://www.state.gov/reports/2023-report-on-international-religious-freedom/>>

⁷⁰ “2023 World Report: Nigeria” Human Rights Watch. Online: <https://www.hrw.org/world-report/2023/country-chapters/nigeria>.

⁷¹ “Food Insecurity and Conflict-related Sexual Violence” (May 2023) Insecurity Insight. Online: <https://insecurityinsight.org/food-insecurity-and-conflict-related-sexual-violence/>; “Food Insecurity and Conflict-related Sexual Violence: The Link between Conflict and Hunger” Reliefweb (May 2023). Online: <<https://reliefweb.int/report/world/food-insecurity-and-conflict-related-sexual-violence-links-between-conflict-and-hunger-may-2023>>

⁷² “Hunger Crisis Looms in Nigeria Amid Conflicts Between Farmers, Herders” *Africa News* (February 02, 2022). Online: <<https://www.africanews.com/2022/02/02/hunger-crisis-looms-in-nigeria-amid-conflict-between-farmers-herders/>>

⁷³ “Education Under Attack 2020 Country Profile” Global Coalition to Protect Education from Attack. Online: <https://protectingeducation.org/wp-content/uploads/eua_2020_nigeria.pdf>

the region. The campaign for Biafra's independence dates to the Nigerian Civil War (1967-1970), when the southeastern region attempted to secede and form an independent Republic of Biafra.⁷⁴ The movement has been revived in recent years by the IPOB.

IPOB has been at the forefront of the separatist movement, organising protests and sit-at-home orders to press their demands. While their agitations have been mostly non-violent, the group has been rebuffed by the Nigerian security forces, leading to significant violence and human rights violations on both sides.⁷⁵ The Nigerian government has responded to the separatist agitations with heavy-handed tactics, including arrests, detentions, and military operations in the southeast.⁷⁶ There are reports of unlawful killings, torture, extra-judicial detentions, and other human rights violations by the Nigerian security forces in counteracting these uprisings.⁷⁷ The IPOB's sit-at-home orders—whereby citizens are forced to close their businesses, which began in August 2021, have had a significant economic impact on the region. These orders, often enforced through violence, have disrupted daily life, commerce, and education.⁷⁸ The conflict has led to displacement and has created a humanitarian crisis in the region. Many residents live in fear due to the ongoing violence and instability.⁷⁹ The Nigerian government has labelled IPOB a terrorist organisation and has taken measures to suppress its activities.⁸⁰

⁷⁴ See Chinua Achebe; *There Was a Country: A Personal History of Biafra* (New York: Penguin Press, 2012).

⁷⁵ “World Report 2023: Nigeria Events of 2022” Human Rights Watch (2023) Online: <<https://www.hrw.org/world-report/2023/country-chapters/nigeria>>

⁷⁶ “Nigeria’s Biafran Separatist Upsurge” International Crisis Group Online: <<https://www.crisisgroup.org/africa/west-africa/nigeria/nigeria-s-biafran-separatist-upsurge>>

⁷⁷ “Nigeria 2023” Amnesty International Online: <<https://www.amnesty.org/en/location/africa/west-and-central-africa/nigeria/report-nigeria/>>

⁷⁸ Dorcas Edit Amana & Chinwe Catherine Okpoko, “Economic Effects of IPOB Sit-At-Home Order in Southeast, Nigeria: Insights from Nigerian Newspaper Reports” (2023) 7:1, *IMSU Journal of Communication Studies* 282. DOI: <<https://nbn-resolving.org/urn:nbn:de:0168-ssoar-88499-4>>

⁷⁹ Chiagozie Nwonwu, “Biafra Quest Fuels Nigeria Conflict: Too Scared to Marry and Bury Bodies” BBC News (January 8, 2023). Online: <<https://www.bbc.com/news/world-africa-64110852>>

⁸⁰ “Nigeria: Biafra Separatist Activities Likely to Persist in the Southeastern States and through Abuja at Least Late October/Update 13” Crisi24 (September 19, 2023) Online: <<https://crisis24.garda.com/alerts/2023/09/nigeria-biafra-separatist-activities-likely-to-persist-in-the-southeastern-states-and-abuja-through-at-least-late-october-update-13>>

The ongoing conflict in the southeast poses a significant threat to women's security, particularly their ability to earn a living and cater for their needs and those of their families. Many women in the southeast parts of the country are petty traders, and they depend on their trading for survival; the sit-at-home has had a tremendous impact on their earning capabilities.⁸¹ In addition, there is increased military presence in those parts as the government launches offensives against the agitations, and this in itself is threatening to the civilian population and women and girls in particular, who are most vulnerable in such cases of military presence.

(e) Election Violence

In addition to ongoing violent conflicts, Nigeria also seasonally comes under intense but sporadic and short-lived violence due to federal elections held every four years. These elections leading up to the change of governing regimes are usually very violent and negatively impact civilian lives and properties. Women face increased risks of physical and sexual violence, intimidation, and discrimination during such turbulent times. Additionally, women's participation in the political process may be hindered due to safety concerns or societal norms. Several reports exist to show the gendered impact of election violence on women and girls, including assault, deprivation and destruction of livelihoods and deaths.⁸²

(f) Security Sector Violence against Civilians

Nigeria's security sector, comprising the military, police, and paramilitary forces, plays a critical role in maintaining law and order, combating insurgency, and addressing other security challenges. However, the sector has been plagued by systemic issues, including corruption, lack of accountability, and inadequate training, which have led to widespread human rights abuses

⁸¹ *Ibid.*

⁸² Hannah BLYTH, "Gender Violence Spikes in Nigerian Election Run-up" (March 25, 2015) Fund for Peace Online: <<https://fundforpeace.org/2015/03/25/gender-violence-spikes-in-nigerian-election-run-up/>>; see generally Reed M Wood, "The Effects of Electoral Violence on Women's Legislative Representation." (2024) Political Research Q.

against civilians. These abuses disproportionately affect women and girls, who face unique vulnerabilities in conflict and crisis situations.

The Nigerian security sector has been implicated in numerous human rights violations, including extrajudicial killings, torture, arbitrary arrests, and sexual violence.⁸³ These abuses often occur during counter-insurgency operations, law enforcement activities, and the management of internally displaced persons (IDP) camps.⁸⁴ While the stated goal of these operations is to protect citizens and restore order, the actions of security forces frequently result in harm to the very people they are meant to protect.

The northeast region, where the Boko Haram insurgency and its offshoot, the Islamic State of West Africa Province (ISWAP), are most active, has been particularly affected. Security forces deployed to combat these groups have been accused of indiscriminate violence, including the destruction of entire communities and the targeting of civilians suspected of supporting insurgents.⁸⁵ These actions have led to widespread displacement, loss of livelihoods, and a breakdown of trust between civilians and the state.⁸⁶

While security sector violence affects all citizens, women and girls are particularly vulnerable due to their gender and societal roles. One of the most egregious forms of abuse perpetrated by

⁸³ See generally Dorcas Adeleye Odunaike et.al., “I Will Kill You and Nothing Will Happen: Extra-Judicial Killings in Nigeria and Public Interest Litigation, (2021) SSRN, 145. Online: < <https://ssrn.com/abstract=3988311>>; Oluwafifehan Ogunde, “The Police and Extra-Judicial Killings in Nigeria” *Democracy in Africa*. Online: < <https://democracyinafrica.org/police-extra-judicial-killings-nigeria/>>

⁸⁴ Drishti Sagar, “Sexual Violence Against Women in Nigerian Armed Conflicts” (2023) 5:1 *Indian J. of L & Legal Research*, 1; Ibukun David “Addressing the Paradox: Counterinsurgency, Human Rights and Women in Northeast Nigeria” (2020) 15 *The Age of Human Rights Journal*, 206.

⁸⁵ “‘They Just Shoot and Burn’: Civilians Targeted in Nigeria’s War on Boko Haram” *The New Humanitarian* (July 3, 2023). Online: < <https://www.thenewhumanitarian.org/investigations/2023/07/03/exclusive-civilians-targeted-nigerias-war-boko>> ; “Several Civilians Killed in Nigeria by Military Airstrike Targeting Rebels, Officials Say” *The Associated Press* (February 17, 2025). Online: < <https://halifax.citynews.ca/2025/02/17/several-civilians-killed-in-nigeria-by-military-airstrike-targeting-rebels-officials-say/>>

⁸⁶ “Reports on Human Rights Abuses in Nigeria, Including those Perpetrated by Security Forces” *Human Rights Watch* Online: <<https://www.hrw.org/africa/nigeria>>

security forces is gender-based violence, including rape, sexual assault, and exploitation. Women and girls in conflict zones are at heightened risk of sexual violence during military operations.

In IDP camps, where women and girls seek refuge from conflict, they often face further victimisation. Reports have documented cases of security personnel coercing women into exchanging sex for food, shelter, or protection.⁸⁷ This exploitation exacerbates the trauma of displacement and leaves survivors with long-term physical and psychological scars. Conflict and violence often force women and girls to flee their homes, leading to large-scale displacement. In IDP camps, women face unique challenges, including inadequate access to basic necessities, healthcare, and education. Many women lose their livelihoods due to displacement, leaving them unable to support their families. As primary caregivers, this economic insecurity disproportionately affects women, who must find ways to provide for their children and other dependents.⁸⁸

The violence and abuses experienced by women and girls often result in severe psychological and emotional trauma. Survivors of sexual violence, in particular, face stigma and ostracisation from their communities, which can lead to depression, anxiety, and other mental health issues.⁸⁹ The limited access to mental health services in conflict-affected areas further exacerbates this problem, leaving many women to suffer in silence.

⁸⁷ Emeka T. Njoku & Joshua Akintayo, "Sex for Survival: Terrorism, Poverty and Sexual Violence in North-Eastern Nigeria" (2021) 28:2 South African Journal of International Affairs, 285-303; Emeka T. Njoku, "Unequal Power Relations Driven by Poverty Fuel Sexual Violence in Lake Chad Region" August 3, 2022, The Conversation. Online: < <https://theconversation.com/unequal-power-relations-driven-by-poverty-fuel-sexual-violence-in-lake-chad-region-185918>>

⁸⁸ "Women, Peace and Security: Resources on the Impact of Conflict on Women and the Importance of their Participation in Peacebuilding" UN Women. Online: <<https://www.unwomen.org/en/what-we-do/peace-and-security>>

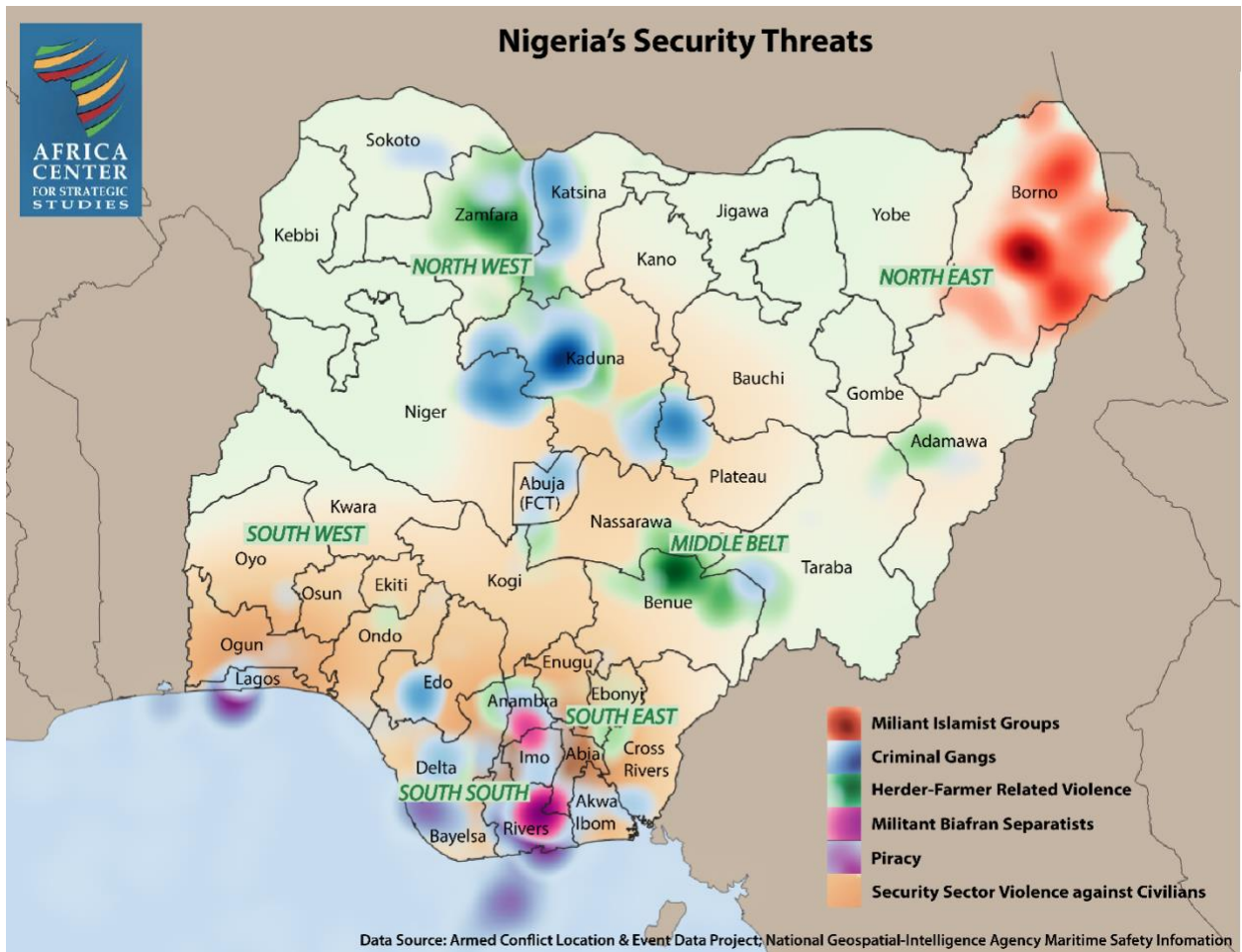
⁸⁹ Enokela Abel Ebiega, "Sexual Violence in Developing Countries: Challenges of Rehabilitation of Victims" (2023) Palgrave handbook of Global Social Problems, Cham: Springer International Publishing, 1, 22; Ajuwon J. Ademola & Olufunmilola Adegbite, "Ethical and Methodological Challenges Involved in Research on Sexual Violence in Nigeria" (2008) 4:1 Research Ethics, 3-9.

The underrepresentation of women in the security sector and peacebuilding efforts further limits their ability to influence decisions that affect their safety and well-being.⁹⁰ In some cases, the violence and marginalisation experienced by women can make them more vulnerable to radicalisation. Insurgent groups like Boko Haram have exploited the grievances of women, recruiting them as fighters, spies, or suicide bombers. Women who join these groups often do so out of desperation or coercion,⁹¹ highlighting the complex interplay between security sector violence and the broader dynamics of conflict.

The presence of multiple armed groups and the excesses of security personnel complicates the security landscape and often leads to egregious acts of SGBV. It is against this highly pervasive context of violence and uncertainty that this study is launched. Against this backdrop, several SGBV crimes emanate prominently, and in the next section, I explain the specific SGBV crimes that define the various conflicts highlighted above.

⁹⁰ Uche Ufere Okafor et.al, “Security Challenges and Women Political Participation in 2019 Elections in Nigeria: A Bird’s Eye View” (2021) 6:3 J. of the Soc. Sciences and Humanities, 83.

⁹¹ “Nigeria: Women and the Boko Haram Insurgency” (2016) International Crisis Group. Online: <
<https://www.crisisgroup.org/africa/west-africa/nigeria/nigeria-women-and-boko-haram-insurgency>>



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1.6.3 SGBV in Nigeria

Considering the myriads of conflicts ravaging Nigeria, SGBV, in its broad sense, as I defined it in the legend section, is pervasive across all the conflict types highlighted above. What is significant to note, and which I have done in this section, is to categorise the SGBV according to the prominent groups that perpetrate them; so, two categories of SGBV can be identified: that committed by the organised and armed groups and that committed by state security operatives

⁹²Note: This map was not generated by the researcher but was pulled from the Africa Centre for Strategic Studies to reflect the geographic concentration of armed violence in Nigeria. The armed group identified as "Criminal Gangs" in the map is the group I have identified as armed bandits in this study. The group identified as "Militant Islamist Groups" I have identified as Boko Haram and Fulani Herdsmen based on the popular terms they are referred to in Nigeria. For more, see Mark Duerksen, "Nigeria's Diverse Security Threats" (March 30, 2021) Africa Center for Strategic Studies. <<https://africacenter.org/spotlight/nigeria-diverse-security-threats/>>

who, ironically, are charged with maintaining law and order. The relevance of this categorisation is to, eventually, test the usefulness of legal approaches for redress against the violence committed by both actors to see whether the legal structure can address both categories.

(a) SGBV by Non-State Armed Groups

In the context of violent conflicts in Nigeria, several types of gendered crimes are attributed to members of armed groups. These include rape and other forms of sexual assault, forced abduction, forced marriages, sexual enslavement, and trafficking in women and girls, amongst others. For instance, rape is a common form of sexual assault that girls abducted by Boko Haram undergo as a continuation of their experience. A 2014 report by the Office of the UN High Commissioner for Human Rights (OHCHR) finds that girls who escaped from the sect reported that they were consistently raped and that they witnessed the rape of other women who were as young as 15.⁹³

The use of SGBV is an integral part of the operation of the sect, who use rape, sexual slavery, forced marriages, forced pregnancies and forced conversions to the Islamic religion as part of Boko Haram's campaigns to terrorise and plunder communities.⁹⁴ The case of Leah Sharibu continues to resonate strongly within the country. Leah Sharibu was abducted by Boko Haram in February 2018. Leah was one of the 110 schoolgirls kidnapped from Dapchi, in north-eastern Nigeria. After negotiations, 104 girls were returned to their families, while five were killed.⁹⁵ Leah remains in captivity, and so far, nothing is known of her wellbeing. The kidnapping and forced conversion of

⁹³ United Nations Office of the High Commissioner for Human Rights (OHCHR), "Sexual and Gender-Based Violence in the Context of Transitional Justice" (2014). Online: https://www.ohchr.org/sites/default/files/Documents/Issues/Women/WRGS/OnePagers/Sexual_and_gender-based_violence.pdf [OHCHR Report, 2014].

⁹⁴ United Nations Office on Drugs and Crime (UNODC), "Nigeria Training Module on Gender Dimensions of Criminal Justice Responses to Terrorism" (2019). Online (pdf): https://www.unodc.org/pdf/terrorism/Web_stories/UNODC_Nigeria_Gender_Training_Module.pdf,> 74. [UNODC 2019]

⁹⁵ United States Commission on International Religious Freedom, "Leah Sharibu" Online: <https://www.uscifr.gov/religious-prisoners-conscience/forb-victims-database/leah-sharibu#:~:text=While%20104%20girls%20were%20returned,their%20demands%20were%20not%20met.>>

the Dapchi schoolgirls, including Leah, is a harrowing event that parallels other egregious acts by the group, such as the abduction of over 200 Chibok schoolgirls on February 19, 2018.⁹⁶ The story of Leah is just one of the numerous other examples showcasing the egregious acts of Boko Haram.

One woman who was rescued from Boko Haram's captivity in 2014 by the Nigerian army and was interviewed by OHCHR said she was coerced into marriage when Boko Haram attacked her village, "they came back after killing the men and boys and told me that an Imam in their group would preside over the marriage ceremony".⁹⁷ Women are also subjected to forced labour upon abduction. Survivors interviewed by OHCHR reported that Boko Haram marries off younger girls to fighters while the older women are forced to work as cooks and cleaners.⁹⁸

The group justifies such practices based on its conception of the subservient role of women and girls in society and on their interpretation of the Qur'an, a holy book of the Islamic faith. In one video message in which the group claimed responsibility for the abduction of the Chibok girls in 2014, Abubakar Shekau, the then-acclaimed leader of the sect, stated: "Allah instructed me to sell them, they are his properties, and I will carry out his instructions".⁹⁹ In another message, Shekau said that the abducted girls were "spoils of war".¹⁰⁰ In the aftermath of the Chibok girls' abduction, Abubakar Shekau stated that Boko Haram intended to sell the kidnapped women and girls to its combatants as slaves or brides. According to reports, some were sold for \$12".¹⁰¹

⁹⁶ "Boko Haram Frees Group of Abducted Nigerian Schoolgirls" *Aljazeera* (22 March 2018) Online:

<<https://www.aljazeera.com/news/2018/3/22/boko-haram-frees-group-of-abducted-nigerian-schoolgirls>>

⁹⁷ UNODC 2019, *supra* note 94 at p.75; "Kidnapped Dapchi Schoolgirls Freed in Nigeria" BBC News (22 March 2018) Online: < <https://www.bbc.com/news/world-africa-43484146>>

⁹⁸ *Ibid.*

⁹⁹ UNODC *supra* note 94 at 75.

¹⁰⁰ *Ibid* at 76.

¹⁰¹ United Nations, "Identifying and Exploring the Nexus Between Human Trafficking, Terrorism, and Terrorism Financing", (2019), Security Council - Counter-Terrorism Committee, para. 72. Online: < <https://www.un.org/securitycouncil/ctc/content/identifying-and-exploring-nexus-between-human-trafficking-terrorism-and-terrorism-financing>>

Even though the sect's leadership has changed over the years, their operations have remained consistent; forced abduction, rape, forced marriages, forced labour, and trafficking of persons remain cardinal to their operations. In many other instances, abducted girls who are successfully radicalised are sent back into society to commit terror attacks like suicide bombings. They have bombs strapped around them and are sent into public places like markets, mosques, churches, etc., where they detonate the bombs, killing or injuring hundreds of people and themselves.¹⁰²

Armed bandits operate similarly to Boko Haram by committing egregious attacks like rape, forced abduction of women and girls to sell them off, kill them, or return them to their families and communities after a ransom is paid. A 2021 report by the International Centre for Investigative Reporting has this record by an eyewitness:

These bandits roll into our towns and villages in convoys of motorcycles riding three on each, brandishing AK47 rifles. They spend hours killing, burning, raping, carting away livestock, and abducting women as sex slaves. They put taxes on the people and keep coming back, again and again to attack because of the absence of law enforcement to protect the people. Security personnel oftentimes show up after their carnage to count the bodies.¹⁰³

Their campaigns also target local businesses for necessary supplies.¹⁰⁴ Attacking local businesses has a disproportionate impact on women and girls who are usually over-represented in petty trading and small-scale businesses.¹⁰⁵ Studies have shown that 75 per cent of women, as

¹⁰² Jordan Galehan, "Instruments of Violence: Female Suicide Bombers of Boko Haram" (2019) 58 International Journal of Law, Crime and Justice, 113. Galehan explores the increasing use of women as suicide bombers by terrorist organisations, with a particular focus on Boko Haram. The study highlights that while women have historically participated in various roles within terrorist groups, there has been a notable shift towards using women in more operational roles, such as suicide bombers, to gain tactical advantages.

¹⁰³ "Banditry: Things are Falling Apart, the Centre is not Holding" (November 28, 2021) International Centre for Investigative Reporting. Online: <<https://www.icirnigeria.org/banditry-things-are-falling-apart-the-centre-is-not-holding/>>

¹⁰⁴ US Department of State, "Country Report on Terrorism 2019". Online: <<https://www.state.gov/reports/country-reports-on-terrorism-2019/>>

¹⁰⁵ Fadeke Esther Olu-Owolabi et al., "Female-dominated Informal Labour Sector and Family (In) Stability: The Interface between Reproduction and Production", (2020) 7:1 Cogent Arts and Humanities, 1. DOI: <<https://doi.org/10.1080/23311983.2020.1788878>>

against 25 per cent of men, are involved in petty trading in Nigeria.¹⁰⁶ So attacking small-scale businesses in any part of the country has a strong disproportionate impact on women and girls. Many women are compelled to function at the economy's periphery by owning small-scale businesses or working in local markets to support their families. Their over-population in this sector is due to limited opportunities, including access to formal employment opportunities, discriminatory cultural norms that ensure that they remain outside the formal workforce and the flexibility for balancing small-scale businesses with familial responsibilities of care and nurture.¹⁰⁷ Thus, the attack on small-scale businesses is an attack on women's prospects of economic autonomy and their ability to live free of sexual exploitation and abuse.

(b) SGBV Committed by the State Security Agents

The Nigerian government, through its security personnel, including the military, police, Civil Defence, Joint Task Force, etc., also poses a significant security threat to women and girls, especially in conflict sites where they have a significant presence. A 2024 CNN Report indicate that Nigerian government officials and other authorities in Nigeria rape and sexually exploit women and girls detained as Boko Haram suspects or displaced by the conflict with Boko Haram.¹⁰⁸

In 2016, the UN reported 43 cases of sexual violence allegedly perpetrated by Nigerian security guards, army officers, camp officials, members of the Civilian Joint Task Force (CJTF) and vigilantes in IDP camps and communities playing host to security officials in their campaign

¹⁰⁶ Ekong Epenyong, "Case for Petty Trading and Investment in Nigeria", *Financial Street* (June 22, 2021). Online: <<https://financialstreet.ng/>>

¹⁰⁷ See generally Deborah Okoro, Victor Onyebuchi Okolo & Chinedu Okey Obikeze, "Women Petty Trading and Household Livelihood in Rural Communities in South-Eastern Nigeria" (2020) 8:2, *Int'l J. of Managerial Studies & Research*, 1. DOI: <<http://dx.doi.org/10.20431/2349-0349.0802001>>

¹⁰⁸ Stephanie Busari, "Girls Freed from Boko Haram in Nigeria Can Face Further Detention and Abuse by Military, Amnesty Report Finds" CNN News (June 10, 2024). Online: <<https://www.cnn.com/2024/06/10/africa/boko-haram-nigerian-girls-neglected-amnesty-says-intl/index.html>>

against terror groups.¹⁰⁹ The report of the UNSG on CRSV in 2019 notes that between January-December 2018, at least five girls were raped by military officers in IDP camps in Nigeria. One survivor was killed when the soldiers learned that she had filed a complaint.¹¹⁰ In 2020, a report by the US Department of State identified that women and girls in IDP camps and conflict-ravaged communities are made to exchange sex for relief supplies which were initially intended for them.¹¹¹

The Nigerian army is also alleged to have committed forced abortions on women and girls believed to have been impregnated by Boko Haram fighters. In 2022, Reuters and Human Rights Watch published two reports on this practice, outlining the unsanitary and crude conditions under which these abortions were carried out and without the consent of the women.¹¹² Women were allegedly made to go through these abortions without anesthetics and were offered only painkillers afterwards.¹¹³ At least one survivor said she had lost the ability to bear children following the procedure.¹¹⁴ The Reuters report confirms that some of these abortions proved fatal, resulting in the death of the women. One survivor has this to say about another woman who had died after the procedure:

That woman was more pregnant than the rest of us, almost six or seven months, she was crying, yelling, rolling around, and at long last she stopped rolling and shouting. She became so weak and traumatised, and then she stopped breathing. They just dug a hole, and they put sand over it and buried her.”¹¹⁵

¹⁰⁹ US Department of State, “Country Reports on Human Rights Practices: Nigeria” (2019) Online: <<https://www.state.gov/reports/2019-country-reports-on-human-rights-practices/nigeria/>>

¹¹⁰ UN Security Council, *Report of the Secretary-General on Conflict-Related Sexual Violence, 2019* (S/2019/280), para. 119; Nigeria, Training Module, *supra* note 83 at 78. [UNSG Report 2019]

¹¹¹ US Department of States, “Country Reports on Human Rights Practices: Nigeria” (2020) Online: <<https://www.state.gov/reports/2022-country-reports-on-human-rights-practices/nigeria/>>

¹¹² Anietie Ewang, “Reports Allege Nigerian Army Abuses: Government Should Investigate Allegations of Forced Abortions, Killing of Children” (2022) Human Rights Watch. Online: <<https://www.hrw.org/news/2022/12/13/reports-allege-nigerian-army-abuses>>

¹¹³ Paul Carson et.al, “The Abortion Assault: Nigerian Military Ran Secret Mass Abortion Programmes in War Against Boko Haram” *Reuters Investigates* (December 7, 20220), Online: <<https://www.reuters.com/investigates/special-report/nigeria-military-abortion/#:~:text=Reuters%20was%20unable%20to%20establish,country's%20fight%20against%20the%20insurgents>>

¹¹⁴ *Ibid.*

¹¹⁵ *Ibid.*

The Nigerian military denied the reports and denied that the program had ever existed.¹¹⁶ The Nigerian Human Rights Commission established a panel in February 2023 to investigate the allegations of forced abortions. Hearings were conducted in the federal capital city of Abuja and in Borno State, in Northeastern Nigeria. The findings of the Commission have yet to be made public.¹¹⁷

In 2023, the UNSG published a report which also alleged that the Nigerian army committed sexual violence against women and girls. The report documented instances of rape, sexual slavery, and forced abortions during military operations in conflict-affected communities.¹¹⁸ Another report by the UNSG in 2024 also highlights the prevalence of sexual violence in places where the army is present and notes specific allegations against some members of the Nigerian military and security forces.¹¹⁹

This section has detailed the overwhelming prevalence of SGBV in the Nigerian conflict context and has highlighted the roles that both non-state and state actors play in the perpetration of this violence. In the following section, I discuss the questions underlying this research endeavour.

1.7 Research Question(s)

At the broadest level, this research project asks whether and how the norms, policies, and programs on SGBV during conflict in the UN WPS Agenda have been effectively integrated into

¹¹⁶ *Ibid.*

¹¹⁷ “Nigerian Rights Body Ends Probe into Abortion Allegations Against Military” Reuters (March 19, 2024) Online: <<https://www.reuters.com/world/africa/nigerian-rights-body-ends-probe-into-abortion-allegations-against-military-2024-03-19/>>

¹¹⁸ United Nations Security Council, *Conflict-Related Sexual Violence Report of the Secretary-General* (22 June 2023) S/2023/413, 29. [UNSG Report 2023]

¹¹⁹ United Nations Security Council, *Conflict-related Sexual Violence Report of the Secretary-General* (2024) S/2024/292, 28. [UNSG Report 2024]

Nigeria's legal and policy structures. Arising from this general query are the following sub-questions:

- i. What steps has Nigeria taken to domesticate the WPS Agenda?
- ii. What opportunities do these Nigeria-specific mechanisms present for addressing SGBV perpetrated by both non-state armed groups and state security forces?
- iii. What does the Nigerian experience of bringing the norms of the WPS Agenda to bear on the realities of SGBV in Nigeria reveal about the usefulness of the Agenda in local contexts generally?

1.8 Key Documents

This study analyses the Nigerian legal mechanisms through which the norms of the WPS Agenda have been domesticated in that country. All key documents relevant to this inquiry are available in the public domain through official websites, physical libraries or court records.

The first set of policies is Nigeria's NAPs, the first formulated in 2013 and the second in 2017.¹²⁰ Both NAPs are relevant to the study as they provide a critical understanding of the evolution of the WPS in this space.

Another key document central to the research is the Violence Against Persons Prohibitions (VAPP) Act 2015.¹²¹ I analyse the provisions of the VAPP Act to understand the domestication of gender-based laws in the country after the WPS Agenda and how relevant these laws are in addressing conflict-related SGBV. As would be evident in later sections of this research, the VAPP Act signifies a milestone in Nigeria as far as addressing SGBV is concerned. In addition to the

¹²⁰ Federal Government of Nigeria, *National Action Plan for the Implementation of UNSCR 1325 and Related Resolutions in Nigeria* (2013-2017). Online: <<https://1325naps.peacewomen.org/>> [National Action Plan, 2013]; Federal Government of Nigeria, *National Action Plan for the Implementation of UNSCR 1325 and Related Resolutions in Nigeria* (2017-2020). Online: <<https://1325naps.peacewomen.org/>> [National Action Plan 2017]

¹²¹ Violence Against Persons (Prohibition) Act, 25 May 2015. [Hereafter VAPP Act 2015]

VAPP Act, the Terrorism (Prevention and Prohibition) Act 2022 (TPA Act) 2022¹²² is helpful in the study in critiquing efforts towards ensuring accountability for SGBV. Another primary data source is caselaw materials, which are developed based on SGBV prosecutions under the VAPP Act and the TPA. I have applied them to critique the application of existing laws in prosecutions for conflict-related SGBV.

Other primary sources of data used in this research include the WPS Resolutions and other international law norms like the Convention on the Elimination of Discrimination Against Women (CEDAW), particularly the CEDAW Committee's General Recommendation 30 that touches on Women and Girls in Conflict and Post Conflict Settings.¹²³ The relevance of these documents to this research is to critique how much of these international legal instruments are used in formulating legal and policy redress for women and girls in conflict contexts such as Nigeria.

Other documents at the regional level used in the research include the Protocol to the African Charter on Human and People's Rights on the Rights of Women in Africa (Maputo Protocol),¹²⁴ the African Charter on the Rights and Welfare of the Child (ACRWC), the AU Convention on the Prevention and Combatting of Terrorism (1999),¹²⁵ The Protocol to the African Union Convention on the Prevention and Combatting of Terrorism (2004).¹²⁶ These legal instruments either provide important supplements to the WPS initiatives in Nigeria or provide apertures to critique certain observable oversights. Additionally, the AU Plan of Action on the Prevention and Combating of

¹²² *Terrorism (Prevention and Prohibition Act) (2022)*, Laws of the Federation, No. 91 Vol.109, A489-574. [Hereafter TPA Act 2022].

¹²³ UN Committee on the Elimination of Discrimination Against Women (CEDAW), General Recommendation No. 30 on women in conflict prevention, conflict and post-conflict situations, CEDAW/C/GC/30, 1 November 2013, [Hereafter CEDAW GR 30].

¹²⁴ African Union, Protocol to the African Charter on Human and People's Rights on the Rights of Women in Africa, African Union, 11 July 2003. [Hereafter Maputo Protocol].

¹²⁵ *OAU Convention on the Prevention and Combating of Terrorism, 14 June 1999*. Online: <<https://www.refworld.org/legal/agreements/oau/1999/en/25776>>.

¹²⁶ African Charter on the Rights and Welfare of the Child, 11, July 1990 CAB/LEG/24.9/49 (1990). [Hereafter ACRWC]

Terrorism (2015-2020) provides a key vantage point from which to critique accountability for SGBV occurring during violent conflicts.

The study has also referred generously to other publicly sourced secondary sources, including research conducted by international organisations and scholars touching on sexual violence in Nigeria. As is evident in the preceding chapters, organisations like Reuters, Amnesty International, and Human Rights Watch have done fieldwork that has inspired and justified this study. Other secondary materials include journal articles, newspaper publications, and social media posts.

1.9 Main Arguments

I argue mainly that no matter how well or poorly crafted the UN WPS Agenda is in seeking the protection of women from sexual violence experiences resulting from violent conflict, it will not produce much results on the ground if member states do not set in place structures to ensure that all who commit sexual crimes are held accountable for their actions regardless of whether they are organised armed groups or security forces or civilians. Therefore, UN Member states such as Nigeria have a vital role to play in ensuring that all perpetrators are held accountable for their actions, and this role must be executed while being mindful of the kinds of SGBV that are prevalent within the violent conflicts in the state.

I also argue (and show through already existing research) that the types of SGBV prevalent in violent conflict have roots in society generally. To ensure that solutions address the challenges on the ground, local laws and policies must be aware of and seek to address the historical, structural, and contemporary factors that contribute to violence and SGBV within the state. In Nigeria's case, these factors include the legacy of colonialism, patriarchal norms, and cultural practices and how these conflate to influence the social and political landscape. By understanding these influences, laws and policies can be crafted with the necessary nuance to address these challenges effectively.

Additionally, I highlight how centralised and non-diverse understandings of ideas about the harms women are exposed to during conflicts can hinder the meaningful localisation of the WPS Agenda in countries like Nigeria, where there is no critical thought on how to apply universal ideas in ways that can be beneficial to local human security concerns. In other words, I stress the need for member states to not just adopt international norms or standards without paying attention to how those standards can respond to or be applied to address SGBV, considering contextual peculiarities. Even though it is evident that the WPS Agenda Resolutions and the structure of the WPS Agenda that the UNSC has set out is fraught with its shortfalls, this study is more concerned about how states such as Nigeria who have committed to the implementation of the Agenda have done so. Therefore, it is my firm belief that the successes or failures of the WPS Agenda in addressing the challenges women encounter in violent conflict can be attributed to a very significant extent to what states do or fail to do within their territories. This does not suggest that the UN WPS Agenda is not without its shortcomings; it only means that there is a shared responsibility and the state's role is crucial.

1.10 Contribution to Existing Knowledge and Originality

The literature review in the following chapter reveals a gap in existing studies of the domestication of the WPS Agenda norms and policies in state legal and policy architecture. Much of the existing scholarly critique has focused on the strengths and weaknesses of the WPS Agenda itself, or how the UN goes about its implementation. Thus, this study contributes to the existing scholarship by exploring the process of states' efforts in the localisation of the WPS Agenda within its legal systems for the purpose of ensuring accountability for SGBV; in other words, how states like Nigeria prepare the ground to incorporate the Agenda into its legal and policy architecture for enforcement—as the WPS Resolutions' responsibilities levelled on states insinuate. In any context, this backdrop is critical in better analysing the shortfalls or successes of the WPS Agenda. The

study shows that the impacts of the WPS Resolutions themselves, as with many internationally generated norms and policies, depend significantly on the particulars of local implementation.

Thus, this study contributes to the existing scholarship by demonstrating that a chunk of the requirements for implementing the WPS Agenda rely on what states and their institutions do. The most obvious and easily identifiable way of including the Agenda into the state fabric is the adoption of NAPs. However, I demonstrate that the NAPs tell only a partial story of the WPS Agenda within states, given that they do not have any legal force to compel or demand action from relevant stakeholders or demand the enforcement of any legal or policy initiatives. Understanding the domestication of the Agenda within states is an essential way of understanding the potential of the WPS Agenda to combat SGBV.

1.11 The Necessity to Examine the Integration of WPS Agenda into Domestic Legal and Policy Architecture

The focus on domestication in this thesis is motivated by the significant emphasis placed by the UN WPS Agenda on the role of states in integrating WPS initiatives into laws and policy. This is evident through the WPS Agenda Resolutions, technocratic initiatives, and efforts by UN entities. For example, in 2007, the UNSG urged member states to incorporate gender considerations into their peace efforts by developing NAPs.¹²⁷ States institutionalise the WPS Agenda by adopting NAPs, which are policy documents enacted to ensure that the Agenda meets specificities within their contexts.¹²⁸

Accordingly, many member states went on to formulate NAPs, and presently, almost all countries affiliated with the UN have at least one iteration of NAP or the other, with many countries having made multiple.¹²⁹ This means that NAPs are seen as crucial for translating the WPS

¹²⁷ UNSG Report 2018, *supra* note 115 at 2.

¹²⁸ See Peace Women, *supra* note 6.

¹²⁹ *Ibid.*

Resolutions into tangible, actionable initiatives at state levels. In addition, the significance of NAPs in domesticating the norms and policies of the WPS Agenda has been a central topic of scholarly discourse.

Some scholars believe that the NAPS would ensure that WPS Resolutions are sufficiently diffused into state territories in ways that could make for meaningful implementation.¹³⁰ Still, others argue that NAPs have the effect of “multiplying international interventionist discourse into local spaces.”¹³¹ Both positions assume that NAPs showcase whether or not states implement the WPS Agenda. This is partly accurate, but we can learn much more about how states fulfil their commitment to the WPS Agenda by going beyond NAPs. For example, one can investigate the legal systems of states, which is the focus of this study.

In other words, merely examining NAPs does not provide a comprehensive assessment of the journey of the WPS Agenda from the international to the national. For instance, NAPs, as policy or strategy documents, lack the legal force to ensure accountability for SGBV. In such situations, national laws are a more viable option. So, the fact that a NAP stipulates modalities to ensure accountability is only the beginning of the process. This, in a sense, renders NAPs insufficient markers of the WPS Agenda’s relevance in ensuring accountability for sexual violence. Therefore, this thesis delves deeper into states’ legal initiatives to provide accountability for SGBV as an alternative way to examine the influence of the WPS Agenda within states. By exploring these initiatives, a more comprehensive understanding of the WPS Agenda’s journey from the international to the national space and its potential impact against the backdrop of existing, often oppositional, local laws is more likely to emerge.

¹³⁰ Miller, Pournik, & Swaine, Women in Peace and Security... *supra* note 40.

¹³¹ Hudson, Power of Mixed Messages... *supra* note 38 at 4-5.

In other words, the analysis undertaken in this project goes beyond analysing Nigeria's NAP to critique whether or how the WPS Agenda have influenced Nigeria's legal initiatives on holding perpetrators accountable for conflict-related SGBV. I believe that international law norms and policies primarily serve as frameworks, and their relevance depends on their activation by state parties within local contexts. Therefore, the focus is on how these centrally generated policies manifest in Nigeria through laws and policies.

The focus of this study on Nigeria aims to appraise the extent to which the WPS norms carry the force of law when replicated within states. I argue that conscientious activation, by way of creating relevant legislations, policies and programs in furtherance of the local WPS Agenda, is crucial for bridging the gap that continues to exist between the Agenda's promises and the enduring reality of SGBV in violent conflict. Thus, the study assesses the incorporation of WPS norms and policies in Nigeria by examining the laws and policies addressing issues of sexual violence since the inception of the WPS Agenda and Nigeria's first NAP in 2013 up to the current NAP, which was made in 2017. Through a thorough examination of Nigeria's legal initiatives, this thesis offers valuable insights into how the WPS norms, policies, and programs developed at the UN are either translated or fail to be translated into actionable measures at the national level.

1.12 Major Concepts of Importance

1.12.1 Domestication Versus Norm Diffusion

In this study, I choose to use the term “domestication” over the term “norm diffusion” to refer to the process of incorporating ideas on ensuring accountability for SGBV in the WPS Resolutions into Nigeria's legal and policy initiatives. Although some scholars may prefer the latter to refer to the same process, I use the former because it is the most appropriate in the context of this research, as the following explanation shows.

Norm diffusion refers to the process by which ideas, values, practices, or standards (collectively known as "norms") spread within a society or from one society to another.¹³² In the context of international relations and global governance, norm diffusion is often discussed in terms of how international norms become part of domestic legal and political systems,¹³³ either through coercive or strategic calculations or through international socialisation.¹³⁴

Domestication refers to the process by which international laws, standards, policies or agreements are incorporated into a nation's domestic legal, policy and administrative frameworks. This can involve adapting or incorporating international treaties, conventions, or customary international law into national legislation and policy-making.¹³⁵ However, despite their similarities, there are significant differences between the two in terms of scope, process, actors and outcomes.

The scope of norm diffusion is broader and encompasses the spread of norms across international borders and within the global community. An example of norm diffusion in the context of the WPS Agenda is how civil society organisations and gender-focused NGOs have undertaken to apply the ideas in the WPS Agenda in pursuing their objectives. In terms of process, norm diffusion involves the transmission of norms, values, practices, and standards from one entity to another so it can occur exclusively within one institution or organisation. This can happen through various mechanisms such as coercion, persuasion, emulation, socialisation, or strategic

¹³² Martha Finnemore and Kathryn Sikkink. "International Norm Dynamics and Political Change." (Autumn 1998) 52:4, *International Organization*, 887.

¹³³ Doris Asante, "Two Decades after United Nations Security Council Resolution 1325: Global, National, and Local Implementation of the Women, Peace and Security Agenda" (2020) 22:4 *International Feminist Journal of Politics*, 612.

¹³⁴ See generally Finnemore and Sikkink, *supra* note 132.

¹³⁵ Ryan Goodman and Derek Jinks, "How to Influence States: Socialization and International Human Rights Law." (2004) 54:3 *Duke Law Journal*, 621-703. Goodman and Jink's work provides insights into the processes by which states come to adopt the behaviour prescribed by international human rights laws and norms. It delves into the mechanisms that facilitate both diffusion and domestication.

adoption. The actors in norm diffusion include international organisations, states, NGOs, transnational advocacy networks, and individuals. The outcome of norm diffusion is the acceptance and recognition of certain norms globally, which may or may not lead to concrete legal or policy changes within individual states.¹³⁶

Even though the WPS Agenda norms could be examined in such a manner, the objective of this study is on the more specific ways that the stipulations of the WPS Agenda make their way into the laws and policies of states, hence the use of the term norm domestication or incorporation. Norm diffusion can make an idea popular without much else; I believe that for the WPS Agenda to transform the culture of violence that has become endemic in Nigeria requires deliberate incorporations backed up with concrete commitments to action.

The scope of domestication is more specific and refers to the process by which international norms are incorporated into individual states' domestic legal and policy frameworks. In terms of process, this involves legal and administrative measures such as ratification of treaties, enactment of legislation, judicial decisions, executive actions that integrate international norms into national law and practice, and policy initiatives.¹³⁷ The primary actors are national governments, legislatures, courts, and sometimes sub-national authorities. One outcome of norm domestication might be the actual change in a country's laws and policies to align with international standards, making these norms enforceable and actionable within that country's jurisdiction.¹³⁸

¹³⁶ Anne-Marie Slaughter, "A Global Community of Courts." (2003) 44 *Harvard Int'l L. J.*, 191-219. Slaughter discusses the mechanisms through which international norms are internalised into domestic legal systems and the role that various state and non-state actors play in this process.

¹³⁷ Beth A Simmons, "Civil Rights in International Law: Compliance with Aspects of the 'International Bill of Rights'." (1997) 16, *Indiana Journal of Global Leg Studies*, 437.

¹³⁸ Andrew P Cortell & James W Jr Davis, "How Do International Institutions Matter? The Domestic Impact of International Rules and Norms." (1996) 40:4 *Int'l Studies Q*, 451. Cortell and Davis explore the conditions under which international norms influence domestic politics, which is an excellent resource for understanding the transition from norm diffusion to domestication.

1.12.2 Major Concepts: Coloniality and Hegemony

Two significant concepts, coloniality and hegemony, are particularly relevant to the approach taken in this study. Coloniality refers to the enduring patterns of power, control, and social hierarchies that emerged during colonialism and continue to affect societies even after formal colonial rule has ended.¹³⁹ Within this analysis of the WPS Agenda in Nigeria, coloniality is important for at least two reasons. First, in the most direct sense, because Nigeria has been subject to colonial rule by the British Empire from 1861 until Nigeria gained independence on October 1, 1960. The context of the study is inherently bound up in the material realities of coloniality in Nigeria and the specific ways that these realities impact SGBV; for example, the marginalisation of Nigerian women's SGBV experiences, where such experiences do not align with dominant ideas; for instance, where they cannot be categorised as relevant to national security, given that the entity called Nigeria is fundamentally, a colonial creation.¹⁴⁰

Secondly, as a scholarly perspective, coloniality is used to identify and critique the imposition of Western ideas (colonial ideas) about addressing SGBV in non-Western societies. In this study, I use coloniality as a lens to examine how local authorities impose colonial ideas about addressing SGBV so that they can advance goals that favour them while not having any significant impact to address SGBV.

Put differently, coloniality is, in this study, seen as a key component in assessing Nigeria's engagement with the WPS Agenda beyond superficial and rhetorical narratives that give an impression of commitment to ensuring accountability for SGBV without any clear enforcement criteria. This is to say that ensuring accountability for SGBV must transcend rhetorical

¹³⁹ Sylvia Tamale, "Challenging the Coloniality of Sex, Gender and Sexuality" (2022) 1:1 INTELLECTUS: The African Journal of Philosophy, 57.

¹⁴⁰ The conception of national security in Nigeria is fundamentally informed and influenced by what the colonial overlords defined it—viz the protection of state borders from external aggression and prevention of internal uprisings against the government.

commitments to show clear enforcement parameters backed up by actual steps taken to achieve accountability measures that would favour the victims. This is demonstrated in detail in chapters four and five of this study. The study shows that coloniality is embedded in Nigeria's WPS Agenda, including the NAPs and other legal and policy initiatives – a fact that limits the seamless achievement of the set goals of these policy documents in the context.

A distinct but related concept of importance here is hegemony, which refers to the dominance exerted by one group over others through power and coercion or through normalising the ideas of the more powerful group or party over the other party or parties.¹⁴¹ Hegemony in this study does not concern the operations between powerful (western) states and their Third World counterparts, instead, this study considers hegemony at the fringes, which are ways that hegemony can function exclusively within Third World countries; for example, states like Nigeria, through state machinery, to marginalise and subdue interests opposed to the interests of persons or groups that wield state power, or that dominate national power.

The study demonstrates how hegemony is, thus, perpetuated locally by looking at how it works in Nigeria's WPS Agenda to silence or obscure women's security issues outside of its main framing—between Western (powerful and highly industrialised) countries versus the Third World. This paradox can potentially result in creating a double bind of oppression for women and girls within countries like Nigeria, occasioned both by international and local laws and policy initiatives.

1.13 Structure and Layout

This thesis is divided into six chapters. This first chapter provides a detailed background, research focus, and motivation behind the study. It explains the focus on Nigeria, highlighting the

¹⁴¹ Vasuki Nesiah, "TWAIL Feminist Perspectives on Conflict" (March 19, 2022) Völkerrechtsblog: International Law & International Legal Thought. Online: < <https://voelkerrechtsblog.org/twail-feminist-perspectives-on-conflict/>>

nature of conflicts in Nigeria and the categories of SGBV prevalent therein, and identifies key arguments and important terms.

Chapter two reviews relevant scholarly works from feminist security studies and international law and policy in order to situate the study within the existing discourses on the WPS Agenda and SGBV in conflict contexts. The chapter then contextualises the literature review within the boundaries of the study by highlighting African and Nigerian feminist scholarly critiques of international security and the WPS Agenda.

Chapter three presents the theoretical and methodological tools of the study. The theory section outlines the three theoretical perspectives used in the analysis: postcolonial feminism, TWAIL, and intersectionality. It clarifies their major persuasions and the key insights from these theories that are relevant to the study. The methodology section then explores the analytical components of a doctrinal analysis and identifies the data that forms the analytical crux of the study.

Chapters four and five present the analysis and form the body of the thesis. Chapter Four begins by setting out the WPS Agenda in Nigeria, focusing on the two NAPs (passed in 2013 and 2017) and highlighting the thematic shape of the WPS Agenda in Nigeria. The chapter also presents and critiques other developments arising after the NAPs from a postcolonial-TWAIL perspective. It undertakes a detailed presentation and analysis of the VAPP Act 2015 as a cardinal effort in this process. The chapter shows how the VAPP Act connects to the WPS Agenda NAPs in Nigeria and critiques its relevance in addressing conflict-related issues in Nigeria. The chapter then evaluates the prosecutions that have been made in Nigeria regarding war criminals to see whether or not SGBV crimes were included as part of the charges made against them.

Chapter Five answers the research questions based on the data presented and analysed in chapter four. It suggests that local initiatives in Nigeria indicate a less-than-promising outlook for

the WPS Agenda's effectiveness in tackling conflict-related SGBV. It demonstrates that domestic laws and policies reflecting the specificity of context can significantly positively or negatively affect how much the WPS Agenda is equipped to address local manifestations of SGBV. This highlights the limitations of relying so heavily on states as the primary mechanism for addressing SGBV during conflict and its aftermath. This is due to concerns about Nigeria's willingness to establish effective structures for successful implementation. The chapter also shows that the focus on the individual violator as the subject of prosecutorial accountability does not address the network of persons directly or indirectly complicit in engendering SGBV.

Chapter six is the final chapter. It summarises the entire work and draws conclusions arising from the study. The chapter closes with some modest recommendations and by earmarking areas for future research.

CHAPTER TWO: Literature Review

2.0 Introduction

This chapter canvasses relevant scholarship on feminist conceptions of security and situates them within the WPS Agenda discourse on SGBV in war contexts. The review establishes feminist scholars' long-standing engagement with the association of gender and war before the emergence of the WPS Agenda and the critical postulations on the Agenda's potential in addressing SGBV, especially in conflict.

The chapter is segmented into two parts: to lay the context for a more focused review of the WPS Agenda, the first part reviews scholarship on gender, security, and militarism within international law and explores feminist perspectives on war and militarism. It examines the distinctions between traditional theories of violent conflict and feminist perspectives on international law's approach to violent conflict. This first section underscores the presence of feminist critique of peace and security through a gendered lens long before the inclusion of the WPS Agenda in the peace and security scheme.

The second part, which focuses on the WPS Agenda reviews scholarly critiques on various provisions of the WPS Agenda. It then more directly focuses on scholarship on the role of states and NAPs in advancing the WPS Agenda. To contextualise the review in line with the emphasis of the research project, the second segment also reviews African scholarly critique on the WPS Agenda. It highlights the critical insights scholars have advanced on the relevance of the WPS Agenda in Africa.

Part One - Gender, Security, and Militarism within International Law

This section underlines the significant approaches of feminist scholars to international security and militarism. The following subsection outlines the specificities of feminist agitations on war and militarism.

2.1 Feminist Theoretical Perspectives on War and Militarism

A significant contribution of feminist scholarship to international security is its exposition of the intersection of gender, militarism, patriarchy and war inherent in international security's normative, political, and operational dynamics and their implications on how women and girls experience violent or armed conflict.¹⁴² Cynthia Enloe has established a connection between military institutions and their influence on various aspects of women's lives, whether in militarized societies or those affected by militarization. Her book *Maneuvers* foregrounds how military planners manipulate social conceptions of gender to maintain and expand military power.¹⁴³ According to Enloe, militarism becomes ingrained in societies through intentional efforts by various sectors, such as education, manufacturing, and entertainment.

Enloe uses the metaphor of "militarizing a can of soup" to illustrate how everyday objects and consumer goods can be imbued with military significance. This concept highlights how even mundane items can be co-opted to serve military narratives or objectives, reflecting the pervasive nature of militarisation in society.¹⁴⁴ Enloe examines how motherhood is militarized by portraying women as nurturers of future soldiers or as supporters of military endeavours. This involves framing motherhood in a way that aligns with military needs, such as encouraging women to raise children who are loyal to the state and its military objectives.¹⁴⁵ Enloe's work demonstrates that gender is intrinsic to military culture and objectives, not relegated to the background as traditional war scholarship often suggests (which I will point out later in the chapter).

¹⁴² Amanda Chisholm & Hanna Ketola. "The Cruel Optimism of Militarism: Feminist Curiosity, Affect, and Global Security" (2020) *International Political Sociology*, p.270. See also Frank A. Stengel and David Shim., "Militarizing antimilitarism? Exploring the gendered representation of military service in German recruitment videos on social media." (2021) *Int'l Feminist Journal of Politics*, 608; Marla Rashid. "Precarious attachments: Soldiers and Erasures of the Feminine in the Pakistan Military" (2021) *Int'l Feminist J of Politics*, 544.

¹⁴³ Cynthia Enloe, *Manoeuvres: The International Politics of Militarising Women's Lives* (University of California Press: Berkely, 2000).

¹⁴⁴ *Ibid* at 1-34.

¹⁴⁵ *Ibid* at 235.

Scholars who advocate against war and militarism find a connection between patriarchy and militarism and argue that patriarchy nurtures militarism. Rena Patterson opines that “To prevent war is to fight male power, to expose and defy the pretensions of masculinity, and to recognise and act against the basic principles operating in all domains of patriarchal-capitalist society”.¹⁴⁶ Similarly, Carol Cohn makes the connection between gender, militarism and masculinity (which is an intrinsic feature of patriarchy) by examining the highly gendered language that pervades the discourse on nuclear strategy and how this language shapes intellectual defence thinking about nuclear weapons and war. Carol Cohn argues that the abstract, technocratic language used to discuss nuclear strategy serves to sanitise the violence of nuclear war, distancing policymakers and the public from the human consequences of nuclear explosions. She points out how this language is filled with sexual metaphors – “penetration aids,” “soft lay downs,” and “deep interdiction” – which serve to masculinise nuclear war and create a seductive allure around the power of nuclear weapons. This discourse, according to Carol Cohn, not only obscures the moral implications of using such weapons but also perpetuates a form of strategic thinking that is disconnected from the realities of human suffering.¹⁴⁷

In addition, Carol Cohn’s work highlights the culture within the defence intellectual community that often equates rationality with masculinity. Emotional detachment and objectivity are valued, while empathy and emotional considerations are marginalised. This association can lead to dismissing perspectives that emphasise human impact and ethical concerns, often stereotypically associated with femininity.¹⁴⁸ The abstract and technical language used in war

¹⁴⁶Rena Patterson, “Militarism and the Tradition of Radical Feminism” Cited by bell hooks, “Feminism and Militarism: A Comment” (1995) 23:3/4 Rethinking Women’s Peace Studies, 61.

¹⁴⁷ Carol Cohn, “Sex and Death in the Rational World of Defense Intellectuals.” (1987) 12:4 Signs: Journal of Women in Culture and Society, 687, 718.

¹⁴⁸ *Ibid.*

theories can obscure the real human suffering caused by military actions. By focusing on strategic and technical aspects, the discourse often neglects the human cost, such as civilian casualties and destruction. The detachment can be seen to maintain a “masculine” rational approach, avoiding the “feminine” emotional response.

Although these are much more dated accounts, they remain significant today as more contemporary analyses echo these sentiments. Louise Amatsu and Christine Chinkin, analysing the violence targeted at civilians and civilian objects by Russian offensives in the ongoing war between Ukraine and Russia, argue that the war has no military value whatsoever but that “rather, what we are witnessing is nothing other than the latest expression of patriarchal authoritarianism that survives and thrives on unmitigated violence.”¹⁴⁹ These scholars further argue that “gender systems, norms and identities saturate the war in Ukraine”¹⁵⁰ and are “deployed to normalise the securitisation and militarisation of states and to rationalise the accumulation and use of the tools of violence including nuclear.”¹⁵¹ While these occurrences usually serve to strengthen and perpetuate militarism, masculinity and patriarchy, the fall-out is on women and girls and other civilians caught up in the hostility.

As articulated by Amatsu and Chinkin, There is no doubt that gender has been integral in serving patriarchal ends in wars, and this has been the situation for many decades; this reality has served as a strong motivation for feminist interest in warcraft and its impact on civilians. Laura Sjoberg argues that paying attention to gender in the study of war could change our understanding of war's reasons and methods for the better. Even though the author takes traditional war theories as a starting point, she argues that feminist war theories are fundamentally different from

¹⁴⁹ Louise Amatsu & Christine Chinkin, “War, Law and Patriarchy” (2022) LSE, 6.

¹⁵⁰ *Ibid* at 1.

¹⁵¹ *Ibid* at 2.

traditional war theories, which believe that war is inevitable and the responsibility of international law is to regulate its conduct. Feminist war theories begin by questioning the necessity for wars in the first place.¹⁵²

Elsewhere, Sjoberg and Jessica Peet contend that gender is crucial to the story of how and why soldiers intentionally target civilians. They maintain that sex and gender-based victimisation are connected to the gendered notions of civilian immunity and the civilian object principle.¹⁵³ Civilians, in this sense, are usually understood as women and children. These authors argue that civilian victimisation is a logical extension of wars justified by protecting women and children, which also targets the opponent's civilians (women and children).¹⁵⁴ In other words, women (and girls, or women and children) serve to justify military offensives while at the same time making the objects upon which military might is exhibited.

However, others challenge the notion that patriarchy and militarism are at the bedrock of SGBV and attribute SGBV in wars to the pervasive culture of imperialism that marks war activities. bell hooks, in challenging the tendency of some scholars to see war strictly as a show of patriarchal prowess, argues that imperialism and not patriarchy is the core of militarism.¹⁵⁵

According to hooks:

By equating militarism and patriarchy, these feminists often structure their arguments in such a way as to suggest that to be male is synonymous with strength, aggression, and the will to dominate and do violence to others and that to be female is synonymous with weakness, passivity, and the choice to nourish and affirm the

¹⁵² Laura Sjoberg, "Gender, Feminism, and War Theorising" in Laura Shepherd et al. (Eds), *Routledge Handbook of Gender and Security* (1st ed.), 59.

¹⁵³ Civilian Immunity ('Immunity') is the legal and moral protection that civilians enjoy against the effects of hostilities under the laws of armed conflict and according to the ethics of killing in war. Immunity specifies different permissibility conditions for *directly targeting civilians* on the one hand and for *harming civilians incidentally* on the other hand. See Benbaji, Yitzhak & Susanne Burri. "Civilian Immunity Without the Doctrine of Double Effect" (2020) 32:1 *Utilitas*, 50.

¹⁵⁴ Laura Sjoberg and Jessica Peet, "Another Dark Side of the Protection Racket" (2011) 13:2, *Int'l J of Politics*, 163.

¹⁵⁵ bell hooks, "Feminism and Militarism: A Comment" (1995) 23:3/4 *Rethinking Women's Peace Studies*, Published by The Feminist Press at the City University of New York, 61.

lives of others. While these may be stereotypical norms that many people live out, such dualistic thinking is dangerous; it is a fundamental ideological component of the logic that informs and promotes domination in Western society. Even when inverted and employed for a meaningful purpose... it is risky, for it reinforces the cultural basis of sexism and other forms of group oppression. Suggesting as it does that women and men are inherently different in some fixed and absolute way, it implies that women, by virtue of our sex, have played no crucial role in supporting imperialism (and the militarism that serves to maintain imperialist rule) or other systems of domination.¹⁵⁶

hooks' perspectives introduce imperialism as an important factor to be conscious of in the war-gender challenge. Beyond shedding light on the connections between militarism and imperialism, hook's perspective shows that more than one set of systems or ideologies, such as patriarchy, militarism and imperialism, could intersect to create gendered oppression in war and ignoring any of the intersecting factors a critical oversight that could affect a comprehensive appreciation of how gender functions in war. This is essential to understanding how systems intersect to create or compound women's experiences of war or violent conflicts and underscores the need for legal approaches for redress to be conscious of these intersections.

The views expressed by hooks align with Amina Mama's observations on the pervasive nature and consequences of militarism in postcolonial Africa. Mama, in her work, examines how investing in militarism negatively affects the global push for fair development and instead supports imperialism and patriarchy in postcolonial Africa. Mama argues that militarism - which has economic, political, and cultural components that are heavily gendered not only maintains underdevelopment in poorer countries but also confirms the argument that external powers have continued to pursue their vested interests through military means in postcolonial Africa.¹⁵⁷ She also argues that there exists a strong correlation between patriarchy and militarism, with both

¹⁵⁶ *Ibid* at 59-60.

¹⁵⁷ Amina Mama, "Beyond Survival: Militarism, Equity and Women's Security" (2014) 3, BRILL, 49.

serving the empire. She concludes that militarism, at the very least, represents an intensified manifestation of patriarchy.¹⁵⁸ This viewpoint provides a more balanced perspective by drawing attention to the multiplicity of factors that undergird the challenge and also highlights the transcendental impact of the dynamic intersections of militarism, patriarchy and imperialism on the erstwhile colonised territories. Mama's analysis also draws attention to the role that militarism plays in perpetuating coloniality in postcolonial Africa.

Even though there are some disparities among feminist scholars regarding the underlying logic of war and militarism and how gender politics are used to advance military objectives, there is enough consistency among feminist scholars to establish a feminist view on war and militarism and differentiate it from traditional war theoretical perspectives.

In the next section, I clarify the overriding differences between feminist and traditional or mainstream perspectives of wars.

2.2 Distinctions between Traditional or Classical War Theories and Feminist Theorising on War

Feminist viewpoints on war diverge significantly from traditional theoretical perspectives and have disrupted the fixed ideas of classical war theory. By definition, classical war theory comprises a set of fundamental principles and concepts regulating the methods of wars between nations or organised groups. It essentially gives priority to the use of force to achieve military victory, and the protection of states' borders as the core definition of security. This theory assumes that, in certain instances, war is necessary and justified for achieving political objectives and that warfare aims to overpower the adversary and impose the victor's superior and more beneficial ideological, economic, and political positions.¹⁵⁹

¹⁵⁸ *Ibid.*

¹⁵⁹ See generally Christopher McIntosh. "Theorizing the Temporal Exception: The Importance of the Present for the Study of War." (2020) *J of Global Security Studies*, 543.

Classical war theorists assume that success depends on skills, tactics, and strategies to outmanoeuvre and overcome the enemy. Classical war theorists also highlight the significance of military preparedness, professionalism, and discipline. The theory stresses the need for a well-trained and well-equipped military force, with soldiers who are obedient, courageous, and willing to make sacrifices for the greater good.¹⁶⁰

Overall, traditional war theory assumes that war is an inherently violent and brutal affair, but one that can be conducted in a way that can minimise civilian casualties and respects certain ethical principles. One of the essential ethical principles is the principle of proportionality, which means using only the necessary amount of force to achieve military objectives.¹⁶¹ Another crucial principle is the principle of distinction, which involves distinguishing between combatants and non-combatants.¹⁶² As such, classical war theory is highly centralised and mainly conceived in reactive terms and made responsive to emergent security threats.

Feminist thinking on war differs fundamentally from the classical war theory discussed above. The feminist conception of war is antithetical to traditional war theories because it questions the inflexibility of classical war theory and largely challenges its commitment to neoliberal principles.¹⁶³ Anne Marie D'Aoust considers the problems that affect neorealists' engagement with

¹⁶⁰Jonathan Parry. "Just War Theory, Legitimate Authority, and Irregular Belligerency." (2015) *Philosophia*. John Thomas. "Just War Doctrine – Relic or Relevant?," (2021), 175. Argues that for classical war to remain relevant, it should be expanded to include harms caused by non-kinetic actions, and, secondly, the distinctions between the states of war and peace should be redefined to reflect the changing character of war more accurately.

¹⁶¹ Medicines Sans Frontiers, "The Practical Guide to Humanitarian Law. Online: <<https://guide-humanitarian-law.org/content/article/3/proportionality/>>

¹⁶² Simon Hendrik, "Theorising Order in the Shadow of War: The Politics of International Legal Knowledge and the Justification of Force in Modernity." (2020) *J of the History of Int'l L*, 218; Victor Tadros. *To Do, To Die, To Reason Why: Individual Ethics in War* (Oxford University Press, 2020), 218.

¹⁶³ The approach of neoliberalism towards security involves using military force to safeguard economic interests and promote free-market capitalism globally. Supporters of this approach argue that military force can be necessary to protect resources and markets, promote democracy and human rights, and prevent terrorism and other threats to global security. They also believe free trade and investment can increase economic growth and development, leading to greater stability and prosperity. However, critics point out this approach often favours wealthy countries and multinational corporations over poorer countries and marginalised communities. They argue that military force can worsen conflicts, undermine human rights, and that free trade and investment can result in exploitation and

history and how it has shaped international security as a discipline, including enforcing strict rules and presenting a single perspective as the universal truth.¹⁶⁴ This means that the guiding principles of international security are dictated by powerful and highly influential nations whose historical experiences are used as standards for making decisions that have international implications. D'Aoust's viewpoint underscores the need for Third World nations such as Nigeria to be very critical of adopting and utilising such policies to ensure that they align with their own specific interests and contexts.

Another fundamental discrepancy between traditional and feminist war theory is the disjuncture in understanding wars' definite start and end periods. For classical security theorists, the violence during a war is extraordinary and removed from everyday experiences, so they believe that war has a definite start and end period.¹⁶⁵ Feminist scholars, on the other hand, look at everyday violence, sexual violence, and military practices and have demonstrated that violence in our militarised world is the norm rather than the exception in social and political life and that conflicts impact lives both before they start and after they end if they end at all.¹⁶⁶

Furthermore, feminists' critique of classical war theory invites a critical reflection and explicit identification of where and how gender matters in wars, in addition to what gender considerations

environmental harm. Neoliberal foreign policy has been linked with several military interventions, such as the US-led invasion of Iraq in 2003, which aimed to promote democracy and protect oil resources. It has also related to promoting free trade agreements and economic liberalisation, such as the Trans-Pacific Partnership, which some critics believe favoured multinational corporations over workers and communities.

¹⁶⁴ Anne Marie D'Aoust, "Abusing History: A Critical Analysis of Mainstream International Relations Theory" (2004) 6 Occasional Paper, 4-13. Online (pdf): < https://dandurand.uqam.ca/wp-content/uploads/2016/04/ERD_Abusing_History_Daoust.pdf >

¹⁶⁵ Elisabeth J. Wood, "Conflict-Related Sexual Violence and the Policy Implication of Recent Research" (2014) 96:894, Int'l Rev of the Red Cross, 463-4.

¹⁶⁶ Caroline O. Moser, "The Gendered Continuum of Violence and Conflict: An Operational Framework", in Caroline O. Moser and Fiona Clark (eds); *Victims, Perpetrators or Actors?* (New York: Zed Books, 2001), 30-52; see also Enloe, *Manoeuvres supra* note 142; Cynthia Cockburn, "The Continuum of Violence: A Gendered Perspective on War and Peace", In Wenona Giles & Jennifer Hyndman (eds); *Sites of Violence: Gender and Conflict Zones* (University of California Press, 2004).

do when they emerge in war accounts.¹⁶⁷ This method seeks to counter the *add women and stir* approach that characterises much of international security.¹⁶⁸ The views these authors have expressed underscore the relevance of gender considerations in war theory. Enloe further provides significant insights into the place of gender in war theory. Her analysis emphasises that gender is not a peripheral issue in war theory; it is central to understanding the dynamics of war and militarisation.¹⁶⁹ Enloe's work, in effect, highlights how gender roles and norms are integral to the functioning and justification of military operations.

In addition, Enloe shows that traditional war theorists often rely on gendered narratives that assign specific roles to men and women. Men are typically portrayed as protectors and warriors, while women are seen as victims or supporters. Enloe challenges these stereotypes and calls for a more nuanced understanding of gender roles in war.¹⁷⁰ Traditional war theory has often overlooked the specific impacts of war on women. Enloe's work emphasises the need to consider how militarisation affects women differently, including issues like sexual violence, displacement, and economic exploitation.¹⁷¹ Enloe's analysis shows that women are not just passive victims of war and should not be seen only as such; they have agency and can resist militarisation. This challenges war theories that fail to account for women's active roles in both supporting and opposing military efforts.

The review in this section shows that foregrounding feminist analysis of war is a valuable tool of war as it opens war theories to many critical concerns that traditional war theorists do not consider relevant. African women, in particular, are known to use the opportunities violent

¹⁶⁷Naureen Chowdhury Fink and Alison Davidian, "Complementarity and Convergence? Women, Peace and Security and Counterterrorism" in Fionnuala Aolain, Naomi Cahn, Francesca Haynes, & Nahla Valji (eds); *The Oxford Handbook of Gender and Conflict* (Oxford, Oxford University Press, 2018), 157.

¹⁶⁸ Sahana Dharmapuri, "Just Add Women and Stir?" (2011) *Parameters*, 56.

¹⁶⁹ Enloe, *Maneuvers*, *supra* note 142 at 35-107

¹⁷⁰ *Ibid.*

¹⁷¹ *Ibid* at 288.

conflicts present to organise and advocate for societal changes on matters of relevance to them. A case in point is how Sierra Leone women organised after the war in Sierra Leone. Hussainatu J. Abdullah et al., in analysing how Sierra Leone women organised after the war, argue that the war presented an opportunity for Sierra Leonian women to regain the autonomy that they had enjoyed prior to colonial rule.¹⁷² They contended that to grasp women's experiences during the examined period, it is essential not just to consider the difficulties imposed by the war but also to recognise how women seized the opportunities to amplify their voices and assert their agency in the public and political realms, while also improving their access to resources and bodily autonomy integrity.¹⁷³ This shows that vital feminist perspectives, such as the ones reviewed above, have significantly modulated traditional notions of security. The following section reviews the feminist perspectives on international law to better contextualise the project within the WPS Agenda as a development within the international legal order.

2.3 Feminist Perspectives on International Law's Approach Towards Gender

While feminist scholars predominantly find that gender and sex are social constructs, they have argued that international law norms historically failed to recognise gender as an essential category for analysis due to its uncritical emphasis on the principles of objectivity, rationality, and impartiality, leading to a gender-blind approach in its normative frames.¹⁷⁴ Consequently, Hilary Charlesworth and Christin Chinkin challenge the supposed universality of international law because it privileges and universalises androcentrism.¹⁷⁵ They critique the lack of attention to

¹⁷²Sjoberg and Peet, "Another Dark Side" *supra* note 153 at 163; Hussainatu Abdullah et al., "Women's Voices, Work and Bodily Integrity in Pre-Conflict, Conflict and Post-Conflict Reconstruction Process in Sierra Leone" (Country Paper Prepared for the West Africa Scoping Workshop of the Pathways of Women's Empowerment Research Programme Consortium Meeting, Accra, Ghana, 4-7 July 2006), 2.

¹⁷³ *Ibid.*

¹⁷⁴ Hilary Charlesworth, "Feminist methods in International Law" (1999) 93 American Journal of Int'l L, 379.

¹⁷⁵ Hilary Charlesworth and Christine Chinkin, "The Gender of Jus Cogens" (1993) 15:1 Human Rights Q, 63.

gender issues within the framework of *jus cogens*,¹⁷⁶ emphasising the need to incorporate women's experiences and perspectives into the understanding and application of these fundamental legal principles.¹⁷⁷ Hilary Charlesworth critiques the traditional male-centric nature of international law and argues for the inclusion of feminist perspectives to address gender biases and inequalities. Charlesworth emphasises the importance of incorporating women's voices and experiences and advocating for systemic changes to promote gender equality and justice in international law.¹⁷⁸

Therefore, Charlesworth and Chinkin caution that the unchecked application of these seemingly universal principles can lead to discrimination against specific groups within society. This is because objectivity, rationality and impartiality can be influenced by individual biases, cultural norms, and power imbalances, which may favour certain groups over others. Therefore, the scholars emphasise the need for constant monitoring and evaluation of the application of these principles to prevent injustice and discrimination in international law.¹⁷⁹ Gender-based norms like the CEDAW and the WPS Agenda are a product of these critical feminist works in the field.

The views of TWAIL and postcolonial feminist scholars have further expanded on the critique of international law's blindness to difference by arguing that, traditionally, even the supposedly gender-based international law norms and policies were developed with no regard for the voices and agency of Third World women and continue to marginalise their agency and concerns in law and policy.¹⁸⁰

¹⁷⁶ *Jus cogens* refers to fundamental principles of international law that are universally recognised as binding and cannot be violated or overridden by any state.

¹⁷⁷ *Ibid.*

¹⁷⁸ Charlesworth, "Feminist Methods" *supra* note 173 at 379.

¹⁷⁹ *Ibid* at 370; see also Howse, R., & Teitel, R. "Beyond Compliance: Rethinking Why International Law Really Matters" (2010) *Global Policy*, 1, 127.

¹⁸⁰ Vasuki Nesiah, "Towards a Feminist Internationality: A Critique of US Feminist Legal Scholarship" (1993) 16 *Harvard Women's L.J.* 189; see also Hendrik Simon, "Theorising Order in the Shadow of War: The Politics of International Legal Knowledge and the Justification of Force in Modernity" (2020) *J. of the History of Int'l L.*, 218; Karen Engle and Vasuki Nesiah, "Feminist Approaches to International Law" (2021) *The University of Texas Law, Public L Research Paper No. 716*, 1.

One such idea criticised is how international law norms seek to advance gender equality—by construing gender equality to mean women everywhere are the same and could benefit from uniform standards. In other words, the notion that equality equates to sameness. Vasuki Nesiah believes that the way gender equality is advanced is too monolithic to be genuinely representative because it does not represent a heterogeneous women population and, in essence, ignores the uniqueness and differences of women across diverse spatial and ideological contexts.¹⁸¹ The author also maintains that it is untenable to:

...invoke ‘women’ without speaking to the specific struggles and conditions of struggle through which women are socially constructed and against which women are socially situated. This is not to say that we should not generalise, but rather that generalisation must always be hesitant and politically grounded.¹⁸²

The views expressed above support the position that for international law norms, including the WPS Agenda, to sustain international utility, they must be grounded in the politics of context, space, and difference.

Chandra Talpade Mohanty also argues for the need to break down the belief that all women are the same and could benefit from set standards in the same way and embrace the idea of a strategic feminist internationality.¹⁸³ This necessitates not just listing the differences in contexts, experiences and perspectives but using them as opportunities to work together on a shared feminist project beyond any divisions to create relationships and international standards that are truly empowering.¹⁸⁴ I developed this further in the study by analysing the WPS Agenda in Nigeria.

¹⁸¹ *Ibid* at 193.

¹⁸² *Ibid* at 203.

¹⁸³ Chandra Talpade Mohanty, “Introduction: Cartographies of Struggles Third World Women and The Politics of Feminism” In Chandra Talpade Mohanty and Lourdes Torres (eds); *Third World Women and the Politics of Feminism* (Vol. 632, Indiana University Press, 1991), 2.

¹⁸⁴ *Ibid*.

In the next part of this review, I will focus on feminist critiques of the WPS Agenda. It's important to note that this section does not cover all the critiques of the Resolutions but rather focuses on those that are relevant to the analysis presented in this study.

Part Two: WPS in Africa

2.4 Exploring Feminist Insights on the WPS Agenda

The WPS Agenda has been the subject of extensive scholarly attention due to its strategic position as the first international framework to address women's SGBV experiences of war. One easily identifiable aspect is the linkages between the WPS Agenda and previous feminist critiques of international law's approach to war. Chinkin exposes the intricate relationship between historical global feminist activism and the development of the WPS framework as a component of international peace and security, identifying the WPS Agenda because of this global activism.¹⁸⁵ Rhonda Copelon also recognises that the WPS Agenda is a culmination of decades of feminist activism on the disproportionate impacts of war and militarism on women.¹⁸⁶

Resolution 1325, the Agenda's inaugural Resolution, has received much scholarly attention. While some were critical of the WPS Agenda's potential and limits,¹⁸⁷ others celebrated it as a milestone achievement following years of feminist activism to formalise women's oppression occasioned by violent conflict as an international security issue.¹⁸⁸ For instance, Dianne Otto explores the successes of feminist ideas in the UN institution, mainly as they appear in the WPS

¹⁸⁵ Christine Chinkin, *Women, Peace and Security and International Law* (Cambridge University Press, 2022), 1-37.

¹⁸⁶ See Rhonda Copelon, "Gender Crimes as War Crimes: Integrating Crimes against Women into International Law" (2006) 46:1 McGill Law Journal, 217; Copelon suggests that gender justice in international criminal law was possible due to the concerted efforts of civil society organisations marked by their inflexions and contributions on the work of international tribunals. Suggestive of the fact that wherever gender justice appears, feminist activism proceeds the fact.

¹⁸⁷ Cohn, "Mainstreaming Gender" *supra* note 42 at 185; Christine Bell and Catherine O'Rourke, "Peace Agreements or Pieces of paper? The Impact of UNSC Resolution 1325 on Peace Processes and Their Agreements" (2010) 59:4 Int'l & Comparative Law Q, 941.

¹⁸⁸ Christy Fujio, "From Soft to Hard Law: Moving Resolution 1325 on Women, Peace and Security Across the Spectrum" (2008) 9 Geo. J. Gender & L., 215.

Agenda. Her key concern is that feminist ideas are intrinsically altered when institutionalised.¹⁸⁹ Dianne Otto further clarifies her ambivalence about institutionalising feminist ideas in the WPS Agenda because doing so has detached them from their original political roots and stripped them of their liberating qualities through technocratic processes.¹⁹⁰ This perspective calls to question the overall influence emancipatory ideas have on international law and policy once institutions and organisations like the UN adopt them.

The upcoming sections delve into the recognised shortcomings of the WPS Agenda as a global framework. From this broader critique, I will then narrow the focus to provide a detailed review specific to the context of Africa.

2.5 Criticisms of the Centrality of CRSV in the WPS Agenda.

Scholars critiqued the WPS Agenda's primary focus on redressing CRSV, especially in the initial Resolutions 1325, 1820, 1888 and 1889. They highlighted what this focus omits and what it means for other gendered experiences of violent conflict that are not sexual in nature. On this point, Fionnuala Ni Aolain argues that centralising CRSV is based on the idea that gender and women are synonymous, which leads to a monolithic depiction of their violent conflict experiences and ideas for conflict resolution.¹⁹¹ One such central theme is protection from sexual violence, which, Karen Engle argues, has been representative of the dominant legal, political, and even popular understanding of gender and conflict dynamics.¹⁹²

Consequently, feminist scholars argue that prioritising CRSV has several implications for the WPS Agenda. One such implication, according to Ni Aolain, is that it results in narrowly

¹⁸⁹ Dianne Otto, "Contesting Feminism's Institutional Doubles: Troubling the Security Council's Women, Peace and Security Agenda" In Janet Halley et.al (eds.), *Governance Feminism: Notes from the Field* (University of Minnesota Press, 2019), 434

¹⁹⁰ *Ibid.*

¹⁹¹ Fionnuala Ni Aolain, "The War on Terror and Extremism: Assessing the Relevance of the Women, Peace and Security Agenda" (2016) 92:2 *Int'l Affairs*, 275.

¹⁹² Karen Engle, "A Genealogy of the Centrality of Sexual Violence to Gender and Conflict" In Fionnuala Ni Aolain et. al (eds); *The Oxford Handbook of Gender and Conflict* (Oxford, Oxford University Press, 2018), 132.

defining violent conflicts that should warrant international law's attention, which, in turn, limits the reach of the WPS Agenda and leaves many women exposed to gendered victimisation in conflicts that do not fit into the classification exposed and without a remedy. This approach, she argues, also undermines women's contributions to conflict and post-conflict reconstruction.¹⁹³

Additionally, Ann Marie Goetz and Robb Jenkins argue that focusing on CRSV impedes analysis of conflict-related gendered violence that takes cognisance of entrenched gender inequality and its contribution to violent conflict.¹⁹⁴ Goetz and Jenkins scrutinise the political and institutional conditions following the adoption of Resolution 1325 (2000). They contend that women are still not well-represented in essential procedures such as peace negotiations and post-conflict political pacts despite the inception of the Agenda. The authors maintain that by concentrating exclusively on shielding women from sexual violence, the WPS Agenda keeps reinforcing protective storylines.¹⁹⁵

Similarly, Otto argues that the focus on CRSV compromises feminists' liberatory initiatives on peace and security in service of the UNSC's political Agenda and relevance.¹⁹⁶ The emphasis on protection unavoidably means selectively engaging feminist ideas on peace. As Otto also shows, feminist ideas of "positive peace" have become captive to the UNSC's militarised security framework that emphasises military approaches that expose women to more violence.¹⁹⁷

¹⁹³ Fionnuala Ni Aolain, "The War on Terror" *supra* note 190 at 275.

¹⁹⁴ Anne Marie Goetz and Rob Jenkins, "Participation and Protection: Security Council Dynamics, Bureaucratic Politics, and the Evolution of the Women, Peace, and Security Agenda" In Fionnuala Ni Aolain et al. (eds.) *The Oxford Handbook of Gender and Conflict* (Online Publication, 2017), 119.

¹⁹⁵ *Ibid* at 131.

¹⁹⁶ Dianne Otto, "Women, Peace and Security: A Critical Analysis of the Security Council's Vision" (Feb 2018) In Fionnuala Ni Aolain, Naomi Cahn, Dina Francesca, and Nahla Valji, (eds) *The Oxford Handbook of Gender and Conflict*, 2.

¹⁹⁷ Dianne Otto, "A Sign of 'Weakness'? Disrupting Gender Certainties in the Implementation of Security Council Resolution 1325" (2006) 13:1 *Mich J Gender L*, 114.

Scholars further posit that the emphasis on protection is unevenly tilted towards liberal ideological and conceptual directions. This was part of Pamela Scully's conclusion in her analysis of the WPS Agenda Resolutions 1820 (2008) on sexual violence in armed conflict. She also argues that an exclusive focus on sexual violence during wartime precludes an understanding of sexual violence and the potential to build better and sustainable futures for women and men post-conflict.¹⁹⁸ Similarly, Otto argues elsewhere that the WPS Agenda does more to revitalise the dwindling popularity of the UNSC by adopting a protectionist approach, focusing solely on safeguarding women from sexual violence and ignoring an assessment of entrenched societal gender inequality and its impact on sexual violence in conflict.¹⁹⁹

Furthermore, scholars argue that the WPS Agenda emphasises a top-down approach towards addressing women's experiences of sexual violence in conflict, thereby ignoring their unique needs and contributions and failing to address their specific experiences.²⁰⁰ This underscores the need to rethink the WPS Agenda in ways that would produce holistic and imaginative responses to address cultural and structural issues, particularly in the context of gender and peacekeeping.

2.6 Engagement with Structural Issues that Undermine Human Security

Several scholars have critiqued the failures of the UN WPS Agenda to cut across a wide range of systemic and structural factors that engender women's insecurity. Carol Cohn and Claire Duncanson critique the Agenda's tendency to reify gender inequality while neglecting other equally egregious factors compromising women's human security. They specifically suggest that concentrating on gender equality obscures other factors that are important in achieving gender

¹⁹⁸ Pamela Scully, "Vulnerable Women: A Critical Reflection on Human Rights Discourse on Human Rights" (2009) 23:1 Emory Int'l L Review, 113.

¹⁹⁹ Dianne Otto, "Power and Danger: Feminist Engagement with International Law Through The UN Security Council" (2010) 32 The Australian Feminist J, 97.

²⁰⁰ *Ibid.*

justice, like climate change, which has become a significant determining factor in how inequalities and violence are experienced across conflict demographics.²⁰¹

Consequently, Ann Tickner argues for a more robust and comprehensive approach toward WPS than the Resolutions presently provide to transform the human security challenges that confront women meaningfully. Tickner suggests that conceptualising human security in a truly inclusive way must “account for gendered insecurities that stem from exclusionary practices that perceive women as victims rather than security providers, and from the structural inequalities that contribute to women's economic, political, and social insecurities.”²⁰² The views expressed by the scholars referenced above underscore the need to reimagine the WPS Agenda in ways that would more directly benefit its target population; they also suggest the need to rethink the Agenda to minimise armed conflicts.

Hence, there seems to be a high level of selectivity in the attention the WPS pillars (like protection) are receiving as this is an easy way of seemingly doing a lot without upsetting the power structures that continue to ensure that certain persons, groups, systems and interests do not only remain relevant but are also protected from accountability. I will delve deeper into this in chapter five, but it is worth touching on a few scholarly critiques relevant to this aspect. Scholars like Carol Cohn subscribe to the view that the Agenda overly addresses protection from sexual violence at the expense of other pillars, and this adversely impacts women’s social, class and economic positions within societies.²⁰³

²⁰¹ Carol Cohn and Claire Duncanson, “Women, Peace and Security in a changing climate” (2020) 22:5 Int Fem J Polit 742.

²⁰² *Ibid* at 762; See also Ann J. Tickner, “Peace and Security from a Feminist Perspective” In Sara E. Davies and Jacqui True (eds); Political Science, International Relations (The Oxford Handbook of Women, Peace, and Security, Online Publication, 2018), 9.

²⁰³ Cohn, “Sex and Death” *supra* note 146 at 687.

These other aspects, such as women's social class and economic positions, when left unattended, are equally very damaging to women's security. Maria Martin de Almagro argues that focusing on protection from sexual violence means the Agenda's implementation becomes gendered in racialised, sexualised, and classed ways that "normalise certain subject positions in the Global South while rendering invisible and troubling others and contributing to reproducing certain forms of normativity and hierarchy through powerful sets of policy practices."²⁰⁴ In this research, I stretch their line of thinking further to add that states such as Nigeria, through such a selective approach, have legitimised certain security concerns, such as the punishment of the individual violator for sexual violence, while marginalising other equally demanding security concerns such as ensuring a fairer and more equitable system of justice that holds all complicit in the propagation of SGBV accountable. This, for example, has led to a situation of hyper-visibility of the violence perpetrated by the non-state armed fighters, while the violence perpetrated by state security actors is invisibilised.

Still, Laura Shepherd argues that while the focus on protection from sexual violence is crucial, it can overshadow other vital aspects of the Agenda if not balanced.²⁰⁵ She further maintains that even when protection is the focus, it should be done in a way that could account for broader coverage of issues that affect women due to conflict.²⁰⁶ Similarly, just a few years after the adoption of Resolution 1325 (2000), Dianne Otto decried the speed with which the Agenda had shifted from the more balanced language in Resolution 1325 to one that overly emphasised the need to protect women from sexual violence in Resolution 1820 (2008).²⁰⁷ She particularly

²⁰⁴ Maria Martin de Almagro, "Producing Participants: Gender, Race, Class, and Women, Peace and Security" (2018) 32:4 *Gendering Security in Theory and Practice*, 1.

²⁰⁵ Sjoberg and Peet, "Another Dark Side" *supra* note 153 at 163-4.

²⁰⁶ *Ibid* at 182.

²⁰⁷ Otto, "Power and Danger" *supra* note 198 at 100.

expressed concerns to the failure to advance conflict prevention by arguing that there cannot be any meaningful way of protecting women from sexual violence if the environment of conflict persists.²⁰⁸

The perspectives expressed by the scholars above validly highlight a shared belief that the UN WPS Agenda lacks sufficient focus on factors other than sexual violence that undermine women's security. These factors include, for example, the prevention of violent conflict, the need for women's involvement in peace processes and post-conflict reconstruction and ensuring access to relief resources during and after violent conflicts. It is evident that the Agenda has predominantly emphasised the protection pillar, indicating the necessity for a more comprehensive, cross-thematic, and evolving development of the WPS Agenda.

While these observations are valid, the limitations of the UN WPS Agenda can also be attributed to the inherent challenges of crafting an international law that is able to address every issue, given the sovereign and autonomous nature of states that make up the UN organisation, marked by significant variations in cultural, political and sociological factors that define each state as unique. It is crucial to be conscious of the limitations that the unique structure of the UN imposes on the capacity of the initiatives it creates. Failing to do so may amount to demanding too much from the WPS Agenda. It is essential to be mindful of the reality that the WPS Agenda as an international framework cannot cover all issues, meaning that what states decide to do once they adopt the WPS Agenda is also very crucial. For Third World countries such as Nigeria, it is equally essential to be mindful of how power dynamics in the international arena continue to impact the possibilities inherent in the WPS Agenda and how women's rights and security are sacrificed in the service of these power dynamics.

²⁰⁸ *Ibid* at 101.

2.7 Western Hegemony and Racial Politics in the WPS Agenda

Scholars have also explored the centrality of Western ideas, the terrain of whiteness, and racial politics in formulating and implementing the WPS Agenda in the Global South. Swati Parashar, for instance, questions the focus on gender equality and women's empowerment as universal objectives for achieving a gender-just peace. She argues that the normative evolution of the WPS Agenda, based on UN Security Council Resolution 1325, tends to view individuals in the Third World as passive receivers of norms.²⁰⁹ To illustrate this point, she examines the incorporation of the WPS Agenda into policies aimed at countering violent extremism (CVE) and highlights their failure to account for the complex historical and ideological roots of political violence in the Global South.²¹⁰ Parashar suggests that the WPS Agenda needs to be grounded in the knowledge and experiences of the Global South to achieve its universal significance.²¹¹

While Parashar's observation is accurate, it is equally important to stress the role of states in the Third World in taking local ownership of WPS norms and ideas, which the texts of the WPS Resolutions amply emphasise is very significant. I maintain that, unlike many international legal instruments, the WPS Agenda is one normative framework that allows Third World states a lot of room for manoeuvre, thereby creating ample opportunities for states to implement the Agenda in ways that are context-specific and beneficial to local manifestations of SGBV. That states in the Third World still absolve these norms the way Parashar observes tells a lot about the endemic working of hegemony within local institutions within the Third World.

Still, there is a lot to critique about the current structure of the global WPS Agenda; Toni Haastrop and Jamie J Hagen reflect on "how whiteness and white privilege are refracted in

²⁰⁹ Swati Parashar, "The WPS Agenda: A Postcolonial Critique" in Sara E. Davies, and Jacqui True (eds), *The Oxford Handbook of Women, Peace, and Security*, Oxford Handbooks (2019; online edn, Oxford Academic, 11 Dec. 2018), 1-13

²¹⁰ *Ibid.*

²¹¹ *Ibid.*

narratives and practices of the WPS Agenda.”²¹² By examining the NAPs of 22 Western countries, they argue that the NAPs of countries like the US, UK, Canada, and Sweden, amongst others, are outward-looking in the sense that they are meant to be implemented in the Third World and yet, solutions do not align with the challenges societies in the Global South experience. Haastrop and Hagen suggest that:

Even when WPS initiatives are happening in the Global South, much of WPS is still about legitimising white people's desires because of existing power hierarchies that ultimately sanction the actions of global North countries. These desires may be to see the Global South as always in need of repair, as fragile, as failing.²¹³

Fundamentally, these scholars’ analyses highlight notions of Western dominance in how the WPS Agenda is advanced at the UN and by Western states. Similarly, Laura Shepherd explores the racial and spatial politics of the WPS Agenda, highlighting how these dynamics influence the implementation and perception of the Agenda globally.²¹⁴ Her work examines how the WPS Agenda can sometimes reflect racial biases and hierarchies. This includes the ways in which certain narratives within the Agenda may prioritise the experiences and voices of women from Western or Global North countries, potentially marginalising those from the Global South. She critiques how racialised assumptions can influence which issues are highlighted and how solutions are framed. The spatial aspect refers to how the WPS Agenda is implemented differently across various regions and contexts. Shepherd discusses how geopolitical considerations and power dynamics can affect the prioritisation and execution of WPS initiatives. This includes the influence

²¹² Toni Haastrop and Jamie J. Hagen, “Global Racial Hierarchies and the Limits of Localization via National Action Plans” In Soumita Basu, Paul Kirby, Laura J. Shepherd (eds); *New directions in Women, Peace, and Security* (Bristol University Press, 2020), 133.

²¹³ *Ibid* at 147.

²¹⁴ Laura J. Shepherd, *Narrating the Women, Peace, and Security Agenda* (Oxford University Press, 2021), 48. DOI: <10.1093/oso/9780197557242.003.0003>

of international actors and organisations, which may impose their own programmes or frameworks that do not necessarily align with local needs or perspectives.²¹⁵

Shepherd is interested in how the stories and narratives within the WPS Agenda are constructed and who gets to tell these stories. She argues that dominant narratives often emerge from powerful international institutions, which can overshadow local voices and experiences. This can lead to a homogenised understanding of women's security issues that may not accurately reflect the diverse realities on the ground. Shepherd critiques the tendency to apply universal solutions to complex, context-specific issues. She argues that the WPS Agenda sometimes fails to account for the diverse cultural, social, and political contexts in which women experience conflict and insecurity. This can result in policies that are ineffective or even harmful. Throughout her work, Shepherd advocates for a more inclusive and intersectional approach to the WPS Agenda. She emphasises the importance of incorporating diverse voices and perspectives, particularly those of women from marginalised and underrepresented communities, to create more effective and equitable policies.²¹⁶ By highlighting these aspects, Shepherd encourages a critical re-examination of the WPS Agenda to ensure it truly serves the needs of all women, regardless of their racial or geographical background.

Nicola Pratt argues that one should not read the WPS Agenda as transformative of women's lives in conflict zones; that once the Agenda is read critically, it reveals that the reconceptualisation of gender occurs through an inscription “of racial–sexual boundaries evocative of the political economy of imperialism.”²¹⁷ Pratt examines the Agenda's goal of integrating gender into

²¹⁵ *Ibid.*

²¹⁶ *Ibid.*

²¹⁷ Nicola Pratt, “Reconceptualizing Gender, Reinscribing Racial-Sexual Boundaries in International Security: The Case of UN Security Council Resolution 1325 on ‘Women, Peace and Security’” (2013) 57, *International Studies Quarterly*, 772.

international security frameworks, viewing it as a progressive move towards acknowledging women's roles and experiences in conflict. However, she contends that these good intentions inadvertently reinforce racial and sexual boundaries. This indicates that while gender is recognised, the interconnections of race and sexuality are often neglected, thus perpetuating current hierarchies and power dynamics.²¹⁸

Additionally, She critiques how the Agenda may bolster the political economy of imperialism. Pratt argues that gender mainstreaming frequently coincides with counterterrorism and counterinsurgency strategies, which can normalise violence and sustain inequalities. In conclusion, she urges a more nuanced perspective on gender that includes race and sexuality, calling for rethinking these categories within the context of international security discourse.²¹⁹ The scholars reviewed above have presented a balanced view in pursuing a WPS Agenda that requires responsible action from all stakeholders, be it from Western actors in the Third World or by actors within the Third World. Doing so would avoid the tendency to re-inscribe racial hierarchies in the Third World while creating room for homegrown measures to ground the WPS Agenda.

However, such homegrown measures must also be attentive to local manifestations of the challenges that the WPS Agenda seek to ameliorate. As Parashar has observed, where legal norms or policies fail to critique the homogenisation of women's problems around gender equality and empowerment as the WPS Agenda does, they become complicit in the "reproduction of racial hierarchies, especially when they work closely with neoliberal western states in their grand missions to promote liberal values."²²⁰ Similarly, Gina Heathcote argues that:

Progressing work on women, peace, and security within global structures without attention to the diversity of women's needs, lives and experiences drawn from a feminist commitment to anti-militarism and politically responsible listening is

²¹⁸ *Ibid.*

²¹⁹ *Ibid* at 783.

²²⁰ Swati Parashar, "The WPs Agenda" *supra* note 208 at 13.

likely to produce a series of regressive outcomes that perpetuate victim feminisms, and which fail to dislodge the intersection of gender with colonial and racial power structures within global institutions.²²¹

While Heathcote's observation is based on global institutions such as the UN, failing to consider the dynamics Heathcote has recognised in the domestic application of the WPS Agenda could create the same effect. As I later demonstrate in Chapter 5, what scholars identify as Western hegemony or racialised political narratives by states in the Global North has evolved and metamorphosed into something much more amenable to manipulation by powerful local groups within the Third World. Where suitable, certain ideas that would ordinarily be dismissed as Western impositions on Third World states are championed because they satisfy local elitist interests. These so-called Western ideas must be accepted by those who call the shots in the Third World before they can be applied. Therefore, I find that there is a coalition between the so-called foreign actors and key local actors who enable the perpetuation of these ideas for selfish interests. At the very least, the above views necessitate a more critical assessment of the relevance of the WPS Agenda in diverse contexts, calling for imaginative and critical application of the WPS Agenda ideas to realise transformative outcomes at local levels.

Where Western states apply the WPS Agenda within their territories, scholars find they do so in ways that tend to perpetuate racial-colonial practices. For instance, Columba Achilleos-Sarll considers the United Kingdom's WPS Agenda and concludes that

race is central to the institutionalisation and implementation of the WPS Agenda by national governments in the Global North and.... in turn, the WPS Agenda enables those governments to identify as morally and culturally superior, thereby justifying racialised hierarchies in international relations.²²²

²²¹ Gina Heathcote, "Security Council Resolution 2242 on Women, Peace and Security: progressive gains or Dangerous Development?" (2018) 32:4 *Gendering Security in Theory and Practice*, 374.

²²² Columba Achilleos-Sarll, "The (Dis)-Appearance of Race in the United Kingdom's Institutionalisation and Implementation of the Women, Peace and Security Agenda" (2023) 67 *Int'l Studies Q.* 2.

Achilleos-Sarll's work examines the role that race continues to play in shaping the UK's institutionalisation of the WPS Agenda and how the UK WPS Agenda reinforces specific domestic identities like the construction of cultural superiority of the UK, also positioning the UK as a global leader and expert on the Agenda, while advancing the UK's renewed quest for empire and the erasure of its colonial history.²²³ Essentially, racial politics and hegemony re-echoes the issue of selective engagement with emancipatory feminist ideas in the WPS Agenda and what purpose it serves. As the reviews in this section have shown, selective engagement with feminist ideas on peace and security ultimately works to re-enact stereotypes of superiority and inferiority.

However, as the following sections will show, one way to ensure that this hegemony is disrupted in the Agenda, at the UN, at least, would be to advance an Agenda that better accounts for the diversity of contexts and issues to create meaningful synergies across the various normative structures at the UN by leveraging the work of other entities.

2.8 Observable Complements and Complementarities

Researchers have further contended that there are opportunities for synergies and for creating meaningful connections between the WPS Agenda and other gender-based instruments within the UN system, like the CEDAW. For example, Pramilla Patten believes that much good can be achieved if there is a synergy between the WPS Agenda, CEDAW, and the Optional Protocol to CEDAW in providing accountability for sexual violence.²²⁴ Given that the WPS Agenda lacks concrete structures for ensuring compliance, Patten believes such synergy would enhance the WPS Agenda's compliance among states.²²⁵ Catherine O'Rourke and Aisling Swaine have examined

²²³ *Ibid* at 4-11.

²²⁴ Pramilla Patten, "Unlocking the Potential of CEDAW as an Important Accountability Tool for the Women, Peace and Security Agenda" in Fionnuala Ni Aolain et al. (eds); *The Oxford Handbook of Gender and Conflict* (Oxford, Oxford University Press, 2018), 171.

²²⁵ *Ibid*.

how the CEDAW and the UNSC interact in advancing women's rights during conflicts. They advocate for a stronger collaboration between these two entities to ensure better accountability for upholding women's rights in conflict situations. The authors argue that a more integrated approach between the CEDAW committee's responsibilities and the UNSC's actions could lead to mutual accountability, where each body can hold the other responsible for their commitments to women in conflict zones. This enhanced partnership, they believe, will foster effective dialogue and cooperation across different legal and policy frameworks, ultimately improving the protection and promotion of women's rights during conflicts.²²⁶ This approach could also disrupt the focus on the individual as the subject of accountability in the WPS Agenda.

The next section captures the reviews of scholars who believe the WPS Agenda needs a more intersectional posture.

2.9 Feminist Advocacy for an Intersectional WPS Agenda

There has been growing feminist advocacy for an intersectional approach to the WPS Agenda, not just in conceptualising gendered crimes but also in taking up feminist ideas. The calls for an intersectional analysis underscore years of feminist advocacy against war that recognise how pre-existing structural and systemic factors influence women's experiences of conflict and the need to consider these underlying factors in legal frameworks and policy formulation. For instance, as early as 1997, bell hooks emphasised the necessity of including patriarchy, racism, and capitalism in the study of militarism, arguing that these structures mutually reinforce themselves in engendering and sustaining violence.²²⁷ This aligns with Carol Christ's more recent analysis that considers patriarchy as “an integral system created at the junction of controlling women, private

²²⁶ Catherine O'Rourke and Aisling Swaine, “CEDAW and the Security Council: Enhancing Women’s Rights in Conflict” (2018) 67:1 International and Comparative L Q, 167.

²²⁷ bell hooks, “Cultural Criticism and Transformation” (1997) Media Education Foundation Transcript, 3. Online (pdf): < www.mediaed.org/transcripts/bell-hooks-Transcript.pdf >

property, and war—which sanctions and celebrates violence, conquest, rape, looting, exploitation of resources, and the taking of slaves.”²²⁸

Calls for intersectional analyses of international law norms generally echo more specific concerns highlighted in the WPS Agenda by scholars. One such aspect borders on intersecting structures. Hilary Matfess has critiqued the US government's approach to implementing the WPS Agenda in its foreign policy by failing to consider intersecting conditions. Matfess opines that the US government's approach often commits to “obscuring the continuous, pervasiveness, and power of the patriarchy and homogenising women.”²²⁹ Hilary Matfess’s analysis again raises concerns about how the WPS Agenda is applied in ways that serve interests that do not align with alleviating the security challenges that affect women and girls. Ignoring obviously inimical factors like patriarchy that are already well established for creating or reinforcing SGBV during wars does not suggest a real commitment to addressing them.

Similarly, Nicola Pratt and Sophie Richter-Devroe suggest that liberal feminist ideas pervade the Agenda by placing gender equality concerns at the centre of conflict analysis. They argue that even though gender inequality can adversely affect women during conflict, marginalising diverse feminist voices, including postcolonial and intersectional feminist advocacies, removes the Agenda from providing a holistic solution to SGBV.²³⁰ These scholars' perspectives strengthen the imperative for intersectionality within the WPS Agenda.

Sagal Bafo also maintains that an intersectional approach could better enhance the reach of the WPS Agenda. Bafo suggests that identifying and building on the capacity of existing community-

²²⁸ Carol Christ, “A New Definition of Patriarchy: Control of Women’s Sexuality, Private Property, and War” (2016) 24:3 Feminist Theology, 214-25.

²²⁹ Hilary Matfess, “Dangerous Blind Spots in the Women, Peace, and Security Agenda: Let’s Talk about Patriarchy and Intersectionality in Security” (October 6, 2021) INKSTICK. Online: < [Dangerous Blind Spots in the Women, Peace, and Security Agenda - Inkstick \(inkstickmedia.com\)](https://inkstickmedia.com/dangerous-blind-spots-in-the-women-peace-and-security-agenda/)>

²³⁰ Katrina Lee-Koo, Book Review of Gender, Governance and International Security by Nicola Pratt and Sophie Richter-Devroe, (2014) 22:1 Gender and Development, 503.

led initiatives and spaces allows for a critical analysis of hindrances and social norms that prevent the meaningful participation of women, enabling their recognition as autonomous actors and their different gendered experiences in a conflict situation.²³¹ The views expressed by the above scholars underscore the need for a critical and cross-cutting analysis of the challenges identified in the WPS Agenda's scope, reach, and content. It also underscores the importance of listening to different views and ideas on the best possible solutions, even when the desired outcome is discernible.

2.10 The WPS Agenda Within States

As the earlier sections of this chapter showed, international security is primarily state-centric, and even though the WPS Agenda ignited the hope of breaking this state-centrism, there are concerns that state-centrism has crept right into WPS initiatives. For example, Paul Kirby and Laura Shepherd observe that the WPS Agenda has become increasingly state-centric, narrowing its original scope and focusing on traditional security politics rather than reimagining security as peace.²³² In other words, state-centric security approaches often neglect the more human-focused aspects of security by reifying traditional notions such as advancing military security or safeguarding territorial boundaries.

Moreover, Kirby and Shepherd argue that state-centrism in states' WPS initiatives risks neglecting aspects of human security, which include economic, food, health, environmental, personal, community, and political security. These aspects are particularly relevant to women's experiences of conflict and peace.²³³ Kirby and Shepherd critique the state-centric approach of the WPS Agenda for not sufficiently addressing these broader security aspects. They argue for a more inclusive understanding of security that considers the diverse experiences and needs of women in

²³¹ Sagal Bafo, "Three Reasons Why Women's Peace and Security Agenda is Important" (3 Nov. 2019) Reliefweb. <<https://reliefweb.int/report/world/three-reasons-why>>

²³² Paul Kirby and Laura Shepherd, "The future's past of the Women, Peace and Security Agenda." (2016) 92 Int'l Affairs, 373.

²³³ *Ibid* at 378.

conflict and post-conflict situations.²³⁴ Is it possible that what Kirby and Shepherd say here is apparent in Nigeria? If so, their critique will explain to a great extent the various systemic weaknesses that exist in the implementation of the WPS Agenda in Nigeria, as Chapters Four and Five will show.

Some states have been accused of adopting the WPS Agenda only as the symbol of Western alignment without a real commitment to localise its tenets.²³⁵ An example is Mila O’Sullivan and Kateřina Krulišová’s analysis of domestic WPS within states in Central Europe. These scholars argue that states in Europe adopt the WPS Agenda in trying to show conformity to Western standards. They argue that by so doing, the domestic WPS Agenda in such states becomes “a paper tiger, failing to address domestic and regional gendered insecurities in the face of Russian imperialism”.²³⁶

The role of NAPs in understanding the successes or shortfalls of the WPS Agenda is considered in the following section.

2.11 NAPS and the WPS Agenda

WPS scholars have also identified that “the implementation of UNSCR 1325 (and attendant Resolutions) requires local-level institutional integration and adaptation, addressing tensions and ensuring local relevance in diverse policy contexts”.²³⁷ In other words, adapting and integrating its principles into local institutions and contexts is essential. This means that the Resolutions’ goals, such as increasing women’s participation in peacebuilding and protecting women in conflict, cannot be applied in a one-size-fits-all manner. Instead, they must be tailored

²³⁴ *Ibid* at 392.

²³⁵ Mila O’Sullivan and Kateřina Krulišová “Women, Peace and Security in Central Europe: In Between The Western Agenda And Russian Imperialism” (2023) 99, *Int’l Affairs*, 625.

²³⁶ *Ibid* at 640.

²³⁷ Nicola George and Laura Shepherd, “Women, Peace and Security: Exploring the Implementation and Integration of UNSCR 1325” (2016) 37, *Int’l Political Science Review*, 297.

to fit each state's unique cultural, social and political realities. The phrase "addressing tensions and ensuring local relevance" highlights the need to resolve any conflicts or challenges that may arise when global policies like the UNSCR 1325 are introduced into local settings. For example, there may be resistance due to cultural norms, power dynamics, or institutional barriers. To overcome these challenges, the Resolutions' principles must be meaningful and practical for the local population by ensuring they align with local needs and priorities. In theory, this is what NAPs should be doing.

However, there is some level of ambivalence about the role that NAPs play in this process. Annika Björkdahl and Johanna Mannergren Selimovic argue that NAPs of Bosnia-Herzegovina and Rwanda "largely perpetuate the status quo and do not support women's authentic participation in post-conflict societies".²³⁸ These scholars focus on the role of NAPS in advancing the Agenda's protection, representation and participation at national levels. They conclude that NAPs do very little to transform systems of marginalisation inherent in these societies by being out of touch with local realities.²³⁹ The insights from these scholars emphasise my argument in this study: it is essential to develop NAPs thoughtfully to enhance the local potential of the WPS Agenda.

The analysis of the implementation of the WPS by states in central Europe by Mila O'Sullivan and Kateřina Krulišová shows that states can sometimes enact NAPs not with the intention of activating the Agenda locally but rather to advance their diplomatic relationship with other nations.²⁴⁰ As these scholars show, sometimes NAPs come about simply because "it

²³⁸ Annika Björkdahl and Johanna Mannergren Selimovic, "Translating UNSCR 1325 from the Global to the National: Protection, Representation and Participation in National Action Plans of Bosnia-Herzegovina and Rwanda" (2015) 15 *Conflict, Security & Development*, 311.

²³⁹ *Ibid* at 355.

²⁴⁰ O'Sullivan and Krulišová, *supra* note 234 at 625.

[became] just embarrassing not to have one”.²⁴¹ In such instances, NAPs could then only amount to “rhetorical commitments”.²⁴² As Katrina Lee-Koo's observations about Australia's NAPs suggest, such NAPs contain broad and generic provisions without any specificity on objectives and expected outcomes.²⁴³ In such instances, one finds glowing promises with no clear-cut strategies for implementation. The question is, does Lee-Koo's observation about Australia's NAP explain the continuous presence of conflict-related SGBV more than a decade after its first NAP? The quest to find closure on this matter further underscores the necessity for this work.

The potential of NAPs in reinscribing state-centric security has also received scholarly attention. Hanna Muehlenhoff's study, which focuses on understanding the potential of the Dutch NAP, argues that even though the NAP shows a strong alliance between the state and civil society organisations, it gives undue priority to state security at the expense of a more nuanced understanding that [could] create room for gendered security initiatives to thrive.²⁴⁴ Still, the WPS Agenda is seen as a crucial tool by which states reinscribe imperialist and colonial practices both locally and when implementing the WPS Agenda as foreign policy. Columba Achilleos-Sarll argues that the UK NAP, for example, reinforces “gendered, racialised, and colonial logics, rather than challenging global hierarchies of power.”²⁴⁵

As the review in this section has shown, NAPs of different states are an important component of the WPS Agenda. However, as I stated in the introduction of this study, NAPs can only tell a partial story of the potential, successes or failures of the WPS Agenda within states, warranting

²⁴¹ O'Sullivan and Krulišová, *supra* note 234 at 632.

²⁴² Katrina Lee-Koo, “Implementing Australia's National Action Plan on United Nations Security Council Resolution 1325” (2014) 68, *Australian Journal of International Affairs*, 300.

²⁴³ *Ibid* at 313.

²⁴⁴ Hanna Muehlenhoff, “Unpacking the Making of National Action Plans: Governmentality, Security, and Race in the Dutch Implementation of UNSCR 1325” (2022) 24, *International Feminist Journal of Politics*, 744.

²⁴⁵ Columba Achilleos-Sarll, “Seeing the Women, Peace and Security Agenda: Visual (Re)productions of WPS in UK Government National Action Plans” (2020) 96, *Int'l Affairs*, 1643.

in-depth research into how states undertake the implementation of WPS norms and ideas beyond NAPs. For this research, in particular, I undertake a deeper dive into domestic laws to provide a richer analysis of the transition of the UN WPS Agenda into local spaces. This is the reason why, in addition to Nigeria's NAPs, this study considers how Nigeria has undertaken to advance legal accountability for conflict-related SGBV, emphasised in the WPS Agenda.

The succeeding parts of this review focus on the WPS Agenda in Africa by reviewing works by WPS scholars from Africa and WPS scholarship on Africa.

2.12 African Scholarly Critique of the WPS Agenda

There is a blossoming discourse on the WPS Agenda within African scholarly circles to which this study more directly contributes. Scholars who have emphasised the need for a victim-based, local engagement and bottom-up response to African peace and security concerns are prominent in this arena. Helen Kezie-Nwoha argues that a feminist approach towards peace in Africa must recognise that “peace and security are active and intersectional issues, and that responses should be developed with the active collaboration of the people they are meant to serve.”²⁴⁶

Others raise concerns about the transformative potential of the WPS Agenda in Africa because it is heavily influenced by the ideas and experiences of Western states. In her analysis, Heidi Hudson examines the gender and women-focused language of NAPs from four African countries—Kenya, Liberia, Nigeria, and Uganda—against the backdrop of global and continental women, peace, and security discourses.²⁴⁷ These plans were drafted in alignment with United Nations Security Council Resolution 1325. Hudson posits that NAPs can surpass the vague consensus language found in Security Council Resolutions by fostering new avenues for feminist

²⁴⁶ Helen Kezie-Nwoha, “Feminist Peace and Security in Africa” (2020) Oxfam International. Online: < DOI: 10.21201/2020.6461>

²⁴⁷ Hudson, “The Power of Mixed Messages” *supra* note 38 at 3.

involvement in policy and practice. Her analysis pinpoints three key discursive themes: the portrayal of “women and children,” the participation of women in civilising warfare, and the expectation placed on women to combat gender-based violence. These themes are intertwined with the formation of gender identities, security, and violence. Hudson observes that the plans predominantly showcase liberal ideas but include some critical perspectives. She concludes that the ambiguous messages conveyed by these plans reflect the fragmented nature of the discourses, presenting an opportunity for detailed contextual analyses and implementation.²⁴⁸

Women's exercise of their agency in counterterrorism measures under the WPS Agenda has also come under focus. The literature argues that the WPS Agenda tends to situate women as victims. Chikodiri Nwangu et al. argue that rather than seeing women merely as victims, the WPS Agenda should explore opportunities to encourage women's active role in countering terrorism based on the strategic positions they occupy in their societies.²⁴⁹ Similarly, Savage Oluremi, in considering the tendency of the WPS Agenda to portray women as victims of terrorism, suggests that by mostly seeing and portraying African women as victims, their active participation in conflict resolution is not sought. This perpetuates the narrative that most conflict actors are men, leaving little room for meaningful engagement of women's voices in redress measures.²⁵⁰ In other words, involving women in counter-terrorist measures must be done while actively considering their agency in terrorist projects and giving room for their voices, as that could yield more transformative outcomes. Cheryl Hendricks argues that where the WPS Agenda seeks to include women in participatory terms, it does so in a limited manner, such as including women in security

²⁴⁸ *Ibid* at 3-29.

²⁴⁹ Chikodiri Nwangu et al., "Women, Intelligence and Countering Violent Extremism in Nigeria: A Postcolonial Feminist Discourse" (2021) 17:3, *Democracy and Security*, 278.

²⁵⁰ Savage Oluremi, "Women, Peace and Security in Nigeria: Examining the Domestic and International Legal Framework" (2021) 12:1 *Nnamdi Azikiwe University J of Intl L and Juris*, 46.

institutions without deeply considering what impact their inclusion would have on legitimising post-conflict patriarchal and militarised orders.²⁵¹ The views expressed above call for a deep reflection on how feminist ideas are employed in the UN WPS Agenda and how women in general, and feminists in particular, are invited to participate in the WPS project.

In addition, scholars opine that women are being harmed by state anti-terrorism measures, but this is not captured in the WPS Agenda. The Women Peacemakers Program²⁵² highlights how counter-terrorism measures often marginalise and affect women in conflict regions. Policies aimed at combatting terrorism can reinforce gender inequality and exclude women from peacebuilding processes.²⁵³ Studies also acknowledge the insufficient incorporation of women's voices in crafting state anti-terrorism measures under the WPS Agenda.²⁵⁴ Women often bear the brunt of restrictive policies that limit civil liberties and access to resources while simultaneously being excluded from decision-making processes related to security. Jayne C. Huckerby underlines how women are frequently caught between abuses by terrorist groups and oppressive state security frameworks.²⁵⁵ Huckerby also opine that anti-terror laws can threaten women's human rights, yet these impacts are underexplored in the WPS Agenda.²⁵⁶ Research has also explored how the WPS Agenda often fails to address the complex power dynamics arising from state counter-terrorism

²⁵¹ Cheryl Hendricks, "Progress and Challenges in Implementing the Women, Peace and Security Agenda in African Union's Peace and Security Architecture" (2017) 42:3 Africa Development, 73.

²⁵² Women Peacemakers Program, "Tightening the Purse Strings: What Countering Terrorism Financing Costs Gender Equality and Security" (March 2017) Duke International Human Rights Clinic, 12.

²⁵³ *Ibid* at 16.

²⁵⁴ Doris Asante, "Navigating Restrictions: External Funding and WPS Implementation" (2024) Women's Studies Int'l Forum, 1.

²⁵⁵ See generally Jayne C. Huckerby, "In Harm's Way: Gender and Human Rights in National Security" (2020) 27:179 Duke J. of Gender, L. & Policy, 179.

²⁵⁶ *Ibid* at 181.

efforts that harm women disproportionately.²⁵⁷ The WPS Agenda struggles to bridge the gaps in accountability when state counter-terrorist measures clash with gender equality principles.²⁵⁸

2.13 Chapter Summary

This chapter has explored scholarly insights on the WPS Agenda that are relevant to the study by focusing on feminist insights on international law and security studies. The differences between feminist perspectives on war and militarism as compared to classical theories of war are emphasised in this chapter to foreground the valuable contribution that feminist scholarship has brought to international peace and security. Feminist scholars in this field consider gender and other structural factors as crucial elements in understanding why wars occur, the kinds of challenges, actors, and developments seen as essential and those that are not, and how to prevent, resolve, and protect women and girls who are typically victimised by the occurrence of war.

The existing literature provides a substantial scholarly critique of the WPS Agenda as an international framework. However, there is a noticeable gap in the critique concerning the processes that implement it at local levels. The effectiveness of the WPS Agenda is significantly contingent upon the actions of national governments. The ability of these laws to offer meaningful redress to the experiences of women and girls in violent conflicts hinges on local implementation, which falls under the jurisdiction of individual states. While the existing scholarship on the WPS Agenda is invaluable, it highlights the need to delve deeper into how the WPS Agenda operates within states. This understanding is crucial for comprehending its relevance, appreciating its promises, and realistically assessing what it can deliver. Moreover, it is essential for addressing the implementation gap. By focusing on the state-level implementation of the WPS Agenda, this

²⁵⁷ Farkhondeh Akbari & Jacqui True, “Bargaining with Patriarchy in Peacemaking: The Failure of Women, Peace, and Security in Afghanistan” (2024) 4, *Global Studies Quarterly*, 2.

²⁵⁸ *Ibid* at 9.

research aims to make a critical contribution to the existing scholarship, offering insights into how global frameworks can be translated into local action to benefit women and girls in conflict-affected areas or otherwise.

CHAPTER THREE: Research Methodology

3.0 Introduction

This chapter is divided into two parts. The first part sets out the theoretical perspectives relevant to this analysis, while the second part outlines the method employed in the study. The chapter explores three related pertinent theories to the research: Postcolonial Feminism, feminist insights on Third World Approaches to International Law (TWAIL Feminism), and Intersectionality. Intersectionality is applied in this study not as a theoretical lens but as an analytical tool inherent in postcolonial and TWAIL theories. These theoretical approaches are explained in relation to the focus and argument of the research, and the justification for their adoption in the study is advanced. As I explained in Chapter 1,²⁵⁹ hegemony and coloniality, two concepts central to the analysis advanced in this study, are vital components of all these approaches. Under the method section, the Doctrinal Research Method is adopted; it is applied to analyse the legal texts, policy documents and case law developed in Nigeria in furtherance of the WPS Agenda.

Part One: Theoretical Perspectives

3.1 Postcolonial Theory

In its broad sense, postcolonial theory disrupts how the world is known. It challenges the unacknowledged and unexamined assumptions at the heart of Western approaches to knowledge production that are indifferent to other cultures' meanings, values, and practices.²⁶⁰ Postcolonialism allows for narratives and analyses that de-emphasise the West as the sole centre for producing and disseminating knowledge and ideas.

²⁵⁹ See 1.12.2

²⁶⁰ John McLeod, *Beginning Postcolonialism* (second edition, Manchester University Press, England, 2020), 44, 79.

In international law, postcolonial scholars challenge the notion that the West is the legitimate initiator and disseminator of liberatory ideas and norms to the rest of the world.²⁶¹ The hegemony of Western ideas and systems within international law has generated extensive and critical appraisal from postcolonial thinkers. International law has been identified as one site in which the machinery with which Western dominance is achieved in locations and spaces outside the West, typically geographical regions and cultures whose ideas, norms and values are at variance with the West.

According to Boaventura de Sousa Santos, as far back as the 19th century, international law provided a regulatory framework whereby individuals and nation-states could be categorised and rationalised into the liberal positivist legal system, which in contemporary times underlines Euro/Americo-centric legal systems.²⁶² Peter Fitzpatrick and Eve Darian-Smith argue that postcolonialism is the primary means through which the West's relationship with its "other" is critically analysed, with the law being a significant aspect of this relationship.²⁶³ To a large extent, what constitutes law, legality and legitimacy in the international law space and in states that operate under common law legal systems, such as Nigeria, is determined by Western values and ideas, and postcolonial scholarship rebuts this domination.

Consequently, postcolonial legal theorists refuse to take Western legal norms as absolutes or unquestionable authority on global issues. Rather, they trace how colonial laws—as products of the colonising power, were imposed upon the vast territories of the annexed cultures. On this basis, postcolonial theory critiques the heavy influence of Western theories, ideas, and concepts as

²⁶¹ Ignacio dela Rasilla, "The Problem of Periodization in the History of International Law" (2019) 37:1 L and History Revs, 275.

²⁶² Boaventura de Sousa Santos, *Towards a New Common Sense: Law, Globalisation, and Emancipation* (Law in Context) (Cambridge, Cambridge University Press 2020), 40.

²⁶³ Peter Fitzpatrick & Eve Darian-Smith, "Laws of the Postcolonial: An Insistent Introduction" in Fitzpatrick and Darian-Smith (eds); *Laws of the Postcolonial* (Michigan, University of Michigan 2002), 1.

foundational to and influencing international law norms and the legal systems of the former colonised states, arguing that this overreliance opposes the core tenets of international law norms, which are, in principle, egalitarian and intrinsically understood as emergent of the collective will of the people.²⁶⁴

Thus, the critical space inhabited by postcolonial legal theorists of international law usually begins at a familiar place—the critique of liberal positivism, which is also the dominant ideology of international law. This intellectual tradition has dominated legal reasoning since the 20th century.²⁶⁵ Significantly, however, as postcolonial theory’s primary concern is with the present, these theorists have also endeavoured to show that the ideological effects of colonialism continue to have contemporary relevance as structures established during the colonial era continue to be used as instruments of control in this postcolonial world.²⁶⁶ I later demonstrate this in the study using the postcolonial Nigerian state as an example. Overall, postcolonial theory examines the effect of the past on the present since the structures it disrupts were set up in the past and are being reinforced and sustained in the present, hence the term coloniality.

3.2 Postcolonial Feminism

Postcolonial Feminism, or feminist postcolonial theory, emanated as a distinct theory that emphasised the gendered dimensions of postcolonial agitations alongside the enduring structures that perpetuate oppressive and disadvantageous Western influences on the former colonised

²⁶⁴Antony Anghie, *Imperialism, Sovereignty, and the Making of International Law* (Cambridge: Cambridge University Press, 2005), 742; Antony Anghie, “The Evolution of International Law: Colonial and Postcolonial Realities” (2006) 27:5 *Third World Q*, 739.

²⁶⁵Stephen Bottomley and Simon Bronitt, *Law in Context* (Alexandria, The Federation Press 2006). 16-58. For critique of legal positivism, see Margaret Davies, “Race and Colonialism: Legal Theory as ‘White Mythology’” In Margaret Davies (ed), *Asking the Law Questions: The Dissolution of Legal Theory* (2nd Ed Lawbook Co, Sydney, 2002) 90-104; Guy Fiti Sinclair, “Towards a Postcolonial Genealogy of International Organisations” (2018) 31, 841-69.

²⁶⁶Sundhya Pahuja, “The Postcoloniality of International Law” (2005) 46:2 *Harvard International Law Journal*, 459; Dann, Philipp, and Felix Hanschmann, "EDITORIAL: Post-Colonial Theories and Law." (2011) 45:2 *L and Politics in Africa, Asia, and Latin America*, 123-127.

territories. Feminist input into postcolonial studies can be traced back to the insights of Gayatri Chakravorty Spivak in ‘Can the Subaltern Speak?’²⁶⁷ There, Spivak provides vital insights into the dangers of believing that Western thinking about women can be uncritically used in non-Western contexts without any negative consequences. She identifies the ethical issues that arise when representing and speaking for others and the relationship between colonialism and other systems of oppression, including patriarchy and capitalism.²⁶⁸ Spivak also argues for the possibility of theorising from the point of view of the colonised rather than the coloniser.²⁶⁹ This is informed by the foundational belief that women are oppressed, not just by patriarchy or its institutions entrenched through state apparatuses, but also by entrenched and enduring colonial powers and structures, which in modern society creates a double bind of oppression.²⁷⁰

Uma Narayan’s work, which exposes the interface between cultural imperialism, nationalism, and the intersections of gender and colonialism, is a good example.²⁷¹ Narayan encourages critical thought and engagement with power dynamics and problematises dominant narratives shaping women’s lives. In essence, feminist postcolonial thinking does not only find oppression in historical and persisting colonial structures but also in patriarchal systems and structures inherent in society, theorising them as intersecting dynamics of power.

Feminist postcolonial theorists consider gender a significant factor for analysis but not an independent yardstick. For some, there cannot be any meaningful postcolonial analysis without considering intersecting systems and/or identities.²⁷² Hence, feminist postcolonial theorists

²⁶⁷ Gayatri Chakravorty Spivak *Can the Subaltern Speak?* (Afterall Books, London, Reprint 2020), 1.

²⁶⁸ Capitalism as used here denotes a social and economic system in which trade and industry are exercised for the sake of private profit.

²⁶⁹ Spivak, *Can the Subaltern Speak?* *supra* note 266 at 7-16.

²⁷⁰ See Lewis Reina and Sara Mills, *Feminist Postcolonial Theory: A Reader* (Edinburgh University Press, 2003)

²⁷¹ Azfar Hussain, Book Review, *Dislocating Cultures Identities, Traditions, and Third World Feminism* by Uma Narayan (2000) 54:2, JSTOR, 143-146.

²⁷² Benita Bunjun, “Feminist Organisations and Intersectionality: Contesting Hegemonic Feminism” (2010) 34:2, *Atlantis*, 115.

theorise the interactions between gender, nationality, race, imperialism, colonialism, and other similar categorisations in the different contexts of women's lives, focusing on how colonial and neocolonial ideologies intersect with these other categories to dictate the conditions of women's lives.²⁷³ For example, Cheryl Hendricks and Desiree Lewis argue that we cannot adequately understand gendered discrimination without critically analysing racial, ethnic, class, regional and other such affiliations. In their words, "the gendered subject is never simply 'woman' or 'man', but always a gendered subject with overlapping identities, for example, 'black woman', 'first-world, middle-class woman' and so on."²⁷⁴

In addition, postcolonial feminist theory critiques [some] Western feminist discourse for its tendency to homogenise and exoticise women from non-Western cultures.²⁷⁵ For instance, Chandra Talpade Mohanty emphasises copiously in her work the necessity to consider specific socio-political contexts in understanding women's lives while decrying the absence of these sensibilities in most Western feminist analyses.²⁷⁶ An example she has extensively critiqued is the idea of "global sisterhood", which she argues fails to acknowledge the unique forms of oppression women face informed by the complexities of their contexts. According to Mohanty, a "global sisterhood" is non-existent where feminist critiques and analysis overlook the diversity among women and their individual experiences of oppression.²⁷⁷

²⁷³ See Cheryl Hendricks and Desiree Lewis, "Voices from the Margins" (1994) 20 *Politics, Power, and Democracy*, 61, 75.

²⁷⁴ *Ibid* at 61; see also Zehra F. Kabasakalrat, "Feminisms, Women's Rights, and the UN: Would Achieving Gender Equality Empower Women?" (2015) 109:4, *American Political Science Review*, 674. Kabasakalrat argues, among other things, that UN gender policies are predominated by the views of liberal feminism, which may establish gender equality but has failed to empower most women.

²⁷⁵ Chandra Talpade Mohanty, "Under Western Eyes: Feminist Scholarship and Colonial Discourses." (1984) 12:3, *boundary 2*, p. 333

²⁷⁶ *Ibid* at 358.

²⁷⁷ See Mohanty, *Cartographies of Struggle...* *supra* note 168 at 4.

3.2.1 Feminist Postcolonial Thinking in International Law

Feminist postcolonial theorists problematise international law's universalist and essentialist leanings toward women—which also centralises and idealises Euro-American ideas of womanhood. One point that has been strongly emphasised is that global universalisation is achieved by creating legal frameworks with a Eurocentric bias to address discriminatory and oppressive behaviour against women.²⁷⁸ However, this study demonstrates that hegemony is also established when states uncritically apply internationally created laws without considering how these general standards address context-specific manifestations of globally recognised ills like conflict-related SGBV.

While there is a lot of critical scholarship on the role of international law in perpetuating hegemony in postcolonial societies, there is a sustained need to emphasise the role that Third World states, and its institutions play in perpetuating colonial mindsets regarding women's rights and security. Feminist postcolonial scholarship has extensively critiqued the role that Western states and economies play in undermining women's security and human rights in the Third World with the machinery of international law. For example, Ratna Kapur examines the relationship between human rights law, gender, and culture by problematising international Law's articulation of violence against women within stable categories of gender, inviting state intervention in the form of criminal justice, stringent sentencing, and a strengthened sexual security regime.²⁷⁹ Kapur disagrees with this approach and believes that the words used create divisions that are present in the stories told by countries and their power. Kapur believes that the violence evident in the Third World is influenced by the impact of colonialism and current economic policies tilted in favour of

²⁷⁸ Hendricks & Lewis, "Voices from the Margin" *supra* note 272 at 75.

²⁷⁹ Ratna Kapur, "Gender, Sovereignty and the Rise of a Sexual Security Regime in International Law and Postcolonial India" (2013) 14 Melbourne Journal of Intl L, 2.

the West and against the Third World.²⁸⁰ This study will demonstrate by critiquing local initiatives for implementing the WPS Agenda in Nigeria that it is important to understand how Western concepts of women's rights and security are applied by state authorities in the Third World. This understanding helps reveal the pervasive influence of hegemony and its collaborators beyond the West.

Similarly, Saba Mahmood's work highlights the unique experience of women in Cairo by showing how women in the Islamic revival movement in Cairo used religious practices to resist oppressive state power and create new moral and ethical perspectives to draw attention to how universal assumptions such as the Western belief that secularism is the only means by which their liberties will be guaranteed may fail to apply in diverse contexts.²⁸¹ Overall, the views expressed by the scholars in the foregoing highlight the limitations of universal norms as solutions for specificities, particularly in non-western contexts. From a postcolonial feminist perspective, the portrayal of Western legal systems as superior has not been confined to history but continues in contemporary legal thought and is reflected in international law and policy, as well as in many common law systems such as Nigeria. For instance, Dianne Otto suggests that while international law is allegedly founded on universality, neutrality and objectivity, its fundamental goals reflect the ideals of the "European Enlightenment."²⁸² Likewise, Elizabeth Philipose argues that "international law, as it has come to be constituted, derives from European nation-building

²⁸⁰ *Ibid.*

²⁸¹ See generally, Saba Mahmood, *Politics of Piety: The Islamic Revival and the Feminist Subject* (Princeton University Press, New Jersey, 2011).

²⁸² Dianne Otto, "Subalternity and International Law: The Problem of Global Community and the Incommensurability of Difference" (1996) 5 Soc & Leg Studies, 339, 351-2.

needs....and is employed to incorporate the “backward” and “uncivilised” into modernity...,”²⁸³ a modernity that is defined by European standards to serve the interests of European states.²⁸⁴

These perspectives reflect those of mainstream postcolonial theorists like Antony Anghie, who claims that international law is “the grand project that has justified colonialism as a means of redeeming the backward, aberrant, violent, oppressed, undeveloped people of the non-European world by incorporating them into the universal civilisation of Europe.”²⁸⁵ For non-European women, however, “to be called backwards in its colonial connotations conjures a passive, victimised-by-culture object of civilisation,”²⁸⁶ and this is the dominant perspective which Saba Mahmood contests, arguing for the need to engage with diverse perspectives when addressing issues of gender, agency and freedom.²⁸⁷

Many postcolonial feminist scholars question the proclivity of international law towards universalising challenges faced by women in different regions of the world without paying attention to the uniqueness of such contexts. Mohanty, for instance, argues that “seamlessly assimilating women worldwide and their experiences into a universal discourse not only robs them of their individuality but denies them a stake in contributing to efforts geared towards redress.”²⁸⁸ Ann Russo, writing about Western-inspired solutions to gender-based problems in the Third World, argues that universalising women’s problems and devising solutions in such a universalist way serves to “solidify our (the Western states’) sense of superiority and power concerning “them” (women in Third World countries), and to ward off any sense of our own relationship to or

²⁸³ Elizabeth Philipose, “Decolonising the Racial Grammar of International Law” In Robin L. Riley et. al, (eds); *Feminism and War: Confronting U.S Imperialism*, (London, ZED Books, 2008), 104.

²⁸⁴ *Ibid.*

²⁸⁵ Anghie, *Imperialism, Sovereignty...* *supra* note 263 at 704.

²⁸⁶ Philipose, *Decolonising the Racial Grammar...* *supra* note 282 at 105.

²⁸⁷ See Mahmood, *Politics of Piety*, *supra* note 280 at 120.

²⁸⁸ Mohanty, *Under Western Eyes* *supra* note 274 at 39.

accountability for the issues being addressed.”²⁸⁹ Similarly, Sherene Razack maintains that “the idea that all women share a core of oppression upon which other differences can be grafted has enabled a masking of how we, as women, are implicated in one another’s lives.”²⁹⁰

While all these are legitimate claims, this scholarship calls for a balanced perspective. I opine that Western hegemony and domination in the Third World are not always solely perpetuated by the West or its agents from Western countries. Western hegemony in contemporary times can be actively perpetuated by local actors within the Third World because these ideas have proven to further elitist objectives that the privileged few get to benefit from at the expense of the majority. For example, the language of protecting women and girls from conflict-related SGBV is prevalent in Nigeria. Still, one always wonders whether this language and the efforts generated to actualise it are for the benefit of the so-called vulnerable women and girls, seeing that conflict-related SGBV continues unabated despite the rhetorics.

The call for critical reflection on the utility of universal norms is crucial in today's interconnected world. While the idea of universal norms is not inherently fruitless, it is essential to consider the specificity of the contexts in which they are applied. The WPS Agenda, for instance, provide a framework for addressing global challenges related to SGBV. Still, adapting and modifying these goals to suit the unique needs of different communities within states' boundaries is crucial. Universalism becomes problematic when certain groups perceive themselves as superior and attempt to impose their beliefs on others, disregarding the contributions and perspectives of diverse groups. In a world where interconnectedness is inevitable, it is necessary to recognise and

²⁸⁹ Ann Russo, *Feminist Accountability: Disrupting Violence and Transforming Power* (New York University Press, 2019), 223.

²⁹⁰ Sherene Razack, *Looking White People in the Eye: Gender, Race, and Culture in Classrooms and Courtrooms* (University of University Press: Toronto, 1998) cited by Russo in *Feminist Accountability*, *supra* note 39 at 221; Natasha Pinterics, “Disrupting the Waves Riding the Feminist Waves In With the Third?” (2014) 20/21:4/1 Canadian Woman Studies, 16.

respect the diversity of experiences and perspectives. We can create a more inclusive and equitable society by acknowledging and embracing the richness of different cultures and viewpoints. Through this recognition of diversity and the willingness to adapt and evolve, we can truly harness the power of universal norms for the betterment of all.

In the next section, I highlight specific TWAIL insights that are relevant to this research and clarify how they are essential to the subject under discussion

3.3 Third World Approaches to International Law (TWAIL)

TWAIL, as a theoretical lens, challenges traditional frames of international law from perspectives informed by the conditions of Third World countries. While TWAIL encompasses diverse viewpoints, this review explores only the ones relevant to the present discussion. One concept that TWAIL scholars emphasise is decolonisation. They argue that international law has often worked to promote colonialism and imperialism, which has benefited powerful Western countries.²⁹¹ They stress the importance of challenging the Eurocentric biases in international law and working towards its decolonisation.²⁹² This perspective draws attention to colonality—the lasting effects of colonialism, such as unequal power dynamics and the marginalisation of Third World nations. Consequently, TWAIL theorists and scholars oppose inequality, which reinforces Third World domination and subordination by powerful Western states.²⁹³

According to Luis Eslava and Sundhya Pahuja, TWAIL theorists converge on their opposition to politics grounded in the idea of “empire” versus “others”.²⁹⁴ A commonality of concerns,

²⁹¹ James Thuo Gathii, “Promises of International Law: A Third World View (Including a TWAIL Bibliography 1996-2019 as an Appendix)” (2020) 114 Proceedings of the ASIL Annual Meeting, 165.

²⁹² Anthony Anghie, “Rethinking International Law: A TWAIL Retrospective” (2023) 1 European Journal of International Law, 7. See also Adithya A. Variath and Anil Variath, “Learning TWAIL and Unlearning Imperialist Approach Towards a Balanced View of International Law (2022) Illinois L Rev.

²⁹³ See Obiora Chidi Okafor, “Marxian Embraces (and De-Couplings) in Upendra Baxi’s Human Rights Scholarship: A Case Study”, in Susan Marks, (ed), *International Law on the Left: Re-examining Marxist Legacies*, (Cambridge UK and New York, Cambridge University Press: 2008), 252-280.

²⁹⁴ See, B. S. Chimni, “The Past, Present and Future of International Law: A Critical Third World Approach”, (2007) 8:2 Melbourne J Intl L 499.

therefore, defines TWAIL. Those concerns centre around attempting to attune the operation of international law to those sites and subjects traditionally positioned as the “others” of international law.²⁹⁵ This is because TWAIL presents an alternative perspective on international law that emerged as a response to the power dynamics of the current international legal system that involves domination and subordination. As a counter-hegemonic movement intent on disrupting entrenched inequalities, TWAIL challenges the discriminatory relationship between the Third World and international law that its advocates perceive.²⁹⁶ Still, Eslava and Pahuja clarify, “While it can be said that TWAIL scholars do not adhere to a singular theoretical framework, they possess a shared sensibility and political stance”.²⁹⁷

TWAIL scholars have a strong ethical commitment to challenge the international legal system's features contributing to a generally unequal, unfair, or unjust global order. They aim to expose, reform, or even retrench these features while prioritising the lives and experiences of the Third World, which have historically been overlooked.²⁹⁸ From this starting point, TWAIL launches a deconstructive and a reconstructive project.²⁹⁹ Some TWAIL scholars believe that international law and the UN fundamentally lack credibility and need major restructuring. They argue that colonial hierarchies and Western dominance have tainted the UN to the point where it cannot benefit developing nations and that even institutional reforms would not change this. They view the current international legal system as a predatory one that legitimises and perpetuates the

²⁹⁵ *Ibid.*

²⁹⁶ Patrick H Wells, “A Leap of Faith: TWAIL Meets Caribbean Queer Rights Jurisprudence-intersections with International Human Rights Law” (2020) 43 Dalhousie Law Journal, 397; Mohsen al Attar and Rebekah Thompson, “How the Multi-Level Democratisation of International Law-Making Can Effect Popular Aspirations Towards Self-Determination”, (2011) 3(1) Trade L. & Development, 65, 67.

²⁹⁷ Luis Eslava and Sundhya Pahuja, “Beyond the (Post)Colonial: TWAIL and the Everyday Life of International Law” (2012) 45:2 *Verfassung R und ÜBersee*, 195-221.

²⁹⁸ Obiora Chidi Okafor, “Newness, Imperialism and International Legal Reform in our Time: A TWAIL Perspective”, (2005) 43 *Osgood Hall L J*, 171, 176.

²⁹⁹ See Eslava and Pahuja, *supra* note 296 at 195.

exploitation and subjugation of Third World countries by the West.³⁰⁰ In this regard, TWAIL exposes the power imbalance of the “empire” vis-à-vis the structure of international law that is fundamental to understanding the current international legal system.³⁰¹

TWAIL scholars are also highly invested in scrutinising the global economic structures that perpetuate inequality. Through their meticulous analyses, they bring to light how globalisation, neoliberal policies, and the actions of international financial institutions impact Third World countries. Their ultimate objective is to foster more equitable economic relationships, particularly emphasising trade justice, debt relief, more equitable debt conditions, and balanced development. The thinking is that such measures will enable a more just and sustainable world order where all nations can thrive and prosper.³⁰²

TWAIL advocates examine human rights issues from a critical standpoint. They highlight the constraints and biases inherent in the dominant human rights narrative that fails to address the requirements of disadvantaged communities within Third World nations. This approach aims to develop a more comprehensive understanding of human rights that recognises the socio-economic and cultural circumstances specific to these countries. The goal is to create a more inclusive framework that caters to the needs of all individuals, irrespective of their geographical location, background or social status.³⁰³

3.3.1 TWAIL Feminism

TWAIL feminist thought focuses on women's experiences and perspectives in relation to international law's impact on marginalised communities. It traces back to the broader feminist

³⁰⁰ Makau Mutua, “What is TWAIL?” (2000) 94 AM Soc’y Intl L Proc, 31.

³⁰⁰ See Eslava and Pahuja, *supra* note 296 at 195.

³⁰¹ BS Chimni, “Third World Approaches to International Law: A Manifesto” (2006) 8:1 International Community L Rev, 3.

³⁰² Makumya M’membe “The Development of a Western-Centric Notion of Modernity and the Inclusive Reconstruction Thereof According to the TWAIL Principles” (2022) 16 Pretoria Student Law Review, 185.

³⁰³ Roberto Luiz Silva, “European Union and Mercosur Association Agreement through a TWAIL Perspective” (2022) 27:1(6) Journal of Humanities and Soc Science, 1.

movement's efforts to address gender inequality, discrimination, and women's exclusion from various spheres, including legal and political domains and how coloniality facilitates this reality. Within TWAIL, feminist scholars apply these perspectives to analyse how international law affects women in the Third World,³⁰⁴ TWAIL also focuses critical attention on the limitations of mainstream feminist theory in addressing challenges and experiences of Third World women bordering on colonial and imperial histories.³⁰⁵

Cheryl Johnson Odim's take on the uniqueness of TWAIL feminist agitations is one of the earliest examples.³⁰⁶ Odim contends that while it is true that the oppression of impoverished and marginalised European and American women is linked to gender and class relations, that notion is too narrow to fully comprehend and apprehend the challenges faced by Third World women, as their problems are related to race relations and often imperialism.³⁰⁷ Odim further argues that while it can rightly be said that there are different schools of thought on feminism among Western feminists, a widely accepted perception is the feminism emerging from White, middle-class Western women, which narrowly confines itself to a struggle against gender discrimination. While sex and gender egalitarianism are goals on which all feminists can agree, gender discrimination is neither the sole focus of the oppression of Third World women—a typical Third World feminist's struggle is intrinsically connected to their community's struggle against racism, economic exploitation, culture, religion, and imperialism.³⁰⁸

³⁰⁴ See Kapur, "Gender, Sovereignty and the Rise..." *supra* note 281 at 9-16.

³⁰⁵ Iyabowale R. Ako-Nai, "Western Feminist Theories How Applicable to Africa?" In Iyabowale Ako-Nai (ed); *Gender and Power Relations in Nigeria* (MD: Lexington Books, 2012).

³⁰⁶ Cheryl Johnson Odim, "Common Themes, Different Contexts: Third World Women and Feminism" In Chandra Talpade Mohanty et.al (eds); *Third World Women and the Politics of Feminism* (Indiana University Press, Bloomington, 1991), 341.

³⁰⁷ *Ibid* at 342.

³⁰⁸ *Ibid* at 349. Odim's definition of the Third World covers "underdeveloped/overexploited geographical entities, i.e., countries, regions and even continents and refers to oppressed nationalities from these areas, which are now resident in developed Western nations." She explains that these disparities in understanding have given rise to tension between feminists of the north and those from the global south, who consider the former's conceptualisation

Thus, for the TWAIL feminist, it is not so much that there is a feminist movement advocating for women's rights or that there is a law in existence supposedly addressing the challenges they face; the primary concern is the scope and content of those contentions and how responsive the struggle or law is to specificity.³⁰⁹ For that purpose, this study employs the TWAIL feminist lens to critique the scope and content of the WPS Agenda initiatives in Nigeria and how the initiatives respond to or are capable of addressing specific SGBV harms emanating from conflicts in Nigeria. This study applies the TWAIL perspective to critique Nigeria's uncritical adoption of dominant ideas within the WPS Agenda. I argue that these ideas primarily serve elitist interests rather than addressing the real challenges faced by women and girls affected by violent conflict in Nigeria. Although these hegemonic ideas may in some way benefit powerful (western) states, as some scholars above observed, they have also become instrumental in advancing class-based and elitist interests, even within the Third World.

TWAIL scholarship also challenges the assumption that Third World women have somehow been more oppressed by indigenous patriarchy than women in the West and underscores the critical need to clarify that egalitarian relations between women and men are not an improved Western value.³¹⁰ This is not to say that there was no patriarchy in non-Western societies before colonialism but that factors other than gender figure integrally in the oppression of Third World women. Even regarding patriarchy, many women in Third World nations labour under local inequitable gender

of the feminist struggle too parochial to address their concerns, to the extent that the term feminism in some third world quarters is linked exclusively to the struggle of white women for rights within their society.

³⁰⁹ Sylvia Tamale, *Decolonisation and Afro-Feminism* (Daraja Press, 2020), 343.

³¹⁰ See Odum, *supra* note 305 at 353; see also Josef Gulger, "The Second Sex in Town" in Filomena Steady (ed); *The Black Woman Cross-Culturally* (Schenkman Books Inc., Cambridge Massachusetts), 169; Achola O. Pala, "Definitions of Women and development: An African Perspective" in Filomena Steady (ed); *The Black Woman Cross-Culturally* (Schenkman Books Inc., Cambridge Massachusetts, 1985), 209.

relations compounded by Western patriarchy institutionalised in these regions through universal political and legal dynamics, racism, and imperial exploitation.³¹¹

TWAIL feminism also challenges the sensationalisation of some gender-based oppressions emanating from Third World societies to the exclusion of others. For instance, Odim and others challenge the much attention given to female genital mutilation by treating it as a stand-alone ground of oppression to exclude other pressing issues like malnutrition, infant mortality, illiteracy, healthcare delivery, and skill training.³¹² TWAIL feminist agitations address other issues, such as sterilising women to curb population explosion in Africa and to address poverty and the testing of contraceptives on African women before they are admitted for use in the West.³¹³ These are grievous gender crimes that eluded critical mainstream feminist input for a long time. The result of that oversight is a profound disconnect between feminist insights that have generated gendered norms in international law, like the WPS Agenda, and the specificities of TWAIL feminist critique.

It is on this basis that Odim believes that there is a broad base on which feminists from the Third World and the West must agree for feminism to deliver on its promise of addressing women's oppression and ensuring gender equality.³¹⁴ In other words, it is imperative to acknowledge the significant impact of racism, the desire for imperial expansion, and economic exploitation on the oppression faced by women residing outside of the Western world.

A comprehensive understanding that encompasses these factors is necessary for any genuine effort towards providing redress for SGBV and empowering women globally. Anything short of this would further subject the oppressed to worse forms of oppression. As articulated by Fareda

³¹¹ Naomi N. Nkealah “Conceptualising Feminism(s) in Africa: The Challenges Facing African Women Writers and critics” (2006) *English Academy Review*, 133.

³¹² See Odim, *supra* note 305 at 341-53.

³¹³ *Ibid* at 353.

³¹⁴ *Ibid*.

Banda, just as Third World scholars' critique northern ethnocentrism in the construction of human rights and feminist scholars decry the androcentric constructions of international law rules, African women are in a double bind, experiencing discrimination from domestic laws and on multiple grounds from international law, first as women and secondly as citizens of the Third World.³¹⁵

In addition, feminist TWAIL thinking is shaped by critical legal and postcolonial theories. As previously articulated, postcolonial theory highlights the power imbalances in colonial and neo-colonial relationships and their effects on legal systems and societal structures.³¹⁶ Critical legal theory questions the neutrality of law and examines how it can perpetuate social inequalities.³¹⁷ These ideas align with TWAIL feminism's critique of the pervasive influence of empire, patriarchy, and global inequalities in the context of international law. The double bind analogy articulated by Banda³¹⁸ is what distinguishes TWAIL feminism in the sense that it calls attention to the oppressive local factors within the Third World and in international law, facilitated by the Eurocentric nature of international law (which ignores or obscures challenges that Third World women may find pressing) intersecting to undermine Third World women's rights and autonomy.

Feminist TWAIL scholars highlight the ways in which international law can reinforce and perpetuate gendered power imbalances, economic inequalities, and cultural biases that affect women's lives.³¹⁹ They also analyse the relationship of gender with other social categories such as race, class, and nationality and explore how these intersections shape women's experiences in the Global South within international law and the costly implications of ignoring these vital issues.³²⁰

³¹⁵ Fareda Banda, *Law and Human Rights: An African Perspective* (Oxford: Hart Publishing, 2005), 15.

³¹⁶ Alpana Roy, "Postcolonial Theory and Law: A critical Introduction" (2008) 29 *Adelaide Law Review*, 315.

³¹⁷ Mari Matsuda, "Looking to the Bottom: Critical Legal Studies and Reparations" (1978) 22 *Harv. Civ. RTS. CIV. Libs. L. Rev.*, 323.

³¹⁸ Banda, *Law and Human Rights*... *supra* note 314 at 15.

³¹⁹ J Oloka-Onyango and Sylvia Tamale, "The Personal IS Political, or Why Women's Rights are Indeed Human Rights: An African Perspective on International Feminism" (1995) 17:4 *Hum RTS Q.*, 691.

³²⁰ *Ibid* at 692-732.

I apply TWAIL in this study in two ways. Firstly, to critique hegemonic and universalising notions of security inherent in Nigeria's approach to advancing the WPS Agenda. I embrace TWAIL feminist scholars' insights like those of Giovanna Maria Friso³²¹ and Vasuki Nesiah,³²² who use TWAIL to offer critical engagements with the international law project and the Third World states. Vasuki, for instance, maintains, in effect, that TWAIL feminism could serve as a powerful tool of resistance to indigenous patriarchies within the Third World and imperialist, neocolonialist and racist agendas in the international system that jointly undermine Third World women's security.³²³

Recently, there has been growing cooperation between feminist postcolonial and TWAIL thoughts in several international law regimes.³²⁴ Nesiah has launched such a dual critique of the homogenising tendencies inherent in customary international Law.³²⁵ But most significant for this study is the fact that Third World feminists like Nesiah find importance in TWAIL feminism's critique of:

...the history of imperial and patriarchal governance and an analysis of the material and ideological structures that have facilitated oppressive governance structures, shaped their distributive impacts, and legitimised hegemonic narratives of justice and women's rights in the context of conflict.³²⁶

Secondly, I apply TWAIL in this study to draw attention to the enduring structures of colonialism upon which the state of Nigeria is built and which continue to influence laws and

³²¹ Giovanna Maria Friso, "Third World Approaches to International Law: Feminists' engagement with international law and decolonial theory" (2019) *Res Handb Fem Engagem with Int Law* 479–498.

³²² Nesiah, "TWAIL Feminist Perspectives..." *supra* note 140.

³²³ *Ibid.*

³²⁴ Dianne Otto and Emily Jones, "Queering International Law" (Oxford Bibliographies, 26 May 2023) Online: <<https://www.oxfordbibliographies.com/display/document/obo-9780199796953/obo-9780199796953-0245.xml>> DOI: 10.1093/obo/9780199796953-0245. These authors discuss how queer analyses often draw upon and complement feminist theories of intersectionality along with postcolonial and TWAIL theories of imperial power and domination in the field of international law. See also Ulrike Krause, "Invisibilization of the Unwanted Others? Feminist, Queer, and Postcolonial Perspectives on the 1951 Refugee Convention's Drafting" (2024) 107:102979 *Women's Studies International Forum*, 1.

³²⁵ See, Vasuki Nesiah, "Decolonial CIL: TWAIL Feminism, and an Insurgent Jurisprudence" (2018) *AJIL Unbound*, 313.

³²⁶ Nesiah, "Decolonial CIL..." *supra* note 324 at 322.

policies, creating a strong bias against women's rights and security. The TWAIL lens also clearly illustrates that accountability measures for SGBV in Nigeria are shaped by Nigeria's colonial legacy, which has made Nigerian leaders oblivious of their country's obvious peculiarities in their attempts to domesticate the WPS Agenda. The TWAIL lens thus provides a critical lens through which to reassess, reimagine, and potentially revitalise scholarly critique of the WPS Agenda—at the very least, it could reinvigorate an assessment of how Third World states pursue WPS Agenda initiatives and for what purpose.

In the next section, I set out structural intersectionality's persuasions and its relevance to the study.

3.4 Intersectionality (Structural)

Intersectionality in this thesis focuses more on structural factors that lead to discrimination, not identity conflation. This does not suggest in any way that identities do not matter in the experiences of wartime SGBV; they do matter very much. The purpose of emphasising structures is to stress the underlying factors behind identity-based oppression, as postcolonial and TWAIL perspectives suggest.

Intersectionality addresses how gender interacts with other social categories like race and class to structure social hierarchies. Intersectionality is intrinsically woven into postcolonial and TWAIL theories.

In this research, I apply the concept of structural intersectionality to reflect on the consequences of ignoring the various systems of oppression identified in postcolonial and TWAIL perspectives, namely the colonial nature of postcolonial states like Nigeria and how this impacts norms emanating from it, creating a hegemonic system that does not pay attention to diversity; the continuous influence of colonial structures on legal systems in the Third World; and the influence of imperialism and capitalism on creating and sustaining violent conflicts and consequently SGBV.

These factors, in conjunction with local manifestations of patriarchy, religion, ethnicity, class and cultural biases, together provide an intersection of factors that undermine the human security of women, particularly creating a rich backdrop against which SGBV thrives.

By examining the intersecting systems, I emphasise their impact on the creation of laws and policies that obscure certain oppressive practices experienced by women in violent conflict contexts in Third World countries. I stress the importance of acknowledging these factors in the local implementation of the WPS Agenda. Neglecting these systems of oppression in UN laws and policies can have far-reaching consequences but ignoring them at state levels is very unfortunate as it occludes yet another critical opportunity for creating rules and guidelines with increased potential to address the challenge. The NAP and other policy documents in Nigeria show that these ideas are often unquestioningly adopted without evaluating their appropriateness for local contexts. Crenshaw's concept of “the crossroad” highlights the structural dimensions clearly.

According to Crenshaw:

Intersectionality is what occurs when a woman from a minority group tries to navigate the main crossing in the city... the main highway is ‘racism road.’ One cross street can be colonialism, then Patriarchy Street. She must deal not only with one form of oppression but also with all forms that link together to make a double, triple, multiple, many-layered blanket of oppression.³²⁷

This statement highlights that intersectional discrimination, or oppression originates from structural factors before it becomes evident in identity-based forms. Crenshaw underscores the importance of structures in an intersectional analysis by articulating that “by tracing the categories to their intersections, I hope to suggest a methodology that will

³²⁷ Kimberlé Crenshaw, “Mapping the Margins: Intersectionality, Identity Politics and Violence Against Women of Color”, (2001) Paper Presented at the World Conference Against Racism.
<www.hsph.harvard.edu/grhf/WoC/feminisms/Crenshaw.html.>

ultimately disrupt the tendencies to see race and gender as exclusive or separable.”³²⁸ In other words, disrupting structural intersecting factors would also positively impact oppression based on intersecting categories.

The above critical standpoint is also observable in the argument of Grace Ajele and Jena McGill, who opine that the experiences of oppression, discrimination, and marginalisation based on intersecting identities should not be viewed as isolated incidents. Instead, they reveal how law, policy, and economics systems operate to benefit specific groups while putting others at disadvantaged positions.³²⁹ Ultimately, this underlines the need for legislatures and policymakers to pay attention to how systems are creating conditions of privilege or oppression for different groups in society. In the following section of this chapter, I explain why using the two-pronged theoretical approach in this research is necessary.

3.5 Justifying the Combined Approaches

While either of the theories reviewed above can be used in a study like this, there are benefits to utilising all, which I will explain further. Still, it is essential to note that intersectionality is not considered a distinct theoretical approach in this research. Instead, it is seen as a vital component of both feminist postcolonial and TWAIL analyses, serving as a powerful bedrock for applying these approaches. Intersectionality is vital to this study because it challenges the almost exclusive focus on the individual non-state armed perpetrator in accountability for SGBV, despite the reality that SGBV is a crime committed by both state security forces and organised armed fighters and civilians as well. I argue that the focus on the culpability of non-state armed groups such as Boko

³²⁸ *Ibid* at 1242.

³²⁹ Grace Ajele and Jena McGill, “Intersectionality in Law and Legal Contexts” (2020) Women’s Legal Education and Action Fund (*LEAF*), 24.

Haram in Nigeria's prosecution efforts undermines the endemic and pervasive nature of SGBV in violent conflicts.

Additionally, I apply intersectionality in this research to draw attention to the network of actors and factors directly responsible for SGBV crimes, as well as those who create a conducive environment for it and/or benefit from it. This disrupts the unilateral focus on the individual perpetrator, an approach that continues to dominate law and policy efforts. As Erickson-Baaz and Stern argue regarding wartime rape: "...the dominant framework for understanding and addressing wartime rape has become so seemingly coherent, universalising and established that seeing, hearing or thinking otherwise about wartime rape and its subjects is difficult."³³⁰ This study disrupts such a universalising approach by calling attention to the network of factors and actors complicit in SGBV, directly or indirectly. It maintains that for accountability measures (legal or otherwise) to transform the culture of impunity that continues to pervade violent conflict contexts, they must create opportunities for this network of connections to be held accountable.

In the setting of this study, intersectionality, alongside the other two theories, highlights how uncritical assumptions of homogeneity can shroud women's experiences and hinder the potential of the WPS Agenda to provide security and address SGBV. These theoretical perspectives, therefore, emphasise the need for domestic laws and policy initiatives on the WPS Agenda to be mindful of how different systemic factors such as transnational economic systems, global and local political structures, cultural factors, colonialism, racism, patriarchy, imperialism and the global military culture that sustains them contribute to the generation and maintenance of women's oppression and SGBV.

³³⁰ Maria Eriksson Baaz & Maria Stern, *Sexual Violence as a Weapon of War? Perceptions, Prescriptions, Problems in the Congo and Beyond* (Zed Books: New York, 2013), 1.

In addition, the utility of applying both TWAIL and postcolonial approaches in a single study, such as this one, lies in their complementary strengths. While TWAIL sharpens the focus on the structural and legal dimensions of global inequality, postcolonial theory illuminates the cultural and discursive mechanisms that sustain these systems. For instance, combining TWAIL's critique of the irregularities embedded in international law with postcolonial theory's exploration of how colonial power shapes narratives and ideologies can provide a richer, multidimensional analysis of the WPS Agenda initiatives in Nigeria and their potential impact on local populations, such as women and girls in Nigeria. This approach will help me look at both the practical and knowledge aspects of power, showing how unfair rules are made and accepted and suggesting ways to change them. By leveraging the insights of both frameworks, I can provide a nuanced critique that incorporates structural, institutional, and representational aspects of inequality, making this work both analytically robust and normatively transformative.

Moreover, these theoretical frameworks are crucial for illustrating the links and influences of the UN's colonial history and the present-day trends of neo-colonialism and imperialism on the WPS Agenda within local contexts like Nigeria. It is vital to explore how gender concepts interact with these matters. By considering these elements alongside the existing WPS Agenda Resolutions, programs, and policies in Nigeria, it becomes evident why SGBV continues to be an obstacle in regions impacted by violent conflict. Through this critical analysis of the Agenda, I provide a comprehensive review that underscores the necessity of incorporating these factors into legislation and policy efforts to enhance the Agenda in local environments.

Part Two: Methodology

3.6 Doctrinal Legal Research

This project employs Doctrinal Legal research as its methodology. It is concerned with analysing legal doctrine and how it was developed and applied. Doctrinal research asks what the

law is in a particular case to identify specific pieces of information. Since the objective of this project is to consider the implications of an international WPS Agenda on locally generated WPS legal and policy initiatives (which involves an extensive assessment of policies and laws made in Nigeria in furtherance of the WPS Agenda), the doctrinal research methodology is most suitable for the project due to its emphasis on the sources of law. A significant advantage of the method is that the data sources generated for the research are easily verifiable and manageable. At the same time, the outcomes, which involve extensive critical findings, are more predictable.

3.6.1 Data Sources, their Content and Relevance to the Study Explained

This study employs the Doctrinal Research Method, making specific documents crucial for tackling the research questions. These documents were chosen based on their significance to the WPS Agenda in Nigeria, particularly in promoting accountability for SGBV and prosecuting SGBV offences. All documents collected for this research can be accessed in the public domain via official websites, online libraries, and Nigerian court records.

The first among these documents is Nigeria's NAPs, formulated first in 2013 and the second in 2017.³³¹ Both NAPs are relevant to the study as they provide a critical understanding of the evolution of the WPS in Nigeria. The NAPs contain stipulations on implementing the WPS Agenda in Nigeria, and certain legal enactments have resulted.

Another key document relevant to the research is the *Violence Against Persons Prohibitions (VAPP) Act 2015*;³³² the first law in Nigeria that comprehensively addresses gender-based violence in Nigeria. I examine the VAPP Act's provisions to grasp how gender-based laws have been domesticated in the country. As will be discussed in the next chapter, the NAPs recommended establishing a gender-focused law to tackle the occurrences of SGBV in the nation and developed

³³¹ National Action Plan, 2013; National Action Plan 2017.

³³² VAPP Act 2015.

guidelines to help persuade the appropriate authorities in the country to implement the VAPP. And since the WPS Agenda focuses primarily on violent conflict contexts, it is necessary to consider the relevance of the VAPP Act (a domestic law) in addressing SGBV during the chaotic and tumultuous times of violent conflicts.

In addition to the VAPP Act, the *Terrorism Prevention Amendment Act* (TPA Act) 2022³³³ is helpful in the study in critiquing efforts towards ensuring accountability for SGBV. This is the key legal framework for prosecuting terrorists in Nigeria. As noted in Chapter One, the violent conflicts in Nigeria largely stem from terrorism and counter-terrorism measures, and the conflict-related SGBV crimes are closely connected to or aimed at furthering terrorist goals or countering terrorism, as the case may be. The TPA Act 2022 amended the earlier Terrorism Prevention Act 2011, which established Nigeria's legal structure to combat terrorism; it also implemented strategies to both prevent and prosecute terrorist acts domestically.³³⁴

The Act defined terrorism and laid out offences considered terrorist—including planning, financing, and carrying out terrorist acts.³³⁵ Among the crimes considered under this Act, however, sexual violence, including rape and abduction for sexual slavery, which are the hallmark of Boko Haram's activities in Nigeria, are not included. The 2011 Act was therefore considered ineffective in addressing the challenge of terrorism in Nigeria because it had a relatively narrow definition of terrorism, which focused primarily on acts that aimed to intimidate or cause harm to the government or public. While the 2022 amendment broadened the scope of what constitutes terrorism to include financing terrorist activities,³³⁶ provision of facilities in support of terrorist

³³³ TPA Act 2022.

³³⁴ Section 1, TPA Act, 2022.

³³⁵ Section 2(1) (a-c) TPA Act 2022.

³³⁶ Section 13 TPA 2022.

acts,³³⁷ incitement, promotion or solicitation of property for the commission of terrorist acts,³³⁸ the Act still omitted to include sexual violence. Nonetheless, this Act is still the primary law for prosecuting terrorist acts in Nigeria. Therefore, it is crucial to critically examine the ongoing inadequacies of the law in addressing conflict-related SGBV, particularly when motivated by terrorism.

Other primary sources of data used in this research include the WPS Resolutions and other international law norms like the Convention on the Elimination of Discrimination Against Women (CEDAW), mainly the CEDAW Committee's General Recommendation 30, which addresses the condition of Women and Girls in Conflict and Post Conflict Settings.³³⁹ The relevance of these documents to this research is to critique how much of these international legal instruments are used in formulating legal redress for women and girls in conflict contexts.

Other documents at the regional level used in the research include the Protocol to the African Charter on Human and People's Rights on the Rights of Women in Africa (Maputo Protocol),³⁴⁰ the African Charter on the Rights and Welfare of the Child (ACRWC), the critical components of the AU's counter-terrorism framework include AU Convention on the Prevention and Combatting of Terrorism (1999),³⁴¹ The Protocol to the African Union Convention on the Prevention and Combatting of Terrorism (2004).³⁴² These legal instruments serve as vital supplements to the WPS initiatives in Nigeria, offering points of critique for noticeable oversights.

The AU Plan of Action on the Prevention and Combating of Terrorism provides a critical vantage point from which to critique accountability for SGBV occurring during violent conflicts.

³³⁷ Section 12 TPA 2022.

³³⁸ Section 3 TPA 2022.

³³⁹ CEDAW GR 30.

³⁴⁰ Maputo Protocol.

³⁴¹ Organization of African Unity (OAU), OAU Convention on the Prevention and Combating of Terrorism, 14 June 1999. Online: < <https://www.refworld.org/legal/agreements/oau/1999/en/25776>. >

³⁴² ACRWC.

This plan of action is relevant to critique whether or not Nigeria leverages regional efforts in its war against terrorism and what opportunities these can create for addressing the challenges of conflict-related SGBV that terrorism is known to develop.

The study includes case law examples illustrating the enforcement of the relevant laws. The analysis reveals that SGBV crimes are often present in prosecutions, showing evidence of prosecution under the VAPP Act in non-violent conflict cases. However, a significant deficiency exists in conflict-related SGBV issues. Consequently, at the intersection of domestic law and legislation addressing violent conflicts, conflict-related SGBV has been neglected. The case law materials are sourced both from publicly accessible law reports sources like the Nigerian Weekly Law Report, which gives a weekly report of court decisions in the country's apex courts: Court of Appeal and Supreme Court,³⁴³ and from records obtained directly from the records of the courts with jurisdiction.

Enforcement efforts are considered against terrorism trials that have occurred in the country, including the arraignment of individual accused persons and terrorism cases that occasionally show up in courts. Nigeria has conducted three mass trials of alleged Boko Haram members, which were conducted in camera but highly publicised. Some publicly available reports by Human Rights Watch, whose investigators were allowed to witness the trials, have been accessed and form part of the analysis. By integrating these sources, my analysis offers a comprehensive and nuanced understanding of the legal landscape of accountability for conflict-related SGBV, providing deeper insights into the enforcement and interpretation of laws in Nigeria.

Data Sources Table

S/N	Primary Data Sources	Relevance
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³⁴³ See Nigerian Weekly Law Reports. Online: < <https://nwlonline.com/>>

1	WPS Resolutions	Forms the basis for evaluation of states responsibility in ensuring accountability for SGBV
2	Nigeria National Action Plan 2013 and 2017	Sets out the scope, composition and focus of the WPS Agenda in Nigeria
3	Violence Against Persons (prohibitions) Act 2015	Critique how domestic law is poised to prosecute and ensure accountability for SGBV
4	Terrorism Prevention Amendment Act 2022	The TPA is instrumental in critically evaluating efforts to ensure accountability for SGBV
5	CEDAW Recommendation 30	critique how much of these international legal instruments are used in formulating legal redress for women and girls in conflict contexts
6	Maputo Protocol, ACRWC	Same as above
7	AU Plan on the Prevention and Combatting of Terrorism (2015-2020)	provides a key vantage point from which to critique accountability for SGBV occurring during violent conflicts in Nigeria. Does prosecutions in Nigeria leverage these regional instruments, to what extent, or why not.
8	Case Law:	Provides insight into the (lack of) enforcement for conflict-related SGBV in Nigeria, are SGBV as part of local prosecutions for terrorist trials, how often, and to what extent. What does this depict about the emphasis on local ownership of the WPS Agenda?

The study has gathered additional publicly accessible secondary documents, including research by international organisations and academics. As shown in the upcoming chapters, entities such as Reuters, Amnesty International, and Human Rights Watch have conducted significant fieldwork that has informed and supported this study. Other secondary materials include journal articles, newspaper articles, and social media content. These documents are also obtained from the organisations' publicly available websites.

3.7 Chapter Summary

In this chapter, I outline the theoretical and methodological foundations of the study. Postcolonial-TWAIL Feminism serves as the framework, while intersectionality is utilised as an analytical tool. The doctrinal method is used to analyse statutory and case law developments in

Nigeria, advancing the WPS Agenda. Case law critiques the enforcement of existing gender-based laws meant to tackle conflict-related SGBV and incorporate such charges in conflict-related prosecutions. The doctrinal approach is also applied as a textual base to analyse policy and strategic documents that have been made in furtherance of the WPS Agenda in Nigeria. The next chapter presents and analyses data on the WPS Agenda in Nigeria, starting with the NAPs and tracing subsequent developments linked to the efforts of the WPS Agenda in the country. The next Chapter answers the first research question on the national WPS efforts in Nigeria.

CHAPTER FOUR: Data Presentation, Analysis, and Interpretation

4.0 Introduction

This chapter describes the WPS Agenda in Nigeria, premised on the UN WPS Resolutions. The WPS Resolutions and the NAPs are integral to the WPS Agenda in Nigeria. While developing the 2017 NAP, the federal government's spokesperson noted that the NAPs were formulated in light of Resolution 1325 and subsequent Resolutions.³⁴⁴ Subsequent legal and statutory developments will also be presented and analysed. Thus, the data presented in this chapter evaluates the significance of these developments as a first step in carving out a WPS Agenda unique to Nigeria, particularly in ensuring accountability for conflict-related SGBV. The sections that follow present, interpret, and analyse the WPS Resolutions. For ease of comprehension, data presentation, analysis, and interpretation will be done concurrently to prevent potential readers from going back and forth in an attempt to follow my trend of thoughts.

4.1 WPS Resolutions

This section presents, interprets, and critiques the WPS Agenda Resolutions to better situate their relevance within Nigeria's WPS efforts.

4.1.1 Resolution 1325 (2000) and the Entrenchment of Women, Peace, and Security in Global Security Discourse

Resolution 1325 recognises women as agents of peacebuilding and conflict resolution and encourages their participation as decision-makers at all levels of conflict prevention, mediation, and resolution, as well as in peacebuilding and post-conflict reconstruction.³⁴⁵ It emphasises the state's responsibility to protect women and girls from sexual violence.³⁴⁶ Resolution 1325 encourages state parties to implement international humanitarian law rules to prevent sexual

³⁴⁴ See National Action Plan 2017, 1-2.

³⁴⁵ Paragraph 1, 8, UNSC Resolution 1325 (2000).

³⁴⁶ Paragraph 10, Resolution 1325 (2000).

violence in conflict.³⁴⁷ It calls for the adoption of gender perspectives in peacekeeping and peace agreements³⁴⁸ and encourages all parties to consider the unique needs of women in repatriation, resettlement, rehabilitation, reintegration and post-conflict reconstruction.³⁴⁹ The Resolution encourages support for NGOs that work with women in conflict;³⁵⁰ calls for a gender perspective in UN missions;³⁵¹ requests the SG to train peacekeepers on women's protection, rights and special needs.³⁵²

Resolution 1325 marked a significant breakthrough for women's human rights and security in international law;³⁵³ it is suggested that improvements could be made. While expressing optimism about the Resolution's impact on women and girls' rights in conflict, Hilary Charlesworth and Mary Wood observed that Resolution 1325 only partially addressed the feminist ideology of freedom by ignoring "the structural causes of violence."³⁵⁴ Furthermore, it has been contended that the norms have fallen prey to power tussle due to political and procedural disputes between the G-77 majority in the UN General Assembly and the dominant powers of the Security Council³⁵⁵ Despite being widely accepted and seen as legitimate, the WPS norms, beginning with Resolution 1325 have not been fully integrated into mainstream security policies such as the one on arms control and disarmament. Henri Myrntinen argues that efforts to improve women's participation in arms control and disarmament and address the gendered impacts of weapons in arms control and

³⁴⁷ Paragraph 9, Resolution 1325 (2000).

³⁴⁸ Paragraph 5, 12, Resolution 1325 (2000).

³⁴⁹ Paragraph 13, Resolution 1325 (2000).

³⁵⁰ Paragraph 15, Resolution 1325 (2000).

³⁵¹ Paragraph 4, Resolution 1325 (2000).

³⁵² Paragraph 6, Resolution 1325 (2000).

³⁵³ Janet Halley, "Where in the Legal Order has Feminism Gained Inclusion".

³⁵⁴ Hilary Charlesworth and Mary Wood, "Mainstreaming Gender in International Peace and Security: The Case of East Timor" (2001) 26 Yale Journal of International Law 343; Christine Chinkin, "Gender, Human Rights and Peace Agreements" (2003) 18 Ohio State Journal on Dispute Resolution, 867.

³⁵⁵ *Ibid.*

disarmament have not been explicitly linked to the WPS Agenda.³⁵⁶ However, steps have been taken recently to increase women's participation in disarmament diplomacy (albeit separate from the WPS Agenda).³⁵⁷

As I stated earlier, these observations have validly pointed out the shortfalls of Resolution 1325. Its uptake by member states should, therefore, necessitate some form of action to ensure that the gaps inherent in it are covered. By looking at the situation in Nigeria, subsequently, in this chapter and the next, the study will evaluate how Nigeria has made up for or failed to make up for these shortfalls.

A few years after Resolution 1325, the UNSC adopted three Resolutions in close succession: Resolutions 1820 (2008), 1888 (2009), and 1889 (2009).

4.1.2 United Nations Security Council Resolutions 1820 (2008), 1888 (2009), and 1889 (2009): Lost Grounds or Progress?

Resolution 1820 (2008)³⁵⁸ comprehensively addresses ways to protect women from CRSV in armed conflict. It encourages all member states “to ensure that all victims of sexual violence, particularly women and girls, have equal protection under the law and equal access to justice...”,³⁵⁹ and calls for the enforcement of military measures—including policing as protection from sexual violence. Significantly, it recognises sexual violence as a threat to international peace and security by stressing that when sexual violence is committed as a tactic of war by deliberately targeting civilians or as part of a widespread or systematic attack against civilians, it can exacerbate armed

³⁵⁶ Henri Myrtilinen, “Connecting the Dots: Arms Control, Disarmament and the Women, Peace and Security Agenda” (2020) United Nations Institute for Disarmament Research UNIDIR, 4.

³⁵⁷ *Ibid.*

³⁵⁸ Resolution 1820 (2008)].

³⁵⁹ *Ibid* at para 4.

conflict and hinder the restoration of international peace and security.³⁶⁰ Resolution 1820 overwhelmingly prioritises protection from sexual violence or, as Sam Cook puts it,³⁶¹ the emphasis for the Resolution was “ending impunity for sexual violence”.³⁶² Cook also clarified that Resolution 1820 was sponsored by the US and was generally seen as a political move unlike Resolution 1325 that had a high concentration of inputs from feminist and women-led organisations in terms of advocacy and leadership.³⁶³

In efforts leading towards the adoption of Resolution 1820, one salient question that WPS advocates asked was why it was necessary to focus on protection from sexual violence in this Resolution.³⁶⁴ This focus deviated sharply from the broader framework created in Resolution 1325, which prioritised the meaningful participation of women in conflict prevention and post-conflict reconstruction. According to Cook, many feminist and women-led groups that discussed the proposed Resolution believed, for instance, that ensuring participation was a “core human rights principle.”³⁶⁵ Moreover, focusing so much on protection from sexual violence detracted significantly from the broader provisions of Resolution 1325, which did not just portray women as victims but made a vital connection between women’s agency and the need to include them in peace processes.³⁶⁶ This created uncertainty as to whether the proposed changes had a beneficial or detrimental effect on the current WPS system.³⁶⁷

³⁶⁰ Paragraphs 1,2, 3, 4, 5, 6, 7 Resolution 1820. For more on Resolution 1820 see Appendix B.

³⁶¹ Sam Cook, “Security Council Resolution 1820: On Militarism, Flashlights, Raincoats, and Rooms with Doors - A Political Perspective on Where it Came from and What it Adds” (2009) 23:1 *Emory Int'l L Rev* 125.

³⁶² *Ibid* at 125.

³⁶³ *Ibid* at 126.

³⁶⁴ Sam Cook, “New Resolution Tackles Sexual Violence in Conflict” (2008) 68 *Peace and Freedom*, 8.

³⁶⁵ Sam Cook, “Security Council Resolution 1820...” *supra* note 360 at 127.

³⁶⁶ Paragraph 1, 8, Resolution 1325 (2000).

³⁶⁷ See Cook, “Security Council Resolution 1820...” *supra* note 360 at 127.

Essentially, even though the emphasis on protection from sexual violence shows that the UNSC recognised the egregious impacts of sexual violence on victims, this also reduced the emphasis on the participation of women and girls in conflict transformation and post-conflict reconstruction, thereby de-emphasising participation. For WPS efforts outside of the UN system such as in Nigeria, this shift is very significant. Chapter Five will consider this in detail.

Additionally, there was a concern that the Resolution reflected a victim/agent dichotomy—seeing women either as victims or agents of change and not both. Sam Cook argues that this binary way of thinking fails to recognise and respect the fact that women can be both victims and agents. According to Cook:

Many women who are powerful agents of change have also been affected by sexual violence or have lived under the threat of violence, which can constrain their lives sometimes more than being a physical victim does. But this does not define them as mere victims. Furthermore, we need to challenge the insistence of focusing on women as agents in ways that somehow ignore that sexual violence and war are very bad things. We should not focus so much on treating war as an opportunity for the agency to the extent that we forget how horrific and unacceptable it is because of what it does to human beings. The victim-agent dichotomy also obscures the fact that the issues of participation and violence are inextricably linked. We must recognise that sexual violence is both a cause and consequence of low levels of women's participation in all decision-making and, in fact, participation in day-to-day life. Participation is not just about access to government or the right to vote but also about participation in the fullness of life and very basic activities.³⁶⁸

The quote above underscores the key contentions that trailed the adoption of Resolution 1820. To begin with, there is the aspect of considering women's victimisation in armed conflicts as separate from the need to ensure that their agency is recognised. When discussions and policies focus primarily on women's victimisation in armed conflicts, they often highlight the suffering and

³⁶⁸ *Ibid* at 128.

vulnerabilities women face, such as sexual violence, displacement, and loss of family members.³⁶⁹ This focus can lead to the erasure of women's agency because it frames women primarily as passive victims rather than active participants or agents of change. It can overshadow their roles as leaders, peacebuilders, and decision-makers in conflict and post-conflict settings.

Recognising women's agency involves acknowledging their roles in resisting violence, participating in peace processes, and contributing to community resilience and recovery. When the narrative shifts to include women's agency, it challenges stereotypes and empowers women by highlighting their strengths and contributions. However, if not balanced, it might downplay the real and significant victimisation they experience—ignoring the interplay between victimisation and agency. Somehow, such reasoning assumes that including women in peacekeeping or peace negotiation will miraculously transform the underlying factors that make women vulnerable to violence since women are inherently more peaceful and less prone to violence. However, there is no empirical basis to believe this assertion and in a patriarchal context such as Nigeria, such assumptions are very costly to women's rights and security in that they work to obliterate or, at the very best, obscure what agency women can have.

Olivera Simic has made several observations regarding the involvement of women in peacekeeping missions. While conceding that the presence of women in peace missions challenges gender stereotypes because women peacekeepers can serve as role models and demonstrate that women are capable of performing the same duties as their male counterparts,³⁷⁰ Simic highlights

³⁶⁹ “Women’s Human Rights and Gender-Related Concerns in Situations of Conflict and Instability” United Nations Human Rights Office of the High Commissioner Online:< <https://www.ohchr.org/en/women/womens-human-rights-and-gender-related-concerns-situations-conflict-and-instability>>

³⁷⁰ Olivera Simic, “Does the Presence of Women Really Matter? Towards Combatting Male Sexual Violence in Peacekeeping Operations” (2010) 17:2 International Peacekeeping, 199.

the problem of “tokenism”, where women are included in peacekeeping missions to fulfill gender quotas rather than being integrated meaningfully to ensure that women have substantial roles and can influence change within those missions.³⁷¹ Jasmin Nario-Galace also argues that where underlying structures are not addressed, adding women to militaries instead serves to instrumentalise women’s lives and fails to challenge the hyper-masculine status quo.³⁷² Instrumentalisation often involves reducing women to a single aspect of their identity or experience, ignoring their complexity and agency. It can perpetuate inequality and hinder genuine progress toward gender equality by focusing on superficial or self-serving goals rather than addressing the root causes of gender-based issues.

Although the assumption that involving women in peacekeeping missions can be problematic, it is not without some form of merit as there is evidence that the deployment of female soldiers alongside their male counterparts in some instances makes the men less prone to commit sexual violence. Research conducted by Peksen Dursun et al. found that peacekeeping missions with a higher proportion of female soldiers were associated with lower levels of sexual violence in conflict-affected areas.³⁷³ However, this research did not account for sexual violence committed against female soldiers by their male counterparts, so there is no certainty that sexual violence did not in fact occur.

Besides, while it is possible to argue that the presence of female soldiers may [in some instances] contribute to lower incidences of sexual violence, as per Dursun et.al, it is essential to

³⁷¹ Olivera Simic, “Moving Beyond the Numbers: Integrating Women into Peacekeeping Operations” (2013) Norwegian Peacebuilding Resource Centre, 1-4.

³⁷² Jasmin Nario-Galace, “Women’s Agency against Guns” In Isabelle Geuskens (ed); *Gender and Militarism Analyzing the Links to Strategize for Peace* (Women Peacemakers Program, May 24 Action Pack 2014), 10.

³⁷³ Peksen Dursun et. al “Gender Composition in Peacekeeping Forces and Sexual Violence in Conflict Zones” (2021) 74:1 Political Research Quarterly, 197.

note that the effectiveness of these efforts also depends on various factors, including the overall military culture, training, leadership, and support systems in place. Isabella Geuskens argues that for women soldiers to navigate this hyper-masculine terrain and prove their worthiness as soldiers, they must prove that they are equal to male soldiers, and sometimes this means they can be much more ruthless than their male counterparts.³⁷⁴

While increasing the deployment of female soldiers may hold some potential in curtailing the abusive sexual tendencies of their male counterparts during conflict, there is a need to more critically consider women's inclusion within the masculine structure of the military. Olivera Simic is of the opinion that more needs to be done to achieve better results. A more prolific approach would be to ensure that structures that support these highly militarised cultures are exchanged for more egalitarian models, such as concerted grassroots engagement to transform the culture of violence and investing in training and disciplinary measures for offenders.

Furthermore, understanding and addressing sexual violence as a tactic or strategy of war as in Resolution 1820, though with merit, is too single-dimensional to account for the complexities of war-time sexual violence. Such a postulation suggests that militaries are usually very organised in all cases and that wars are usually fought systematically, which is never really the case. Scholars have explored the complexities and nuances of military organisations and warfare, highlighting factors that deviate from conventional perceptions.³⁷⁵ David Kilcullen investigates the complexities of irregular warfare, highlighting the challenges these pose to conventional notions

³⁷⁴ Isabelle Geuskens, "Introduction" In Isabelle Geuskens (ed); *Gender and Militarism Analysing the Links to Strategize for Peace* (Women Peacemakers Program, May 24 Action Pack 2014), 3. <https://www2.kobe-u.ac.jp/~alexroni/IPD%202015%20readings/IPD%202015_9/Gender%20and%20Militarism%20May-Pack-2014-web.pdf>

³⁷⁵ David Kilcullen, *The Accidental Guerrilla: Fighting Small Wars in the Midst of a Big One* (Oxford University Press, 2009), 186-262.

of military organisation and systematic warfare. Kilcullen argues that understanding irregular warfare requires deeply exploring local dynamics, culture, and non-linear strategies that may deviate from traditional military planning.³⁷⁶ Maria Eriksson Baaz and Maria Stern also challenge the assumptions of organisation and order among even seemingly organised militaries and highlight several instances and reasons whereby rape is not meant to serve any military objective.³⁷⁷

The point these examples make is that not all acts of sexual violence in conflict happen as a strategy of warfare; many gendered crimes fall outside of this category, and failing to pay attention to these differences in norm and policy formulation amounts to taking the high but rather very narrow and painfully limiting road in addressing the phenomenon. Sexual violence committed by state security agents against civilian populations, such as the instances I gave in the case of Nigeria in Chapter One, serves to buttress this point. Still, the assumption of organised, hierarchical militaries against which irregular forces are judged mirrors Euro-American military traditions. This West-centric framing potentially marginalises Global South contexts where conflict actors may operate differently.

War generates many negative consequences on women's peace and security and trying to address them through narrowly defined and uncritical assumptions is not the most effective approach. Still, the notion of sexual violence as a strategy of war is not without merit in Nigeria's situation. As I explained in Chapter One, the attacks on women and girls by Boko Haram for example, are primarily done in furtherance of their war endeavours. However, it is not possible to conclude that Nigerian soldiers commit sexual violence as a strategy of counter-terrorism as there

³⁷⁶ *Ibid* at 263.

³⁷⁷ Baaz and Stern, *Sexual Violence as a Weapon of War...*, *supra* note 329 at 42-63.

is nothing that legitimately authorises them to do so. In essence, understanding sexual violence in wars necessitates a more varied approach than the idea of “sexual violence as a war strategy” allows.

Furthermore, Sam Cook’s observation cited earlier, suggests that seeing war-time sexual violence as a strategy of war creates room for militarised “spaces, ...cultures, identities and bodies”.³⁷⁸ This also creates a hierarchy of actors in peace efforts and positions governments and their militaries at the apex of the hierarchy.³⁷⁹ As I later show, this creates a situation where governments can manipulate norms to serve their own interests, which may not necessarily safeguard women’s rights and security. It also undermines CSO and NGO efforts where women are disproportionately represented.³⁸⁰

Resolution 1820 has also come under critical attention for prioritising military protection, which, arguably, further takes away from the recognition of women’s participation. Sam Cook stresses the point that the hierarchical classification of WPS actors facilitates this.³⁸¹ In essence,

women's participation is not just a high-level concept. Women must be included in discussions and decisions about their security needs and concerns; men with guns walking around deciding how to protect women without actually asking them what their needs are is bound to fail. Women also need to be involved in the design of strategies and programs for their protection. At the same time, it is also necessary to act to provide physical protection to prevent and respond to sexual violence as it is happening.³⁸²

³⁷⁸ Ronni Alexander, “Seeking Human Security in a Militarised Pacific: Struggles for Peace and Security by Pacific Island Women” In Betty A. Reardon and Asha Hans, (eds); *The Gender Imperative Human Security Versus State Security* (Routledge, London, and New York, 2019), 191.

³⁷⁹ Kirby & Shepherd, “The Futures Past of the Women...” (2016) *supra* note 231 373.

³⁸⁰ Fionnuala D. Ni Aolain, “Women, Vulnerability and Humanitarian Emergencies” (2010) SSRN Electronic J, 14.

³⁸¹ Cook, “Security Council Resolution 1820...” *supra* note 360 at 127.

³⁸² *Ibid* at 128.

In other words, women need active engagement in the processes intended to protect them by recognising their rights to make decisions on matters that directly affect their lives. However, the most logical way to challenge this whole idea of protecting women from CRSV is to challenge the ideology of violent conflict and why conflict prevention continues to fall so low on the radar of efforts towards addressing the menace.

4.1.3 UN Security Council Resolution 1888 (2009)

Resolution 1888 was considered as an impetus to ensure the implementation of Resolutions 1325 and 1820.³⁸³ In its report of August 7, 2008, delivered to the UNSC at its 6180th meeting, the UNSG noted that despite the two Resolutions passed in advancing the WPS Agenda, sexual violence continued unabated.³⁸⁴ The UNSG therefore called upon the UNSC to take concrete steps by: ensuring a multisectoral response to prevent and respond to sexual violence in armed conflict; ensure that sexual violence is addressed from the period of planning mandates to their implementation, and for zero-tolerance to sexual exploitation and abuse.³⁸⁵ The UNSG's report also called upon the UNSC to create a UN entity responsible for the advancement of gender equality and women's human rights. The report further encouraged improved monitoring, investigation, and documentation of sexual violence; and establishing an independent commission of inquiry tasked with the investigation and reporting on International Human Rights Law and International Humanitarian Law violations in specific conflict zones.³⁸⁶

Subsequently, the UNSC passed Resolution 1888 and included some of the recommendations of the SG. Resolution 1888 was conceived as a way of remedying some of the shortfalls of

³⁸³ United Nations Security Council, Report of the Secretary-General Pursuant to Security Council Resolution 1820 (2008), S/PV.6180. Online: <<https://www.securitycouncilreport.org/atf/cf/%7b65BFCF9B-6D27-4E9C-8CD3-CF6E4FF96FF9%7d/WPS%20SPV%206180.pdf>>

³⁸⁴ *Ibid* at 2.

³⁸⁵ *Ibid* at 3.

³⁸⁶ *Ibid* at 4.

Resolution 1325 and 1820, which made implementation problematic due to a lack of operational structures.³⁸⁷ Even though Resolution 1888 (2009)³⁸⁸ focused heavily on curbing sexual violence by state militaries and premises this on the need for international law to protect women and girls from sexual violence by reiterating the position that sexual violence can hinder international peace and security,³⁸⁹ it also introduced significant steps towards strengthening the implementation of Resolutions 1325 and 1820 by assigning leadership on CRSV within the UN system as suggested by the UNSG report of July 2009 and ensuring accountability mechanisms. The office of the Special Rapporteur on sexual violence in conflict, now Special Representative of the Secretary-General on conflict-related sexual violence, was introduced by this Resolution.³⁹⁰

Resolution 1888 also provided for combatting impunity for sexual violence in armed conflict and holding perpetrators accountable. Ms. Condarisa Rice, the US government's representative to the UNSC at the time, strongly advocated this aspect during the open debates leading to adopting the Resolution. Ms. Rice noted that sexual violence in armed conflict has continued with impunity despite the previous two Resolutions and called for specific measures to end impunity and hold perpetrators accountable. According to Ms. Rice, “To succeed, we must need to ensure that rapists and other perpetrators are punished”,³⁹¹ and called for accountability mechanisms “that investigate and prosecute these crimes...”.³⁹² The emphasis on the perpetrator of rape and other sexual violence crimes as subjects of accountability is discussed in detail in the following chapter.

³⁸⁷ Security Council Report, “Women, Peace and Security” (July 2009) Monthly Forecast. Online: <<https://www.securitycouncilreport.org/monthly-forecast/2009-07/>>

³⁸⁸ Resolution 1888 (2009)

³⁸⁹ Paragraph 1, Resolution 1888 (2009).

³⁹⁰ Paragraph 4, Resolution 1888 (2009).

³⁹¹ United Nations Security Council, 6180th Meeting, Friday 7 August 2009. S/PV.6180, at 4. Online (pdf): <<https://www.securitycouncilreport.org/atf/cf/%7b65BFCF9B-6D27-4E9C-8CD3-CF6E4FF96FF9%7d/WPS%20SPV%206180.pdf>>

³⁹² *Ibid.*

There was also strong support among member states for SG's call for appointing a high-level special representative on women, peace, and security to help ensure a more focused multisectoral response to sexual violence in armed conflict.³⁹³ Resolution 1888 responded to these concerns by calling for the appointment of a special representative to provide leadership on efforts at the UN and country levels to address sexual violence, facilitate multisectoral responses to sexual violence and encourage involvement and recognition of women's roles in peace negotiations and peacekeeping operations as a way of promoting accountability.³⁹⁴

While the introduction of accountability measures to tackle impunity was a welcome development, the sole focus on punishing perpetrators is problematic. The narrowness in conceptualising who gets punished for sexual violence in armed conflict is symptomatic of larger problems within the UN WPS Agenda. This includes a masculinised "perception of accountability limited to sanctions and punishment and a narrow focus on sexual violence as a weapon of war."³⁹⁵ As I later demonstrate by investigating efforts made in Nigeria, the focus on the perpetrator, although not without its merit, without much else, could deny the interconnections between factors that come into place to engender such conduct and the key actors who, many times, are not visible but complicit in the perpetration of SGBV.

Paul Kirby argues that such a focus affects how sexual violence is explicitly recognised and re-articulated in ways that lessen the obligations of states and regional organisations.³⁹⁶ Besides, this approach is often too simplistic to lead to any meaningful change. As such, David Wells

³⁹³ *Ibid*, See, e.g. Ms. Rice's statement on p. 5.

³⁹⁴ See paragraph 4, Resolution 1888 (2009).

³⁹⁵ Sahla Aroussi, "Women, Peace and Security: Addressing Accountability for Wartime Sexual Violence" (2011) 12 Intl Feminist J of Politics, 576-593.

³⁹⁶ Paul Kirby, "Sexual Violence in the Border Zone: The EU, The Women, Peace and Security Agenda and Carceral Humanitarianism in Libya" (2020) 96, Intl Affairs, 1209.

emphasises that addressing sexual violence in humanitarian settings requires a timely, planned, and coordinated multidisciplinary response that addresses various challenges, including support and justice for victims and ending impunity for perpetrators.³⁹⁷ This is impossible if the underlying objective is to punish perpetrators.

Other measures that Resolution 1888 introduced were the recommendation for establishing a team of experts which could be deployed to “situations of concern” to assist national governments' efforts in ending impunity, strengthening their efforts, and adopting holistic prevention strategies.³⁹⁸

4.1.4 UN Security Council Resolution 1889 (2009)

Resolution 1889 was passed as a supplement to Resolution 1888; it focuses on post-conflict peacebuilding and women's participation in all stages of peace processes. This Resolution was intended as an answer to criticisms that Resolutions 1820 and 1888 emphasised the protection of women and undermined their roles in peacebuilding and post-conflict reconstruction.³⁹⁹ Resolution 1889 calls for the protection of women and girls from sexual violence in specific contexts that the previous resolutions did not recognise, such as women and girls in refugee camps.⁴⁰⁰ One of the novel features of Resolution 1889 is its call for the development of global indicators to track the implementation of Resolution 1325.⁴⁰¹ This was a critical step to measure progress and hold member states and international organisations accountable for their commitments to women, peace, and security.

³⁹⁷ David Wells, “Sexual Violence Interventions: Considerations for Humanitarian Settings” (2017) 276, *Forensic Science Intl*, 1.

³⁹⁸ See paragraph 8, Resolution 1888 (2009).

³⁹⁹ Georgetown Institute for Women, Peace and Security, United Nations Security Council Resolution 1889. Online: <<https://giwps.georgetown.edu/resource/united-nations-security-council-resolution-1889/>>

⁴⁰⁰ Paragraph 12, Resolution 1889 (2009).

⁴⁰¹ Para, Resolution 1889 (2009).

Together, Resolution 1889 also reaffirmed the need for adequate monitoring and reporting initiated in Resolution 1888 and requested the UNSG to include within his reports a review of progress in the implementation of its Resolution 1325, an assessment of the processes by which the Security Council receives, analyses and takes action on information pertinent to Resolution 1325, particularly its recommendations on further measures to improve coordination across the UN system, and with member states and CSOs to deliver implementation, and data on women's participation in UN missions.⁴⁰²

In a nutshell, Resolutions 1888 and 1889 are credited with remedying the lack of accountability mechanisms in Resolutions 1325 and 1820 which, it was argued, failed to address impunity for sexual violence in armed conflict.⁴⁰³ However, the currency of these accountability measures is highly debatable. In chapter Five, I look at efforts made in Nigeria to critique the potential of these accountability measures.

Subsequent Resolutions developed one or another aspect of the previous Resolutions. I explain their specific contributions to the field in the following sections.

4.1.5 UN Security Council Resolution 1960 (2010)

Resolution 1960 reaffirmed that sexual violence when utilised or committed as a strategy of war or as a component of a widespread or systematic attack against civilian populations, has the potential to significantly intensify and prolong situations of armed conflict. Additionally, it may hinder the restoration of international peace and security, thereby making it a critical concern that requires immediate attention. Resolution 1960 also introduces another significant piece of the WPS Agenda which is the use of sanctions. This Resolution expressed the willingness of the UNSC to

⁴⁰² Para 18, Resolution 18889 (2009).

⁴⁰³ Otto, Power and Danger..., *supra* note 198 at 116; Scully, "Vulnerable Women..." *supra* note 197 at 118.

impose sanctions, such as travel bans, and freeze the assets of individuals or entities known to have committed sexual violence in armed conflicts.⁴⁰⁴ The UNSC also emphasised the need for timely and effective reporting on cases of sexual violence and encouraged the UNSG to ensure this happens.⁴⁰⁵ Resolution 1960 also urges states to strengthen their legal framework in addressing sexual violence and calls for support to states to enhance their capacity in this regard.⁴⁰⁶

The Resolution's focus on state actions and responsibilities has been criticised for marginalising non-state actors, community-based responses, and grassroots organisations.⁴⁰⁷ This state-centric approach often excludes key participants in addressing and preventing sexual violence. Some commentators have identified the lack of political will and insufficient resources resulting from poor funding as a significant challenge to Resolution 1960's implementation.⁴⁰⁸ Others argue that while Resolution 1960 aims to address sexual violence in conflict, it largely focuses on women and girls, potentially neglecting the experiences and needs of men and boys who may also be affected.⁴⁰⁹ Others contend that by focusing primarily on sexual violence, Resolution 1960 neglects other vital aspects of women's experiences in conflict such as political participation, socioeconomic factors, and legal justice, and detracts from a more comprehensive approach to gender equality.⁴¹⁰ The debates surrounding Resolution 1960 highlight the necessity to explore how states fulfil their responsibilities in practice. This study addresses this aspect by

⁴⁰⁴ See paragraph 3, 6, Resolution 1960 (2010).

⁴⁰⁵ See paragraph 9, Resolution 1960 (2010).

⁴⁰⁶ See Paragraph 11, 13, Resolution 1960 (2010) at Appendix C.

⁴⁰⁷ Maria Eriksson Baaz and Maria Stern, "The Complexity of Violence: A Critical Analysis of Sexual Violence in the Democratic Republic of Congo (DRC)," (2010) Sida Working Paper on Gender-Based Violence, 12. Online: <<https://cdn.sida.se/publications/files/sida61275en-the-complexity-of-violence.pdf>>

⁴⁰⁸ Pramila Patten, "Analytical Inventory of Peacekeeping Practice on Conflict-Related Sexual Violence" (2010) UN Action Against Sexual Violence in Conflict. Online (pdf): <<https://www.un.org/sexualviolenceinconflict/wp-content/uploads/2020/06/1592492905.pdf>>

⁴⁰⁹ Sandesh Sivakumaran, "Lost in Translation: UN Responses to Sexual Violence Against Men and Boys in Situations of Armed Conflict", (2010) 92:877 Intl Review of the Red Cross, 259.

⁴¹⁰ Sara Merger, "The Fetishization of Sexual Violence in International Security," (2016) 60:1 Intl Studies Q, 149,159.

looking at how states such as Nigeria are laying the legal and strategic structures in place to ensure accountability for conflict-related SGBV.

4.1.6 UN Security Council Resolution 2106 (2013)

Resolution 2106 (2013) also focuses on sexual violence in conflict. It builds on the previous Resolutions above but provides more operational details. The Resolution emphasises the importance of preventing sexual violence by addressing its root causes, such as gender inequality and discrimination. It called for strengthened legal frameworks, increased security sector reforms, and greater participation of women in conflict prevention and resolution efforts. It emphasises in this regard that preventing sexual violence contributes to maintaining international peace and security. It also stresses women's participation as essential to any prevention and protection response.⁴¹¹ Regarding accountability and ensuring access to justice, Resolution 2106 also recognises that sexual violence can constitute a crime against humanity and encourages states to investigate and prosecute those under their jurisdiction as a way to fight impunity.⁴¹²

Resolution 2106 has generated various responses and reactions from scholars and activists focused on issues related to conflict and sexual violence. Resolution 2106 reiterated the need for the participation of women in conflict resolution and peacebuilding and was seen as reinforcing the importance of women's roles in these areas.⁴¹³ Resolution 2106's comprehensive approach to addressing sexual violence, including provisions related to survivor support, accountability, and reporting, is a welcome development, particularly the attention given to the need for comprehensive services, such as medical, psychosocial, and legal support, for survivors of sexual

⁴¹¹ UN Security Council, Security Council Resolution 2106 (2013) [on women and peace and security], S/RES/2122 (2013), (October 2013), Paragraph 1, [Hereafter Resolution 2106 (2013)].

⁴¹² Paragraph 2, Resolution 2106 (2013).

⁴¹³ Jacqui True and Sara Davies, "The Politics of Counting and Reporting Conflict-Related Sexual and Gender-Based Violence: The Case of Myanmar," (2019) 21:3 Intl Feminist J of Politics, 434-454.

violence. Again, the emphasis on comprehensive services is a positive step toward addressing sexual violence in armed conflict.

However, some scholars have criticised the amount of attention the Resolution has given to protection from sexual violence, arguing that it potentially oversimplifies and reduces the WPS Agenda to this specific issue. This focus may overshadow other significant concerns like women's political participation and economic empowerment.⁴¹⁴ Although Resolution 2106 expanded on previous Resolutions, some scholars critiqued the lack of concrete action plans and timelines for implementing its provisions. They argued that without specific actions, the Resolution might remain largely symbolic.⁴¹⁵

Resolution 2106 did acknowledge the need for engaging with men and boys as partners in combating sexual violence. However, scholars argue that this aspect needs further emphasis and clarity on the specifics of these roles as the Resolutions does not clarify on this.⁴¹⁶ The lack of clarity in the involvement of men and boys stands the risk of re-inscribing patriarchal logic that sees the role of men as protectors. Ongoing academic discussions have played a crucial role in shaping the conversation on the Resolutions and their potential to address sexual violence during armed conflicts. It became apparent in Resolution 2106 that some of the concerns were taken seriously in subsequent Resolutions.

4.1.7 UN Security Council Resolution 2242 (2015)

Resolution 2242 focuses on the role of women in peace and security and aims to enhance their participation, protection, and empowerment in conflict prevention, resolution, and peacebuilding

⁴¹⁴ Laura J. Shepherd, "Power and Authority in the Production of United Nations Security Council Resolution 1325," (2008) 52:2 Intl Studies Q, 383-404.

⁴¹⁵ *Ibid.*

⁴¹⁶ Elisabeth J. Wood, "Conflict-Related Sexual Violence and the Policy Implications of Recent Research," (2014) 96:894, Intl Rev of the Red Cross, 857.

processes. The resolution builds upon previous resolutions, including Resolution 1325 (2000) on women, peace, and security.⁴¹⁷ Resolution 2242 highlights the significance of more women in decision-making for conflict prevention, resolution, and peacebuilding. It urges member states to facilitate women's full participation by eliminating barriers and ensuring meaningful involvement.⁴¹⁸

Resolution 2242 recognises the specific impact of CRSV on women and girls. It condemns CRSV and urges member states to prevent and respond to such acts, including by holding perpetrators accountable. Resolution 2242 also calls for enhanced protection of women and girls from violence in conflict and post-conflict situations.⁴¹⁹ It underscores the need for gender-responsive approaches in conflict prevention, peace negotiations, peacekeeping, and post-conflict reconstruction. It calls for the integration of a gender perspective in all aspects of peace and security efforts, including through gender analysis and gender mainstreaming. Resolution 2242 also calls on member states to strengthen access to justice for women through investigation, prosecution, punishment of perpetrators, and reparation for victims.⁴²⁰

Resolution 2242 has generated a range of reactions from scholars who have acknowledged its significance and identified areas for improvement. Scholars and activists applaud its focus on increasing women's participation and leadership in peace and security processes has been widely welcomed. Scholars and activists appreciate the Resolution's call for removing barriers hindering women's meaningful engagement and promoting active involvement at all decision-making

⁴¹⁷ See Paragraphs 1, 2, and 3, Resolution 2242 (2015).

⁴¹⁸ Paragraph 8, Resolution 2242 (2015)

⁴¹⁹ Paragraph 13, Resolution 2242 (2015).

⁴²⁰ Paragraph 14, Resolution 2242 (2015).

levels.⁴²¹ Resolution 2242 was praised for emphasising the need to strengthen justice and accountability mechanisms for sexual violence in conflict, calling for improved monitoring and reporting. It highlighted the importance of prosecutions at both national and international levels. The recognition of health considerations, particularly regarding the HIV/AIDS epidemic, was seen as an essential inclusion in understanding the complex dynamics of gender in conflict settings.⁴²²

Many critics of Resolution 2242 have noted its limitation in implementation modalities just like its predecessors. Critics argue that despite the adoption of Resolution 2242, progress in its implementation has been slow and uneven. They highlight challenges such as limited resources, political will, and institutional capacity as barriers to fully realising the resolution's objectives. There is a need for sustained commitment and concrete actions from member states to translate the resolution into tangible outcomes.⁴²³

Monitoring and reporting on the implementation of Resolution 2242 have been seen as crucial by scholars. They stress the importance of robust and regular reporting to track progress, identify gaps, and hold member states accountable for their commitments. Additionally, they call for including grassroots organisations and civil society actors in monitoring and evaluation processes.⁴²⁴ Overall, while Resolution 2242 was applauded for broadening the WPS Agenda, scholars also raised concerns about its focus, framing, implementation, and potential neglect of localised and grassroots efforts. Resolution 2242 is very instrumental to Nigeria as it addresses terrorism and details how sexual violence can be included in counter-terror measures. Chapter Five

⁴²¹ Jacqui True and Sara Davies, *The Politics of Counting...*, *supra* note 412 at 434.

⁴²² *Ibid.*

⁴²³ Sara E. Davies and Jacqui True, "Reframing Conflict-Related Sexual and Gender-Based Violence: Bringing Gender Analysis Back In," (2015) 46:6 *Security Dialogue*, 495-512.

⁴²⁴ *Ibid.*

examines the Nigerian government's fulfilment of its obligations under Resolution 2242 in prosecuting alleged terrorists.

4.1.8 UN Security Council Resolution 2467 (April 23, 2019)

Resolution 2467 takes on modalities for national authorities and the non-formal sector on protection from sexual violence. It highlights the role of domestic investigation and judicial systems of member states in preventing and eliminating sexual violence in conflict and in ensuring accountability for those responsible. It, therefore, encourages member states and relevant UN entities within the UN system to support national authorities in their efforts.⁴²⁵

Resolution 2467 also encourages Member States to focus on survivors in addressing cases of sexual violence. To ensure that prevention and responses are non-discriminatory, specific, and respectful of the rights and priorities of survivors, especially groups vulnerable to being targeted, especially in the context of their health, education, and participation. Resolution 2467 encourages all stakeholders to support community mobilisation campaigns in shifting sexual violence stigma from victims to perpetrators and fostering solidarity among community members, especially where state security presence is weak.⁴²⁶ Resolution 2467 also enjoins Member States and relevant UN entities to support women-led and survivor-led organisations.⁴²⁷ It stresses the need for “health care, psychosocial care, safe shelter, livelihood support and legal aid for survivors.”⁴²⁸

Resolution 2467 is recognised for its emphasis on a survivor-centred approach, prioritising the needs, rights, and well-being of survivors of sexual violence. This shift was welcomed as a more

⁴²⁵ Paragraph 3, Resolution 2467 (April 23, 2019).

⁴²⁶ Para 19 Resolution 2467 (April 23, 2019).

⁴²⁷ Para 20, Resolution 2467 (April 23, 2019).

⁴²⁸ Para 28, Resolution 2467 (April 23, 2019).

humane and compassionate approach to addressing sexual violence in conflict.⁴²⁹ The call for comprehensive health services, including sexual and reproductive health for survivors, was an essential aspect of the Resolution which sought to ensure that survivors receive the care they need without discrimination.⁴³⁰ The Resolution's acknowledgement of men and boys as victims of sexual violence, alongside women and girls, is an important expansion of the WPS Agenda.⁴³¹

However, some scholars stress the need for adopting an intersectional and inclusive lens. They emphasise that women from diverse backgrounds, including marginalised and minority communities, should be considered in policies and programs to ensure no one is left behind.⁴³² Others point out that while Resolution 2467 is a step forward, challenges remain in translating its provisions into concrete actions. They highlight the need for sufficient resources, political will, and institutional capacity to implement and monitor the Resolution's objectives effectively. There has also been a consistent call from different activists and scholars for ensuring the meaningful participation of women and civil society organisations in the implementation processes.⁴³³

Also, some scholars and activists have criticised the absence of specific language on reproductive rights in Resolution 2467, seeing it as a missed opportunity to provide these

⁴²⁹ Gretchen Baldwin and Sarah Taylor, "The Global Pushback on Women's Rights: The State of the Women, Peace and Security Agenda" (September 24, 2019) Intl Peace Institute. Online: < <https://www.ipinst.org/2019/09/global-pushback-on-womens-rights>>

⁴³⁰ Para 28, Resolution 2467 (April 23, 2019).

⁴³¹ *Ibid.*

⁴³² "Statement by Ms. Alaa Salah at the UN Security Council Open Debate on Women, Peace and Security" (October 29, 2019) NGO Working Group on Women, Peace and Security. Online: < <https://www.womenpeacesecurity.org/resource/statement-unscc-wps-open-debate-october-2019/>>; Maria Tanyag, "Depleting Fragile Bodies: The Political Economy of Sexual and Reproductive Health in Crisis Situations," (2019) 45:2 Review of Intl Studies, 306, 328.

⁴³³ See for e.g. "Analysis of the 2019 Women, Peace and Security Debate" (November 6, 2019) NGO Working Group on Women, Peace and Security. Online: < <https://www.womenpeacesecurity.org/blog-analysis-of-the-2019-women-peace-and-security-open-debate/>>

services.⁴³⁴ Additionally, even though the Resolution's encouragement of consultation with civil society, including women's groups, was seen as a positive step toward inclusive implementation, some argue that it still falls short of ensuring meaningful participation.⁴³⁵ How has the WPS Agenda addressed the demand for a more survivor-centered approach? This will be assessed in the following chapter.

4.1.9 UN Security Council Resolution 2493 (October 29, 2019)

Resolution 2493 details women's participation, peacebuilding and post-conflict reconstruction. It urges member states to commit to implementing the WPS Agenda to prioritise full and meaningful participation of women in peacebuilding and post-conflict reconstruction.⁴³⁶ Member states must include women in peace talks from the start to support peace processes. This must be visible in the negotiating parties' delegations and in the mechanisms established to implement and monitor any agreements. It further encourages member states to ensure timely support to enhance women's participation and capacity building in peace processes to address women's unequal representation and participation in peace and security efforts.⁴³⁷ Resolution 2493 also encourages Member States to create safe and enabling environments for formal and informal civil society organisations working in armed conflict contexts to execute their work independently without interference and “to address threats, harassment, violence, and hate speech against them.”⁴³⁸

⁴³⁴ “Statement by Ms. Inas Miloud at Un Security Council Open Debate on Sexual Violence in Conflict” (April 23, 2019) NGO Working Group on Women, Peace and Security. Online: < <https://www.womenpeacesecurity.org/resource/statement-uns-c-sexual-violence-open-debate-april-2019/>>

⁴³⁵ “2019 Open Letter to Permanent Representatives to the UN: Recommendations on the Security Council Open Debate on Women, Peace and Security (WPS)” (October 24, 2019) NGO Working Group on Women, Peace and Security. Online: < <https://www.womenpeacesecurity.org/resource/open-letter-uns-c-wps-anniversary-october-2019/>>

⁴³⁶ Para 2, Resolution 2493 (October 29, 2019).

⁴³⁷ Para 3, Resolution 2493 (October 29, 2019).

⁴³⁸ Para 6, Resolution 2493 (October 29, 2019).

Resolution 2493, like all the previous Resolutions, was received by scholars with mixed reactions. While it served as a necessary reiteration of the commitments made in previous WPS Resolutions. WPS advocates and scholars argued that it failed to provide new mandates or to articulate innovative approaches to existing challenges.⁴³⁹ Many were sceptical of its actual contribution to the WPS Agenda. Olsson and Gizelis viewed Resolution 2493 as a reflection of the lack of progress in the implementation of the WPS Agenda. Some interpreted the need to restate existing commitments as indicative of the challenges faced in translating policy into action.⁴⁴⁰

Though the Resolution called for enhanced reporting and monitoring, concrete mechanisms for accountability were still lacking, leading to a disconnect between Resolutions and actual implementation on the ground.⁴⁴¹ There were concerns that the Resolution failed to sufficiently address the continued gap in ensuring women meaningfully participate in conflict resolution and peacebuilding.⁴⁴²

The responses to Resolution 2493 acknowledged the vital nature of reaffirming the core principles of the WPS Agenda. However, they also suggest that the Resolution has not significantly advanced the Agenda. These concerns align with overall critiques of the WPS Agenda regarding

⁴³⁹ “2022 Open Letter to Permanent Representatives to the United Nations in Advance of the Annual Open Debate on Women, Peace and Security” (October 3, 2022) NGO Working Group on Women, Peace and Security. Online: < <https://www.womenpeacesecurity.org/resource/open-letter-un-wps-2022/> >; Sahla Aroussi, "Women, Peace, and Security: Addressing Accountability for Wartime Sexual Violence," (2020) 22:3 Intl Feminist J of Politics, 420 at 440.

⁴⁴⁰ Louise Olsson and Theodora-Ismene Gizelis, *Gender, Peace and Security: Implementing UN Security Council Resolution 1325* (Routledge Studies in Peace and Security, 2015, DOI: [10.4324/9781315755694](https://doi.org/10.4324/9781315755694)), 435 at 461.

⁴⁴¹ *Ibid.*

⁴⁴² See generally Caitlin McMillan et.al, “Do Our Voices matter?” (December 2020) NGO Working Group on Women, Peace and Security Joint Research Report. Online (pdf): < <https://www.womenpeacesecurity.org/resource/do-our-voices-matter/> >

its implementation, accountability, and the necessity for a more intricate, cross-gender and participatory intersectional approach.

The data on the WPS Agenda analysed in this section reveals that all the Resolutions, beginning from the first to the last, have addressed various aspects of the concerns of women in conflict contexts, although they are not backed up with a clear implementation strategy to engender compliance by actors on the field. To a very large extent, therefore, the provisions of these Resolutions amount to policy statements devoid of the much-needed effect they are designed to achieve, especially in geographical spaces far removed from global metropolitan centers. It is against this backdrop that it is pertinent to examine how the WPS Agenda is domesticated, and this study undertakes to begin that assessment by looking at whether or not the WPS Agenda is domesticated in Nigeria's legal system.

In the following section, I review Nigeria's two NAPs, the first enacted in 2013 and the second and most current one enacted in 2017. I provide a brief background of their formulation, what necessitated the second NAP in 2017, and the key provisions of the most current NAP.

4.2 Nigeria: National Action Plan 2013

Nigeria's WPS Agenda is founded on the UN WPS Resolutions.⁴⁴³ The Resolutions are included as part of both NAPs that have been developed in the country. This means that the NAPs are a way of stepping down the WPS Agenda Resolutions in ways that can be meaningfully engaged with locally. The NAPs are strategy documents intended to operationalise the provisions of the WPS Resolutions. The main objective of the NAPs, as captured by the 2013 NAP, is as follows:

The NAP, therefore, serves as a tool for governments to articulate priorities and coordinate action for the implementation of UNSCR 1325 at the national and sub-

⁴⁴³ National Action Plan 2017, 1-2.

national levels. It serves as a guiding national policy document that captures the role of diverse actors among government bodies, international development partners, civil society organisations who are tasked with advancing human security as well as the foreign policy, development and gender equality agenda of the nation.⁴⁴⁴

In essence, the role of NAPs, as articulated by the above statement, is to lay out the priority areas in advancing the WPS Agenda, set out the processes for their implementation and recognise and assign tasks to the various actors needed to actualise their objectives. In furtherance of these objectives, the 2013 NAP specifies how Nigeria will pursue its WPS policies, which it stated was motivated by the need to:

...develop a national strategic framework and plan of action for the implementation of UNSCR 1325 in Nigeria anchored on the following priorities:
Participation: increased political empowerment for women and engagement at all levels of decision-making.
Justice, Protection and Peace: A more effective and credible justice and security environment for women during and after conflict.
Economic Resource and Support: Allocation of greater and more sustainable financial resources to support women in recovery processes.⁴⁴⁵

The priorities outlined in the WPS Agenda in Nigeria are interconnected, and each one provides valuable insights into how the Agenda is being advanced. Even though I believe that developing the Agenda around all these priority areas is crucial for enhancing women's security, neglecting one area can negatively impact others, even if they seem to be progressing. The analysis in this thesis focuses predominantly on the “justice, protection, and peace” objectives, which are central to the objective of the thesis and within the remit of the data canvassed for this study: to evaluate how Nigeria fulfils its responsibility to ensure local accountability for conflict-related SGBV crimes. However, to better execute the study’s objective, it is important to unpack the NAPs. Therefore, I begin the process by explaining the major priority areas, which have been

⁴⁴⁴ *Ibid* at 2.

⁴⁴⁵ *Ibid* at 8.

developed around five pillars (prevention, protection, participation, prosecution and promotion) in the next section.

4.2.1 Prevention

Under the prevention pillar, the 2013 NAP sought to: “reinforce preventive performance, i.e. strengthen women's roles/contribution in conflict resolution, promote the culture of peace, strengthen early warning and early response mechanisms, and conduct research and documentation of lessons learnt and best practices.”⁴⁴⁶ One significant and identifiable objective of the prevention pillar was to:

..... identify and support the reforms and/or enactment of gender-responsive laws and policies [and engender] advocacy to the National Assembly for passage of Violence Against Persons (VAP) Bill and revision of discriminatory laws against women related to sexual offences.⁴⁴⁷

In essence, the prevention pillar encouraged the passage of the VAP Bill and the review of existing laws to ensure that the right platform for enforcement of women's rights and safeguards from SGBV could be upheld. The VAP Bill was seen as a way “...to reduce incidences of violence against women and girls.”⁴⁴⁸ Two years after the enactment of this plan, the VAP Bill was successfully passed into law as the VAPP Act 2015. Later in this chapter, I explore the VAPP Act and critically assess its significance to the WPS Agenda in Nigeria in terms of ensuring accountability for conflict-related SGBV.

4.2.2 Participation

The participation pillar sought to promote the inclusion of women in peace and security decision-making processes at all levels.⁴⁴⁹ It also encouraged the participation of women in peace negotiations, peacebuilding, and post-conflict reconstruction efforts.⁴⁵⁰ Including women in key

⁴⁴⁶ National Action Plan, 2013, 18.

⁴⁴⁷ Nigeria, National Action Plan, 2013, 19.

⁴⁴⁸ *Ibid.*

⁴⁴⁹ *Ibid.*

⁴⁵⁰ *Ibid.*

decision-making processes could ensure that peace agreements and post-conflict reconstruction processes like disarmament, demobilisation and reintegration (DDR) programs are more considerate of the active role women play during armed conflict both as fighters and primary care providers. In Nigeria, the number of female fighters among Boko Haram members has been on a steady increase, including radicalised girls whom the sect uses as suicide bombers.⁴⁵¹ This marks a significant departure from earlier statistics regarding suicide bombers in terror groups like Hezbollah, where the demographic of suicide bombers was characterised as typically young, uneducated, and impoverished males averaging 25 years of age and single.⁴⁵²

Therefore, DDR processes need to consider women and girls' roles as combatants and adopt policies that could ensure their effective demobilisation and reintegration into society. Nigeria has since 2015 initiated a couple of deradicalisation programs for captured Boko Haram fighters. However, the consideration of female combatants and girls is not evident in these programs.⁴⁵³ A few examples include the Operation Safe Corridor and Operation Sulhu.⁴⁵⁴ Operation Safe Corridor was established by the Nigerian government in 2016 as part of a national strategy to address the Boko Haram insurgency. The program aims to facilitate the voluntary defection of low-level jihadist recruits from Boko Haram factions.

⁴⁵¹ Vesna Markovic, "Suicide Squad: Boko Haram's Use of the Female Suicide Bomber" (2019) 29:4-5, *Women & Criminal Justice*, 283; "At Least 18 Killed, Dozens Injured in Nigeria Suicide Attacks" Aljazeera Online: <<https://www.aljazeera.com/news/2024/6/30/at-least-18-killed-dozens-injured-in-nigeria-suicide-attacks>>

⁴⁵² Jason Warner and Hilary Matfess, "Boko haram's Demographic Profile in Suicide Bombing" In Jason Warner and Hilary Matfess (eds); *Exploding Stereotypes: The Unexpected Operational and Demographic Characteristics of Boko Haram's Suicide Bombers* (Combatting Terrorism Centre at Westpoint, 2017), 28.

⁴⁵³ Elsie A. Tachie-Menson, "Reintegrating Boko Haram Fighters in Nigeria: Challenges and Prospects" Kofi Annan International Peacekeeping training centre, Policy Brief 11 (September 2022) Online: < <https://www.kaiptc.org/wp-content/uploads/2022/11/POLICY-BRIEF-11.pdf>>

⁴⁵⁴ "An Exit from Boko Haram? Assessing Nigeria's Operation Safe Corridor" (19 March 2021) International Crisis Group Africa Briefing. Online: < <https://www.crisisgroup.org/africa/west-africa/nigeria/b170-exit-boko-haram-assessing-nigerias-operation-safe-corridor#:~:text=Operation%20Safe%20Corridor%20was%20established,east%2C%20the%20program%20faces%20problems.>>

However, the initiative has faced significant challenges, including the mislabeling of civilians fleeing Boko Haram as militants, which clogs the system and deters potential donors.⁴⁵⁵ Participants have reported harsh conditions in the facilities they traverse, diminishing the program's appeal.⁴⁵⁶ Additionally, the reintegration of defectors into society has been fraught with difficulties, facing resistance from the public and politicians who criticise it as offering amnesty to terrorists.⁴⁵⁷ The program struggles with effectively targeting the intended group of low-level jihadist recruits while inadvertently including civilians and other individuals, such as minors and high-level jihadists.⁴⁵⁸ Furthermore, many former participants have endured poor treatment in detention centres, leading to long periods of separation from family and even deaths in custody.⁴⁵⁹ Operation Safe Corridor is prominently lacking in women's participation.

Operation Sulhu is a clandestine Nigerian government initiative since 2019 aimed at encouraging senior jihadist fighters, particularly those from Boko Haram and its splinter group, the Islamic State in West Africa Province (ISWAP), to defect from their armed struggle and reintegrate into society.⁴⁶⁰ By offering benefits such as housing, a monthly stipend, and vocational training, the program seeks to weaken the insurgent groups by removing experienced commanders from the battlefield. Defectors undergo a six-month deradicalisation course before receiving a graduation certificate.⁴⁶¹ While Sulhu is praised by some for its potential to facilitate peace

⁴⁵⁵ *Ibid*, see also Michael Ugwueze et.al, "Operation Safe Corridor Program and Reintegration of Ex-Boko Haram Fighters in Nigeria" (2021) 57:6 Journal of Asian and African Studies, 1229.

⁴⁵⁶ Idayat Hassan, "Reintegration Ex-combatants: An Assessment of Operation Safe Corridor" (2022) 33 Journal for Deradicalisation, 169.

⁴⁵⁷ *Ibid* at 161.

⁴⁵⁸ Jacob Kurtzer and Oby Anyadike, "Deconstructing Disarmament and Reconciliation Programs in Northeast Nigeria" (January 10, 2022) Centre for Strategic & International Studies. Online: < <https://www.csis.org/analysis/deconstructing-disarmament-and-reconciliation-programs-northeast-nigeria>>

⁴⁵⁹ See Hassan, Reintegration of Ex-Combatants.... *Supra* note 455.

⁴⁶⁰ Obi Anyadike, "Exclusive: Nigeria's Secret Programme to Lure Top Boko Haram Defectors" (19 August 2021) The New Humanitarian. Online: < <https://www.thenewhumanitarian.org/news/2021/8/19/nigerias-secret-programme-to-lure-top-boko-haram-defectors>>

⁴⁶¹ *Ibid*.

negotiations and reduce armed conflict, it is criticised for allowing individuals likely involved in serious atrocities to evade prosecution and accountability for their actions.⁴⁶² This program is also directly antithetical to the spirit of Resolution 2245 (2015) in paragraph 14, which discourages state parties from granting amnesty to terrorists known or suspected to have committed crimes against humanity, including sexual violence.

The successes of Operation Sulhu include the recruitment of around 150 defectors since its inception, particularly in the wake of internal conflicts within jihadist factions following the death of Boko Haram's leader, Abubakar Shekau.⁴⁶³ However, the program faces significant challenges, such as public scepticism and backlash from communities affected by Boko Haram's violence. Critics argue that it rewards mass killers, lacks transparency, and does not adequately support victims of the insurgency.⁴⁶⁴ Furthermore, it fails to address the grievances within the broader conflict, leaving questions about long-term stability and reconciliation in Nigeria's northeastern region.

Despite the existence of the DDR programs such as the two discussed above, there is little evidence to suggest that women's unique role, either as fighters or supporters of the sect's course, is considered in these programs. Evidence suggests that CSOs and various NGOs, alongside international organisations focusing on women and girls, run programs aimed at the deradicalisation and reintegration of women through psychosocial realignment.⁴⁶⁵ However, these programs are run not as part of the Nigerian government's commitment to DDR but rather as

⁴⁶² Kurtzer & Anyadike, "Deconstructing Disarmament..." *supra* note 455.

⁴⁶³ Obi Anyadike, Nigeria's Secret Program... *supra* note 459.

⁴⁶⁴ Idayat Hassan, "Transitional Justice in Northeast Nigeria: Reflections on the Trialling of a Complex Process" (February 2024) CDD Research Report, 13. Online: < <https://www.cddwestafrica.org/uploads/reports/file/Transitional-Justice-in-Northeast-Nigeria-Reflections-on-the-trialling-of-a-complex-process2.pdf>>

⁴⁶⁵ "Mapping Women, Peace and Security in the UN Security Council:2017" NGO Working group on Women, Peace and Security (July 12, 2018). Online: < <https://www.womenpeacesecurity.org/resource/mapping-women-peace-and-security-in-the-un-security-council-2017/>>

private collaborative efforts between local CSOs and international NGOs. This indicates that within the government's framing of DDR processes, the role of women and girls as combatants is not thoroughly discussed, addressed or explored.

4.2.3 Protection

The protection pillar sought to “strengthen women and girls' capacity to resist SGBV during and after armed conflict and ensure socio-economic empowerment of women and girls in post-conflict reconstruction and integration”;⁴⁶⁶ training women and girls as mediators, negotiators and conciliators in conflict and post-conflict situations;⁴⁶⁷ and “take special measures to ensure women's participation at all levels of peace processes and increase women's participation in peace processes and involve men and youth in the dissemination and enlightenment of the NAP.”⁴⁶⁸

In essence, the protection pillar aimed to enhance women's agency, voice, and autonomy within post-conflict processes. This represented a major shift from the traditional focus on using military force to protect women from rights violations and safety threats. As Nigerian society progresses (into a more stable democratic system of governance with less frequent interruptions of military coups) and violent conflicts evolve by encroaching into territories that are densely populated by civilians, it is becoming increasingly clear that the traditional approach to military protection, which focuses on the deployment of soldiers, has not been very effective in protecting civilians from SGBV. In many instances, heavy police and military presence has further worsened the vulnerability of women and girls to conflict-related SGBV. Many of the heavily policed sites, including IDP camps and communities hosting displaced populations, are also the same places where women and girls are most prone to SGBV abuses.⁴⁶⁹

⁴⁶⁶ *Ibid* at 18.

⁴⁶⁷ *Ibid*.

⁴⁶⁸ *Ibid*.

⁴⁶⁹ “Nigeria: Defending Human Rights: Not Everywhere, Not Every Right” Frontline (April 2010) International Fact-Finding Mission. Online (pdf): <https://www.omct.org/files/2010/05/20688/nigeria_mission_report.pdf>

It would have been more helpful to have a clear interpretation of what enhancing women's autonomy and voice should look like in line with protection from SGBV. Should this involve consulting with women's groups on how they would like to be protected, or should it involve including women as protectors of their communities? Whatever autonomy and voice in this regard entails can be a valid approach, but it is essential to clearly define it so that progress can be easily measured.

4.2.4 Prosecution

The prosecution pillar, amongst other things, encourages the prosecution of perpetrators for SGBV crimes. It encourages the development of laws that will ensure that perpetrators are held accountable for SGBV crimes and that women have access to justice, including legal aid services and affordable legal counsel.⁴⁷⁰ The prosecution pillar also calls upon the government to “establish special courts to try violators of women and girls during and after conflicts, initiate a process of collaboration between the police and social workers in the prosecution of gender-based violence, and develop a robust transitional justice program in Nigeria.”⁴⁷¹ The interpretation of the aforementioned quote suggests that a specialised court should be established to conduct local trials for individuals accused of SGBV. As of now, Nigeria has not yet established a special court for the trial of SGBV as recommended by the NAP.

Furthermore, even when cases of SGBV are brought to court, the results are often disappointing owing to the lack of diligent prosecution on the part of the prosecutors. In some instances, cases are abandoned by victims who often bow to family or social pressure. Additionally, there is a significant lack of prosecution for conflict-related SGBV, a point I will elaborate on more in this chapter.

⁴⁷⁰ NAP Nigeria 2013, 19.

⁴⁷¹ *Ibid* at 27.

Still, it is essential to point out here that the choice of the word "violators" in the quote above on the establishment of a special court for conflict-related SGBV may affect the objective of accountability for conflict-related SGBV by potentially narrowing the focus to individuals who directly commit acts of violence against women and girls. This term might not fully encompass the broader spectrum of accountability needed, which includes those directly culpable but also those who enable, support, or fail to prevent such acts. Using a more inclusive term, such as "perpetrators and enablers," could have accentuated the need for a broader cut to accountability than the term violators could permit. This broader focus could enhance the effectiveness of the prosecution pillar by promoting systemic change and accountability at all levels.

4.2.5 Promotion

The promotion pillar enjoins the government in partnership with CSOs, NGOs and other interest groups to “undertake massive enlightenment programs to increase awareness creation on the provision of Resolutions 1325, 1889, and 1820, and intensify advocacy against traditional and cultural practices that inhibit or obstruct the effective implementation of Resolution 1325.”⁴⁷²

Creating awareness is a very significant addition to WPS efforts in Nigeria. Creating awareness of the existence of the WPS Agenda Resolutions and applicable local laws is essential to ensure that individuals and organisations understand their legal obligations and responsibilities. Many women caught up in conflicts may not know what rights are available to them, except there are effective awareness campaigns informing them of the protections they are entitled to.

Given that the Nigerian government, through the Federal Ministry of Women Affairs, provides leadership on the WPS Agenda, one may assume that, to some extent, the Nigerian government is invested in creating awareness and enlightenment programmes on the WPS Agenda. However, as much as the research I have done for this thesis can tell, there is nothing in the work of the Federal

⁴⁷² *Ibid* at 26.

Ministry of Women Affairs and Social Development that suggests that their leadership on the WPS Agenda goes beyond NAPs and that the ministry is involved in enlightenment and awareness campaigns. There is no budgetary allocation by the Federal Ministry of Women Affairs or the Nigerian government to implement its commitment to the NAPs, including awareness creation and enlightenment. The finance and account page of the Federal Ministry of Women Affairs, where such budgetary allocation could be found was blank at the time of this research, as it was indicated to be under construction as at the time I sought to find such information.⁴⁷³

Also, Nigeria's budget for 2024 and 2025 has no allocation for funding any aspect of the WPS Agenda or even addressing the plight of women and girls experiencing conflict-related SGBV in the country.⁴⁷⁴ While it was not possible for me to access Nigeria's budget for the previous years, seeing that promoting the WPS Agenda is not a factor in the current budget speaks volumes to the lack of investment of the Nigerian government in advancing the Agenda as there remains the need to do so presently in the country.

Instead, NGOs have taken the initiative to create awareness about the WPS Agenda in Nigeria. Organisations such as Mercy Corp actively generate awareness about women's situation due to violent conflict and how the WPS Agenda can help to address the challenges women encounter due to violent conflict, including conflict-related SGBV.⁴⁷⁵ A report they published in March 2024 discusses the role of women's groups in promoting peace and security in Nigeria. It highlights the increasing complexity of conflicts in Nigeria and emphasises the importance of implementing the WPS Agenda at the local level. The report is based on a study conducted by Mercy Corps and the African Radio Drama Association (ARDA) under the USAID-funded Community Initiatives to

⁴⁷³ <<https://womenaffairs.gov.ng/index.php/articles/servicom-2>>

⁴⁷⁴ For more information, see "Budget Documents" in the Budget Office of the Federation. Online: <<https://budgetoffice.gov.ng/index.php/resources/internal-resources/budget-documents/2025-budget>>

⁴⁷⁵ <<https://www.mercycorps.org/research-resources/womens-peace-groups-advance-nigeria>>

Promote Peace (CIPP) Programme.⁴⁷⁶ In the following section, I discuss implementation for the 2013 NAP.

4.2.6 Implementation Mechanisms for the 2013 National Action Plan

The Nigerian NAP 2013 implementation mechanisms were designed to ensure effective implementation and monitoring of the plan's objectives. Here are some of the key implementation mechanisms: monitoring and evaluation, reporting, funding and partnership.⁴⁷⁷

(a) Monitoring and Evaluation

The 2013 NAP emphasised the need for political commitment to ensure an inclusive, coordinated, and accountable monitoring and evaluation process. The plan focused on accountability, learning, and planning through a robust monitoring and evaluation system. This system was designed to ensure efficient implementation by fostering continuous learning and ensuring a vigorous monitoring mechanism.⁴⁷⁸

The NAP was broken down into actionable annual plans and budgets through participatory analysis and planning. This involved collaboration with relevant government ministries, communities, and development partners to plan activities, monitor progress, and report on results. A National Steering Committee (NSC) was to oversee the implementation of the NAP. At the same time, a Technical Monitoring and Evaluation Task Force (TMETF), comprised of experts from various government ministries, agencies, and civil society organisations, were to develop mechanisms for compliance, including work plans and incentives.⁴⁷⁹

The Ministry of Women Affairs was responsible for monitoring and evaluation. The implementation of the plan was divided into durations: short (18 months), medium (30 months),

⁴⁷⁶ “Breaking Down Barriers: How Women’s Peace Groups Help Advance Gender, Peace, and Security in Nigeria” Mercy Corps and USAID (March 2024) Online: < <https://www.mercycorps.org/sites/default/files/2025-01/breaking-down-barriers-womens-peace-groups-nigeria.pdf>>

⁴⁷⁷ National Action Plan (2013-2017), 30-35.

⁴⁷⁸ *Ibid.*

⁴⁷⁹ *Ibid.*

and long-term (36 months) periods. Monitoring systems and procedures will be developed, and skilled personnel will be employed to assess the impact, particularly on psycho-social and trauma cases. The monitoring and evaluation process was to be integrated into the NAP at different levels of implementation, with 41 indicators included to measure progress and impact.⁴⁸⁰ Overall, the 2013 NAP aimed to ensure a structured and accountable approach to implementing UNSCR 1325, with a focus on continuous improvement and stakeholder involvement. There is little evidence to suggest that these commitments were fulfilled.

(b) Reporting

The reporting requirements for the 2013 NAP included several vital components to ensure transparency and accountability. The Ministry of Women Affairs was responsible for submitting yearly reports to the President of Nigeria on the implementation status of the NAP. Additionally, an interim progress report was required at the end of the first 18 months of implementation, which was to be presented to the State Governors by the various State Ministries of Women Affairs. After the 36-month implementation period, a final report was to be submitted to the President and the National Assembly.

At the international level, the implementation status of the NAP was to be reported in alignment with CEDAW and the pillars of UNSCR 1325. Furthermore, quarterly progress reports were required from the communities where NAP activities were being carried out, as well as on the various provisions of Resolution 1325. These reporting requirements were designed to ensure that all levels of implementation are monitored and evaluated effectively, promoting accountability and continuous improvement.⁴⁸¹

⁴⁸⁰ *Ibid* at 31-33.

⁴⁸¹ *Ibid* at 34-35.

(c) Funding and Partnership

The 2013 NAP was to be financed through a combination of domestic and external support, involving a multi-stakeholder approach. Domestic sources included state and non-state actors such as government ministries, the organised private sector, state agencies, multinational corporations, and financial institutions. External sources comprise UN entities, official development assistance, regional economic communities, and multilateral/bilateral relations.⁴⁸²

Through its various ministries and agencies, the government was responsible for implementing the NAP, with coordination by the Office of the Secretary to the Government. Key agencies included the Ministry of Women Affairs and the Ministry of Defence, which will focus on financing in line with their mandates. The government was to adopt “Gender Responsive Budgeting” (GRB) to ensure participatory and transparent processes that advance gender equality. GRB evaluates public expenditure and revenue generation, linking national policies to gendered outcomes and identifying resources contributing to gender equity.⁴⁸³

Funding methods included statutory budget allocations, taxation, donations, technical support, and project funding. Contributions were to come from state governments, the National Emergency Management Agency (NEMA), revenue-generating agencies, line ministries, financial institutions, the organised private sector, and multinational corporations. An annual fundraising program for the Peace and Security Fund was to be organised by the Ministry of Women Affairs in partnership with relevant agencies and donor organisations.⁴⁸⁴ However, a review of Nigeria’s budget from 2022 to 2025 indicates that no funding has been allocated specifically for WPS Agenda initiatives.⁴⁸⁵ It is also possible that earlier budgets included allocations for the WPS Agenda, but

⁴⁸² *Ibid.*

⁴⁸³ *Ibid.*

⁴⁸⁴ *Ibid.*

⁴⁸⁵ See Budget Documents, *supra* note 473.

I cannot confirm this because the records are not available on the government site or other online sources I consulted.

However, there are a couple of international agencies that work in Nigeria and fund programmes aimed at addressing conflict-related SGBV, particularly in the context of the Boko Haram conflict. Two prominent organisations involved in this are UN Women and the International Rescue Committee (IRC). In Nigeria, UN Women works to support victims of SGBV and enhance their access to economic opportunities and fundamental education skills.⁴⁸⁶ The IRC has worked in Nigeria to address SGBV by providing support to survivors, raising awareness, and advocating for change.⁴⁸⁷ IRC offers programs for women and children who have experienced violence and abuse to create safe spaces for women and children and provides classes for displaced children.⁴⁸⁸ Funding for conflict-related SGBV programs is being spearheaded by international NGOs and not the Nigerian government, calling into question the government's commitment to addressing conflict-related SGBV. It also raises questions about the utility of positioning states and their agencies as key actors in implementing the WPS Agenda, as the WPS Resolutions' stipulations I reviewed in Chapter One clearly suggested.

Nigeria was to also leverage its membership in regional bodies like the Economic Community of West African States (ECOWAS) to finance specific NAP pillars. Civil society organisations, including NGOs and professional bodies, play a crucial role in the advocacy, monitoring, and

⁴⁸⁶ UN Women Nigeria, "Giving GBV Survivors a Second Chance" (2024) UN Women Office Publishing: Nigeria Country Office, 1. Online: < <https://africa.unwomen.org/en/digital-library/publications/2024/02/giving-gbv-survivor-a-second-chance>>; UN Women Africa, "Un Women Nigeria Bi-annual Newsletter 2023 (Jan-June)" (2024) United Nations Entity for Gender Equality and the Empowerment of Women (UN Women). Online: < <https://africa.unwomen.org/en/digital-library/publications/2024/02/un-women-nigeria-bi-annual-newsletter-2023-jan-june>>

⁴⁸⁷ "Humanitarian Crisis Nigeria" International Rescue Committee. Online: < <https://www.rescue.org/country/nigeria#:~:text=Started%20work%20in%20Nigeria:%202012,%2C%20nutrition%2C%20sanitation%20and%20education.>>

⁴⁸⁸ *Ibid.*

evaluation of the NAP implementation; they also ensure accountability through measurable indicators.⁴⁸⁹ While implementing the first NAP, several gaps were observed, including the non-inclusion of violent extremism (terror attacks), which is the major source of violent conflict in contemporary Nigeria. According to Nigeria's Minister for Women Affairs and Social Development:

The first NAP, though helpful in highlighting the role of women in peace-building and conflict, did not address several core issues related to Nigerian women's engagement in peace and security processes. For instance, the 1st NAP did not address issues of radicalisation, demobilisation and reintegration of victims of insurgency, like girls and women forced into marriages with Boko Haram members and other insurgents. The NAP also does not address post-conflict and reintegration issues such as psychological and trauma counselling, particularly for women and children.⁴⁹⁰

The 2017 NAP was to address these gaps and respond to “changing dynamics in Nigeria's security issues.”⁴⁹¹ In the next section, I will focus on the NAP passed in 2017.

4.3 National Action Plan 2017

The 2017 NAP adopted the structure and enforcement mechanisms of the 2013 NAP and further developed areas which the previous NAP had ignored. It was developed through international and regional partnerships, including the UN Women, the European Union, the AU, and the ECOWAS.⁴⁹² As with the 2013 NAP, Nigeria's Ministry of Women Affairs provided leadership in developing the NAP, with representation from various state agencies and CSOs.⁴⁹³

Like its predecessor, the NAP enacted in 2017 was formulated around five fundamental pillars, though couched differently: “prevention and disaster preparedness; participation and representation; protection and prosecution; crisis management, early recovery, and post-conflict

⁴⁸⁹ National Action Plan 2013, 32-37.

⁴⁹⁰ National Action Plan 2017, 4.

⁴⁹¹ Nigeria's Minister for Women Affairs and Social Development, “Foreword” Nigeria National Action Plan (2017-2020), viii-ix.

⁴⁹² National Action Plan, 2017, 5.

⁴⁹³ National Action Plan, 2017, ix.

reconstruction.” Each pillar contains strategic objectives and outcomes. The strategic objectives also included “corresponding actions, outcomes, indicators, target completion timeframes, and lead actors.”⁴⁹⁴ This indicates that specific actions and measurable outcomes were intended for each pillar.

For instance, the prevention and disaster preparedness pillar aims to prevent “all types of violence against women”;⁴⁹⁵ enhance peacebuilding efforts through organising training for women as peacebuilders;⁴⁹⁶ ensure the proper documentation of existing efforts on lessons learnt and best practices, amongst others.⁴⁹⁷ The participation and representation pillar aims to increase women's participation and engagement in decision-making processes related to conflict prevention and peacebuilding. It also seeks to ensure women are equally represented at all decision-making levels. By including women's interests in decision-making processes, it is positioned to achieve these strategic objectives.⁴⁹⁸

However, the participation of women in political leadership in the country, which would enhance their decision-making capabilities, is still very low and has been since 2017, when this NAP was enacted. A 2023 statistics report by the Global Data on National Parliaments shows that only four women currently represent state constituencies in the parliament out of 106 seats based on the elections conducted in 2023. This makes 3.7% which is far below the 22% global average.⁴⁹⁹ In addition, women’s participation in grassroots and community peacebuilding is known to yield positive results,⁵⁰⁰ yet their involvement in formal governance and peacemaking programs remains

⁴⁹⁴ *Ibid.*

⁴⁹⁵ National Action Plan 2017, 19.

⁴⁹⁶ *Ibid* at 20.

⁴⁹⁷ *Ibid* at 14, 21

⁴⁹⁸ *Ibid* at 14.

⁴⁹⁹ Global Data on National Parliament, “Nigeria-Senate” (2023). Online: < <https://data.ipu.org/parliament/NG/NG-UC01/data-on-women/>>

⁵⁰⁰ See Faustina Ozoani-Ene et.al., “The Role of Women in Peace Advocacy, Conflict Resolution and Peacebuilding Initiatives in Enugu State, Nigeria” (2024) 4:2 ESCAE J. of Management and Security Studies (EJMSS), 44.

low.⁵⁰¹ Existing statistics show that there is very little emphasis on including women's voices meaningfully by considering how their unique perspectives on their experiences and ideas for conflict resolution can be included in these processes.

Protection and prosecution aim to protect and promote the rights and security of women and girls during conflict and post conflict and to hold violators accountable.⁵⁰² While a few notable developments have been made in this line, as this chapter will later show, there is still a lot that needs to be done. Crisis management, early recovery and post-conflict reconstruction aim to ensure that women and girls have access to their specific relief and recovery needs and that their capacity to act as agents in such situations is protected and supported.⁵⁰³ Partnerships-coordination and management seeks to foster collaboration across the pillars to increase the capacity for coordinating, implementing, monitoring and reporting on WPS plans and programmes.⁵⁰⁴ While all these initiatives appear quite promising, the issue lies in the fact that outside of the NAPs, there is little to indicate that these actions are being implemented.

NAP Nigeria 2017 also emphasises the need for training security personnel within Nigeria, including the police, the Ministry of Defence, the Office of the National Security Advisor, the National Emergency Management Agency (NEMA), the Nigerian Civil Defence, the National Refugee Commission, and the Nigerian Institute for Peace and Conflict Resolution, to prevent human rights violations in the course of executing their duties. A news documentary by IPTV, a local Nigerian television station, reported in 2022 that the Nigerian army undergoes periodic training of its staff to prepare against human rights violations during the execution of their duties. The documentary also claims that the Nigerian military has established Human Rights Desks

⁵⁰¹ Oluremi, *supra* note 249 at 46.

⁵⁰² National Action Plan 2017, 19.

⁵⁰³ *Ibid.*

⁵⁰⁴ *Ibid.*

outside military barracks where such violations can be reported. Additionally, it states there is a dedicated radio station where civilians can air their grievances against military personnel and seek redress.⁵⁰⁵ However, judging by the high rate of reported SGBV committed by the military against civilians, as I highlighted in the first chapter, it is doubtful what impact these trainings and awareness campaigns have had, or where the gap remains between training and impact.

The 2017 NAP also emphasises the need for legislation and policy to ensure “increased access to justice to enhance the implementation of existing laws and policies that protect women’s rights and promote the WPS Agenda.”⁵⁰⁶ Several statutes mentioned later in this chapter, such as the VAPP Act, relate to this development. Nonetheless, it is unclear if there is a law specifically aimed at advancing the WPS Agenda in Nigeria. The 2017 NAP also included an implementation and accountability framework, which I discuss in depth in the following section.

4.3.1 Implementation and Accountability Framework

The following sections outline the implementation and accountability framework established by the 2017 NAP.

4.3.2 National and Zonal Implementation Strategies

The implementation strategy of the 2017 NAP involves coordinated efforts by national and state governments, security agents, civil society organisations, and international development partners. These efforts aim to address crisis management and peacebuilding but have often marginalised women, limiting their involvement in security mechanisms. The 2017 NAP outlines priority actions, strategies, and interventions, providing indicators and benchmarks for monitoring and evaluation.⁵⁰⁷ Successful implementation is expected to enhance coordination, raise awareness, and improve stakeholder accountability.

⁵⁰⁵ The documentary in question is in the custody of the researcher and will be made available upon submission of the thesis.

⁵⁰⁶ *Ibid* at 14.

⁵⁰⁷ Nigeria National Action Plan 2017, 9.

The Zonal Action Plans (ZAPs) break down NAP priorities across Nigeria's six geo-political zones (Northeast, Northwest, Northcentral, Southwest, Southeast and South-south), allowing for the identification of zonal peculiarities and shaping respective State Action Plans (SAPs).⁵⁰⁸ This structure is intended to enable states within Nigeria to develop work plans and monitor progress on UNSC Resolution 1325 commitments at the community level. At the time of writing this thesis, there was no evidence that the various geopolitical zones had established ZAPs. Nonetheless, a few states, including Kaduna, Borno, Kano, Gombe, and Plateau, initiated SAPs in response to the NAP's requirements. Kaduna State, located in north-central Nigeria, introduced its SAP in December 2016 and incorporated it into its 2017 budget. While I was able to confirm that these states had enacted SAPs at some point, the specific documents detailing their content—such as goals, strategies, or implementation details—were not available for review.

4.3.3 Institutional Framework

As earlier stated, the Federal Ministry of Women Affairs and Social Development leads the implementation of UNSCR 1325, working with key ministries, civil society, and the private sector. Other key actors include the Ministry of Justice, Ministry of Defense, National Security Adviser, Nigeria Police, and others. These entities collaborate with development partners like the EU, DFID, and UN Women to achieve NAP targets.⁵⁰⁹

4.3.4 National Technical Working Group and Sub-national National Action Plan Organs

A National Technical Working Group (NTWG) on UNSCR 1325 NAP oversees implementation, chaired by the Permanent Secretary of the Federal Ministry of Women Affairs. The NTWG includes members from government, civil society, and the private sector. The State Implementation Group (SIG) government, civil society, and the private sector members

⁵⁰⁸ *Ibid.*

⁵⁰⁹ *Ibid* at 10.

Monitoring Committee will ensure monitoring and reporting on ZAPs. The NTWG will meet quarterly to review progress and inform NAP advocacy and policy reform. A biennial conference will provide opportunities for consultation and sharing of best practices.⁵¹⁰ Interestingly, these elaborate structures were carefully crafted on paper. Still, many years after the 2017 NAP, I could not find any indication that some of these offices, including the NTWG, exist.

4.3.5 Resource Mobilisation

Resource mobilisation is crucial for implementing the NAP, ZAPs, and SAPs. Sectoral agencies and state governments are encouraged to allocate budgets for these plans. Partnerships with the private sector and development partners will support projects linked to UNSCR 1325. An example is the "Promoting Women's Engagement in Peace and Security in Northern Nigeria" project, sponsored by the EU and implemented by UN Women.⁵¹¹

Most of the programs done under the WPS Agenda are funded by foreign organisations through CSO and NGO engagements. Two prominent examples include Women's Rights Advancement and Protection Alternative (WRAPA) and Women for Women International (WfWI). WRAPA is an NGO that promotes the rights of women and girls in Nigeria. The organisation focuses on issues such as gender-based violence, women's political participation, and access to justice for women. WRAPA has addressed gender-based violence in conflict-affected areas in Nigeria, including the Northeast region. WRAPA works to eliminate discrimination against women and girls and empower them to participate in decision-making processes. WRAPA implements programs that address gender-based violence, access to justice, and women's participation in peacebuilding initiatives. WRAPA's mission is to promote gender equality, eliminate discrimination against women and girls, and empower them to achieve their full potential.⁵¹² WRAPA leverages the WPS

⁵¹⁰ *Ibid.*

⁵¹¹ *Ibid* at 12.

⁵¹² WRAPA, Advocacy Programme. Online: < <https://www.wrapanigeria.org/advocacy/> >

Agenda in its programs and gender advocacy initiatives by promoting women's participation in peacebuilding and conflict resolution processes, advocating for women's rights in conflict situations, and addressing gender-based violence. WRAPA also aims to ensure that women's voices are heard in decision-making processes related to peace and security.⁵¹³ Nevertheless, the concerning statistics regarding women's participation in formal decision-making processes, as previously discussed, reflect significant challenges they face in achieving success in this area. Through its programs and initiatives, WRAPA aims to promote gender equality and empower women to participate fully in all aspects of society.⁵¹⁴

WfWI is a non-governmental organisation that helps women who have survived war and conflict. They offer resources, education, and training to assist in rebuilding their lives. Specifically in Nigeria, WfWI has been aiding women impacted by the Boko Haram insurgency in the Northeast region.⁵¹⁵ The work of WfWI is highly relevant to the WPS Agenda. WfWI leverages the WPS Agenda in its programs in Nigeria in several ways: WfWI's programs in Nigeria are designed to empower women survivors of war and conflict by providing them with education, training, and access to resources that enable them to rebuild their lives. The organisation's programs address the specific needs of women in Nigeria, including access to healthcare, education, and economic opportunities.⁵¹⁶ WfWI provides leadership training to women in Nigeria to help them become change agents in their communities. This training helps women develop the skills and knowledge they need to participate in decision-making processes

⁵¹³ *Ibid.*

⁵¹⁴ *Ibid.*

⁵¹⁵ Women for Women International, Our Impact. Online: < https://www.womenforwomen.org/our-impact?_gl=1%2A144mnh7%2A_gcl_au%2AMTEyNjk4NTEwMy4xNzQxMTI3ODk4%2A_ga%2AMjU5MDgzODUyLjE3NDExMjc4OTg.%2A_ga_V8MFX11JQX%2AMTc0MTEyNzg5OC4xLjEuMTc0MTEyNzk3Ny41Mi4wLjA.>

⁵¹⁶ *Ibid.*

related to peace and security and to advocate for their rights and the rights of their communities.⁵¹⁷ However, formal opportunities to do so are very few and heavily affected by socio-cultural stereotypes that continue to limit women's involvement in the formal decision-making sector. The organisation works with policymakers, civil society organisations, and other stakeholders to promote gender equality and women's rights in Nigeria.

Despite the important work these organisations and many others do, they heavily rely on private local and international donors. This reliance can have severe implications for local ownership of the Agenda. When foreign organisations provide most of the funding, they may also influence the priorities, strategies and implementation of the WPS Agenda, potentially sidelining local perspectives and needs. Dependence on external financing can also lead to sustainability issues, especially when foreign donors withdraw their funding. If foreign funding decreases or stops, the initiatives may struggle to continue, highlighting the need for local investment and capacity building. During the COVID-19 period, many such programs could not continue as foreign NGOs and foreign governments refrained from giving out donations to prioritise dealing with the impact of COVID-19 within their countries.

Projects driven by foreign agencies might prioritise accountability to donors over accountability to local communities, which can affect the relevance and effectiveness of the initiatives. Again, foreign-funded programs may not always align with the cultural, social, and political contexts of communities upon which they are implemented, leading to less effective or inappropriate interventions. On a positive note, foreign funding can provide opportunities for capacity building and knowledge transfer, which can empower local organisations and stakeholders over time. To make for more effective and lasting initiatives, it is important to ensure

⁵¹⁷ *Ibid.*

that national initiatives are funded generously by states and national stakeholders to ensure continuity. Foreign funding can be of supplementary value but not the sole or major source of funding.

4.3.6 More on Protection and Prosecution Under the 2017 National Action Plan

In a bid to ensure that Nigerian women and girls are protected from SGBV that is prevalent during violent conflict within the country, the 2017 NAP provides for the following priority areas: security, legislation and policy; NAP promotion and advocacy; capacity building and services; research, documentation and dissemination; and coordination and partnership.⁵¹⁸ The security aspect is intended to ensure that the security sector is trained to respond to and protect women and girls; the security sector is equipped with material and strategic resources to protect women and girls from “all types of violence, including sexual and gender-based violence during and after conflict.”⁵¹⁹

Under the legislation and policy priority area, the NAP-Nigeria 2017 calls for the “establishment of new laws and review of existing laws aimed at protecting women and girls”.⁵²⁰ It also calls for creating awareness of the NAP to prevent harmful cultural practices against women and girls,⁵²¹ through research, documentation and dissemination of information on the protection of women through social media platforms and information technology packages across the relevant stakeholders.⁵²² Regarding building capacity for protection and prosecution, NAP Nigeria 2017 require stakeholders to “provide training and skills development” to enhance stakeholders’ capacity to protect women and improve prosecution efforts.⁵²³

⁵¹⁸ National Action Plan 2017, 19-20.

⁵¹⁹ *Ibid* at 19.

⁵²⁰ *Ibid* at 19.

⁵²¹ *Ibid*.

⁵²² *Ibid* at 20.

⁵²³ *Ibid* at 19.

It is essential to point out that while the 2017 NAP holds considerable promise for advancing women's rights and strengthening protection against conflict-related SGBV, it is also apparent that the government needs to do much more to fulfil its responsibility and maximise its potential.

4.4 What Does the NAPs Depict About the Commitment of the Nigerian Government to Implement the Agenda as Stipulated by the UN WPS Resolution

Based on the above, the Nigerian government has not fully met its responsibilities outlined in various UNSC Resolutions. Despite adopting NAPs, Nigeria has struggled to implement key aspects of the WPS Agenda effectively, resulting in significant gaps in policy execution, funding, and accountability. Resolution 1325 (2000) calls for increased representation of women in decision-making roles at all levels within national, regional, and international institutions.⁵²⁴ However, Nigeria has not adequately encouraged women's participation in politics or supported them in taking up political positions. The political landscape remains largely male-dominated, with women facing numerous barriers to entry and advancement in political roles. In the 2023 elections, the cumulative percentage of women in Nigeria's 10th National Assembly is below 5%. This represents a very low representation of women in both chambers of the National Assembly.⁵²⁵ This lack of representation undermines efforts to incorporate women's perspectives in conflict prevention, management, and resolution.

Funding and financing for WPS initiatives in Nigeria have been insufficient, hindering the progress of programs promoting gender equality and women's empowerment.⁵²⁶ The government needs to prioritise financial support for initiatives that align with the WPS Agenda, resulting in limited resources for capacity-building, training, and support for women's organisations. This

⁵²⁴ See paragraph 1, UNSC Resolution 1325 (2000).

⁵²⁵ Elor Nkereuwem, "Why Women Haven't Been Successful in Nigeria Elections" (May 2023) Carnegie Endowment for International Peace Report. Online: <<https://carnegieendowment.org/research/2023/05/why-women-havent-been-successful-in-nigerian-elections?lang=en>>

⁵²⁶ CEDAW Committee, "Women Peace and Security In Nigeria" (July 2017) 67th Session, Joint Shadow Report, 4. Online: <https://wilpf.org/wp-content/uploads/2017/06/Nigeria_CEDAW_FINAL_June_2017.pdf>

lack of investment stifles the potential impact of WPS programs and limits the ability of civil society to contribute effectively to peace and security efforts.⁵²⁷

Moreover, Nigeria needs to effectively integrate WPS considerations into its counter-terrorism strategies, as urged by Resolution 2242 (2015), and this will be developed further in chapter five. The government has not conducted sufficient gender-sensitive research or data collection to understand the factors driving radicalisation among women or the impact of counter-terrorism measures on women's rights. This oversight limits the development of targeted, evidence-based policies and programs that could address the root causes of violent extremism and enhance women's roles in counter-terrorism efforts.

In summary, the Nigerian government's commitment to the WPS Agenda remains inadequate, with significant gaps in policy implementation, funding, and accountability measures. However, even in aspects where the NAPs seek to regulate, the textual analysis of the NAPs shows key lapses that have, rather, functioned as an impediment to the stipulations of the Naps. I will outline these areas in the following section.

4.5 Shortcomings of Nigeria's WPS Agenda NAPs

As shown in the previous sections, Nigeria has, so far, formulated two NAPs to advance the WPS Agenda locally. However, in several instances, what the NAPs seek to achieve is unclear, and I believe that this is because many of the terms that are used are lifted from the UN Resolutions without any attempt at clarifying how they apply in the Nigerian context. I believe that this is because many of the terms intended to contextualise the Agenda locally sometimes appear too vague, passive, or ambiguous to convey a meaning against which targets and achievements can be measured. I discuss specific examples below.

⁵²⁷ Medium, The Force of Women's Mobilisation is an Asset to Peace Movements (October 21, 2020). Online: <<https://dppa.medium.com/the-force-of-womens-mobilization-is-an-asset-to-peace-movements-f1db5e53bbc2>>

4.5.1 The Lack of Definition of Terms in the National Action Plans Has Created Ambiguity and lack of clarity

Ambiguity and lack of clarity in the NAPs are due to the lack of a clear definition of the terms the NAPs use. One such prominent ambiguity is due to the lack of a clear definition of the term “gender-based violence,”⁵²⁸ which the NAPs favour over the term sexual violence or conflict-related sexual violence used in the UN WPS Agenda Resolutions. At first glance, it might appear that the term gender-based violence covers a wider range of gender-related crimes, as referenced in Nigeria's NAP. However, the absence of a clear definition leaves room for ambiguity and misinterpretation. While the terms sexual violence, conflict-related sexual violence, and gender-based violence are connected, they represent distinct concepts. Therefore, it is important to clarify the specific usage of each term.

The lack of clarity on how these terms are used can lead to difficulties in understanding and implementing their objectives effectively. Clear and precise language is essential for ensuring that all stakeholders have a shared understanding of the goals and strategies outlined in the NAP and consistently implement its provisions while working towards clearly defined outcomes.⁵²⁹

Ambiguity and a lack of clarity could also create barriers to compliance and behavioural change among stakeholders. For instance, NAP-Nigeria 2017 has a set of key actors at various levels within institutions and across the spectrum of society, including CSOs, local chiefs, traditional leaders and religious leaders.⁵³⁰ This underscores the need for clarity in what the Agenda seeks to achieve, as different sectors of society may have different notions of what constitutes gender-based violence. Definitely, a local chief's understanding of “gender-based violence” will differ from what a CSO worker understands the term to mean.

⁵²⁸ See generally both NAPs.

⁵²⁹ Birkland, T. A. *An Introduction to the Policy Process: Theories, concepts, and models of public policy making*. (2015, Routledge).

⁵³⁰ See the seventh column of the table at pages 16 to 35 of the National Action Plan, 2017.

In addition, clear and unambiguous language is necessary in Nigeria, where cultural, religious, and social practices sometimes sanction certain behaviours that may be condemned under extant laws. For example, the Child Rights Act 2003 “sets the legal age for marriage at 18 years”,⁵³¹ but due to the interplay of religious and cultural norms which allow the marriage of under-aged girls (like Islamic religion and cultural practices), this practice is common.⁵³² So, it is very common to see the rights given to women and girls under the law taken away under the guise of culture and religion. Another example is concerning the term sexual slavery. This practice is proscribed both by international law and domestic Nigerian law,⁵³³ yet it is practised among certain groups under the culture of parental rights to marry off their children. It is therefore necessary that the NAPs clearly explain what constitutes the practices that constitute gender-based violence, which it sought to address.

In addition, the objectives mentioned in NAP-Nigeria 2017, such as "reinforcing preventive performance"⁵³⁴ and "promoting the culture of peace"⁵³⁵, are vague and do not provide specific, measurable outcomes. Without further explanation, these terms give, at best, opportunities whose implementations cannot be evaluated or qualified. This can make it challenging to assess the progress and effectiveness of the NAP's implementation. Using concrete language with clearly defined targets and indicators would be more helpful to facilitate monitoring and evaluation.

⁵³¹ Section 21, Child Rights Act 2003, Laws of the Federation of Nigeria, No. 26.

⁵³² Gabriella Igboko, “The Child’s Right Act vs. Sharia Law: Girl-Child Marriage in Nigeria” (May 3, 2022), International Law and Policy Brief. Online: <<https://studentbriefs.law.gwu.edu/ilpb/2022/05/03/the-childs-right-act-vs-sharia-law-girl-child-marriage-in-nigeria/>>; Save the Children, “78% of Girls in the Northern Region of Nigeria Marry before the Age of 18, A New Report by Save the Children International Reveals” (16 November 2021). Online: <<https://nigeria.savethechildren.net/news/78-girls-northern-region-nigeria-marry-age-18-new-report-save-children-international-reveals>>

⁵³³ Eyesan Oyomi Joy, “The Determinants of Underage Marriage in Nigeria” (April 2020) Major Paper Presented to the Department of Economics of the University of Ottawa. Online: <[https://ruor.uottawa.ca/server/api/core/bitstreams/e9a4b702-d7a0-4222-b516-fb684e6d20a8/content#:~:text=According%20to%20UNICEF%2C%20over%2044,the%20world%20at%203.5%20million.&text=countries%20\(Rumble%20et%20al.%2C%202018\)>](https://ruor.uottawa.ca/server/api/core/bitstreams/e9a4b702-d7a0-4222-b516-fb684e6d20a8/content#:~:text=According%20to%20UNICEF%2C%20over%2044,the%20world%20at%203.5%20million.&text=countries%20(Rumble%20et%20al.%2C%202018)>)>

⁵³⁴ National Action Plan 2017, 29.

⁵³⁵ *Ibid* at 30.

Ultimately, the lack of clarity and ambiguity in Nigeria's NAPs shows a need to rethink what the WPS Agenda in Nigeria is intended to achieve. Also, in some other instances, both NAPs have offered a very passive language that fails to convey clear targets and accountability measures. I will explain this in the following subsection.

4.5.2 Passive Language and Lack of Accountability

Regarding ensuring accountability for SGBV, the language employed in NAP-Nigeria needs to be stronger and convey specific responsibility to the relevant sectors or entities. For example, phrases such as "seek to establish special courts"⁵³⁶ and "initiate a process of collaboration"⁵³⁷ are passive and do not assign responsibility or accountability for implementing these objectives. While these intentions are necessary and noble, without clearly outlining strategies for actualisation and clear accountability structures, it will become challenging to measure implementation and/or demand action from the government or other stakeholders. It is, therefore, no wonder that almost a decade after the formulation of the 2017 NAP, there is still no special court to try conflict-related SGBV in Nigeria.

A more potent, more active language that could identify the actors responsible for each action and set timelines for implementation would help ensure that the NAPs are effectively operationalised. What the 2017 NAP has done is lump together a cluster of stakeholders on each objective without a clear definition of each stakeholder's role in achieving the said objective. The persistent incidence of conflict-related SGBV in Nigeria highlights the need for more action. One way to address this is by ensuring that strategies such as the NAPs clearly outline necessary actions, identify responsible parties for each targeted action, establish clear timelines, and specify how these parties can be held accountable for their assigned tasks.

⁵³⁶ *Ibid* at 32.

⁵³⁷ *Ibid* at 9.

To buttress the point already made above, the promotion pillar of the NAP focuses on "undertaking massive enlightenment programs" and "increasing awareness creation" of the UN WPS Resolutions.⁵³⁸ Awareness raising can be a tool for conscientizing society about a phenomenon, and when employed diligently, it can become a powerful avenue to enlist community engagement and boost local participation. One way to ensure this happens is to set out the targets that awareness creation is intended to achieve; this way, its results can easily be measured. Another observation relates to the oversight of intersecting experiences of women, which I will elaborate on below.

4.5.3 Insufficient attention to intersectionality

So far, Nigeria's NAPs have failed to explicitly recognise how intersectional factors—such as poverty, ethnicity, religion and other socio-economic conditions—intensify women's vulnerability to conflict-related SGBV and hinder their access to justice and support services. At a glance, it is immediately evident that the NAPs have not made any provisions for tackling the multi-plex realities and experiences that arise as a result. However, the failure to explicitly acknowledge the intersectional experiences of women in the NAPs creates more profound and more foundational consequences.

The first concern is that it has the potential to diminish the effectiveness of the NAP as a policy document, lacking in implementation potential. This may seem like a bold claim, but without recognising the complex factors that contribute to women's vulnerability, subsequent interventions may not adequately address the root causes of conflict-related sexual SGBV. As I will later demonstrate in chapter five, the failure to address some of the fundamental factors that serve as key contributors to a chaotic context and SGBV has remained one of the most consistent challenges to protection and accountability for conflict-related SGBV. Secondly, this oversight can potentially

⁵³⁸ *Ibid* at 12.

limit access to support services. Women facing compounded vulnerabilities may find it more difficult to access justice and support services, as these services may not be designed to meet their specific needs.

Thirdly, it can increase women's vulnerability consequently. This is because ignoring intersectional factors can leave women more exposed to violence and exploitation, as their unique circumstances are not considered in prevention and protection strategies. For example, women from marginalised communities, such as those affected by poverty, ethnicity, or religion, may continue to be overlooked, perpetuating cycles of discrimination and exclusion. Fourth, this may result in the perpetuation of the circle of inefficiency resulting from a lack of comprehensive data. Without acknowledging intersectional experiences, data collection and analysis may be incomplete, leading to gaps in understanding the full scope of conflict-related SGBV and its impact on different groups of women.

Fifth, this could result in missed opportunities for collaboration as failing to address intersectionality can hinder collaboration with organisations and stakeholders that focus on specific socio-economic factors, limiting the effectiveness of collective efforts. Sixth, it may reduce trust and engagement. Women who feel their experiences need to be recognised may lose faith in governmental and non-governmental organisations, reducing their willingness to engage with available programs and initiatives. Addressing these consequences requires a more inclusive and comprehensive approach to policy-making and implementation, ensuring that all women's experiences and needs are addressed.

In addition, incorporating intersectional language and considerations into the NAPs could help ensure that the WPS Agenda is more inclusive and equitable. The views expressed by Hilary

Matfess⁵³⁹ and Sagal Bafol⁵⁴⁰ on the need for having an intersectional lens in WPS policies cannot be over-emphasised in this context. Both scholars underscore the importance of intersectionality in the formulation and implementation of WPS policies and programs. Failing to do so suggests that the WPS Agenda NAPs are, so far, an elitist invention with actors who have not taken the time to appreciate and include the dynamics of women's experiences in society and violent conflict.

Ultimately, while the NAPs represent essential steps towards incorporating the WPS Agenda in Nigeria, addressing the oversights I have identified will further strengthen their success. In the following section, I analyse the strengths and overall implications of the NAPs for a WPS Agenda in Nigeria.

4.5.4 National Action Plan: Strengths and the Overall Implications for a WPS Agenda in Nigeria

In terms of strengths, the 2017 NAP, for instance, was developed in collaboration with international and regional partnerships, including UN Women, the European Union, the African Union, and ECOWAS, as well as Nigeria's Ministry of Women Affairs and various state agencies and civil society organisations. This collaborative approach ensures a more comprehensive policy document well suited to a global and transnational climate.

However, adopting an international perspective necessitates careful consideration to ensure that policy documents are responsive to local manifestations of SGBV while incorporating global best practices. Where collaboration is not carefully considered, there is the danger of taking on ideas more aligned with dominant practices while not truly representing local challenges. Diana Højlund Madsen assesses the interaction of the global gender norms established in the WPS Agenda in Rwanda by CSOs and concludes that while Resolution 1325 has served valuable purposes in women's organisations in Rwanda by providing them with a framework for promoting

⁵³⁹ Matfess, *supra* note 228.

⁵⁴⁰ Bafol, *supra* note 230.

women's rights and equality, there is a need to localise the WPS Agenda in ways that align with the initiatives of local women groups to advance their rights and enhance their position in the society.⁵⁴¹ Madsen's observations support the need to carefully consider the application of global ideas based on the specificities of each context.

This in turn, raises the question of voice, agency and local ownership, as I emphasised earlier, and underscores the need for active local women's involvement, which must begin with policies such as NAPs, not after the policies are made. NAP formulation should be done with the full and active participation of local women's organisations, not just elite NGOs in the major cities, but also local women organising in the rural areas, which are usually worst hit by violent conflicts. These local organisations hold a wealth of knowledge that, if harnessed, can significantly transform WPS Agenda policies. At one point, my entire family had to relocate in a hurry from our homestead to another community due to a violent conflict. We had first-hand experience of what that felt like and would have appreciated being asked how best-government-planned policies should help alleviate our situation.

It is given that several factors discourage such in-depth involvement. One example is the lack of understanding of the English language by many local women due to the high rates of illiteracy facilitated by the violent conflict, which results in massive school closures, cultural practices that continue to hinder the education of the girl-child, and poor government funding, amongst others. However, this challenge can be overcome if the government and other stakeholders are committed to ensuring that women and girls whose lives are directly impacted have a say in how policies that will eventually affect their lives are developed. One way would be to involve interpreters who can bridge the language gap. In sum, it is essential to ensure that women and girls whose lives are

⁵⁴¹ Højlund Madsen, "' Localising the Global' – Resolution 1325 as a tool for Promoting Women's Rights and Gender Equality in Rwanda" (2018) 66 Women's Studies International Forum, 70.

directly impacted by the policies that emanate from strategy documents such as the NAPs have a say in how they come to be, and any investment in ensuring that this happens is not a waste. No stone should be left unturned to ensure that this happens.

Additionally, it is crucial to highlight the peripheral position that conflict prevention has in the NAPs. While it is an undeniable fact that conflict-related SGBV is impossible where there is no such conflict, both NAPs have significantly downplayed the role of conflict prevention. Conflict prevention is barely mentioned, and the prevention pillar focuses instead on including women in DDR processes and increasing women's participation and engagement “in decision-making processes related to conflict prevention and peacebuilding.”⁵⁴² While these objectives are relevant in the face of violent conflict, the potential of such objectives is low, where there are no measures on the ground to prevent the eruption of violent conflicts or to ensure the cessation of the conflict under which these actions thrive. Conflict prevention is an essential factor in protection from SGBV and should be a fundamental objective in addressing SGBV. This means all these pillars share a connection and should be advanced concurrently; focusing on some aspects while ignoring others may be counter-productive. In this also, Nigeria has yet again uncritically adopted the UN WPS model without carefully considering its usefulness locally. Scholars like Dianne Otto decried the peripheral position that conflict prevention has in the UN WPS Agenda as this effectively undermines other aspects of the Agenda.⁵⁴³ In the following section, I discuss and analyse the VAPP Act as a crucial advancement in ensuring accountability for SGBV in Nigeria.

⁵⁴² *Ibid* at 14.

⁵⁴³ See generally, Otto, “Power and Danger...” *supra* note 198.

4.6 The VAPP Act 2015

One significant achievement made to advance legal accountability for SGBV domestically in Nigeria so far is the enactment of the VAPP Act.⁵⁴⁴ The VAPP Act is a law whose presence in the Nigerian legal system was significantly influenced by the WPS Agenda NAPs and became possible as part of efforts to advance SGBV accountability as suggested by the WPS NAPS in Nigeria.⁵⁴⁵ The 2013 NAP recognised the need for a law that addresses the gender-based violence that women experience as the basis for more focused WPS efforts in ensuring effective implementation of the protection and prosecution pillars.⁵⁴⁶ It also sought to ensure that stakeholders such as the Legislative Advocacy Coalition on Violence Against Women (LACVAW) lobby the legislature to pass such a law and amend existing laws to incorporate the provisions of the NAP and the WPS Resolutions provisions.⁵⁴⁷ Through LACVAW's active advocacy in conjunction with other CSOs and interest groups, by May 2015, the VAPP Bill passed the first and second reading by the House of Representatives and the Senate.⁵⁴⁸ The two legislative houses forwarded the Bill to the then-president of the country, who signed it into law in May 2015.⁵⁴⁹

Although the lawmakers did not mention or acknowledge the influence of the WPS Agenda or the CSOs that were instrumental in the process, I am aware of this connection because it was common knowledge in the country at that time that CSOs were using the language of the WPS Agenda to lobby the NASS for the VAPP Act. The VAPP Bill was proposed to the NASS by

⁵⁴⁴ ECOWAS Commission, "Baseline Assessment Report on the Status of the WPS Agenda in West Africa" (2022) First ECOWAS Regional Women, Peace and Security Report, 26-41. Online: <<https://ecowas.int/publication/baseline-assessment-report-on-the-status-of-the-wps-agenda-in-west-africa/>>

⁵⁴⁵ *Ibid* at 30-33.

⁵⁴⁶ National Action Plan 2013, 19.

⁵⁴⁷ *Ibid*.

⁵⁴⁸ International Federation of Women Lawyers Nigeria. "Violence Against Persons (Prohibition) Bill 2015" *FIDA*.

⁵⁴⁹ Law Pavilion, "The Violence Against Persons Prohibition Act" The Law pavilion Blog. Online: <The Violence Against Persons (Prohibition) Act 2015, The Law Pavilion Blog">

Women Rights Advocates and CSOs in collaboration with legislators sympathetic to the cause.⁵⁵⁰ Radio and TV shows disseminated the message across the country, soliciting support from the public while highlighting the many ills that SGBV inflicts on victims within the country. As a practising lawyer familiar with the challenges of SGBV in Nigeria, I keenly followed the developments by listening to radio talk shows.

The proliferation of conflict-related SGBV at the time, including the abduction of women and girls by the Boko Haram militias and the heightened climate of gender-based violence, created the much-needed momentum for women-led NGOs and CSOs to call attention to the need for a comprehensive gender-based law in Nigeria.⁵⁵¹ In addition, the ineffectiveness of extant laws to address the trend and the need for a comprehensive gender law in the country served as an impetus for the emergence of the new law on SGBV.⁵⁵²

Furthermore, one of the first activities in the first WPS NAP in 2013 was advocacy for the “NASS for passage of the VAP Bill and revision of discriminatory laws against women related to sexual offences.”⁵⁵³ This created the much-needed momentum for CSO's advocacy for gender justice in the country, pressuring the NASS for a federal law. A coalition of NGOs under the umbrella of LACVAW launched the process of advocacy to promote a bill that would address instances of overarching violence against women in Nigeria. The 2013 NAP, included as one of its activities, support for LACVAW's advocacy efforts regarding the passage of the Bill.⁵⁵⁴

⁵⁵⁰ Akindare Lewis, “Everything You Need to Know About the Law that Could Reduce Gender-Based Violence in Nigeria” Global Citizen (August 27, 2021). Online: < <https://www.globalcitizen.org/en/content/everything-you-need-to-know-vapp-nigeria/> >

⁵⁵¹ Cheluche Onyemelukwe, “Legislating on Violence Against Women: A Critical Analysis of Nigeria’s Recent Violence Against Persons (Prohibition) Act, 2015” (2016) 5:2 DePaul Journal of Women, Gender and the Law, 3.

⁵⁵² “Everything You Need to Know About the VAPP Act”, Global Citizen. Online: <<https://www.globalcitizen.org/en/content/everything-you-need-to-know-vapp-nigeria/>>

⁵⁵³ National Action Plan 2013, 19.

⁵⁵⁴ *Ibid.*

The coalition engaged in outreaches to create awareness among the public; they held talk shows on radio stations and massively mobilised on social media platforms. The coalition also engaged in high-level advocacy campaigns for significant stakeholders, including members of the national assembly, executive ministers, and heads of parastatals.⁵⁵⁵ For instance, part of LACVAW's outreach engagements involved going to secondary schools (High Schools) where they dramatised child sexual abuse to educate students on what constitutes these crimes and how to seek help if violated.⁵⁵⁶ The process also involved lobbying state agencies, national legislators, and key stakeholders to ensure that the ideas for providing more robust and grounded protection for women were generally received and championed.⁵⁵⁷ State-based and national rallies and seminars were organised with the support of key international stakeholders like the EU and UN Women to ensure that the ideas about addressing SGBV resulting from violent conflict were widely circulated and accepted within the Nigerian polity.⁵⁵⁸

Before the enactment of the VAPP Act 2015, Nigeria had a very sketchy legal structure regarding SGBV. Meanwhile, SGBV, both in the form of domestic violence, workplace harassment, and CRSV in Nigeria before the VAPP Act, was prevalent in society, and the laws on the ground were not robust enough to address the challenge.⁵⁵⁹ As illustrated in chapter one, SGBV has been a hallmark of violent conflict in Nigeria. Still, the situation worsened significantly in the early 2000s due to the worsening economic crisis and the prevalence of violent conflicts

⁵⁵⁵ FIDA Nigeria, "Sensitisation Outreach on VAPP Act 2015" Online: <https://fida.org.ng/2019/03/sensitization-outreach-on-vapp-act-2015/>

⁵⁵⁶ *Ibid.*

⁵⁵⁷ *Ibid.*

⁵⁵⁸ *Ibid.*

⁵⁵⁹ Ifemeje Sylvia Chika, "Gender-Based Domestic Violence in Nigeria" (2012) 19 Journal of Gender Studies, 137.

nationwide.⁵⁶⁰ The pervasiveness of violent conflict in the country from the early 2000s and the adoption of the 250 Chibok girls served as important catalysts.⁵⁶¹

The enactment of the VAPP Act 2015 was a significant milestone in inscribing legal prohibitions against SGBV in the Nigerian legal system. It marked a considerable effort to fill the vacuum in the legal system regarding a law to address SGBV in Nigeria. However, this law focuses on SGBV generally and not specifically on conflict-related SGBV. While SGBV is a widespread issue in society, it takes on distinct characteristics during violent conflicts. As I previously explained in Chapter One, armed groups often use various forms of SGBV to advance their terror agendas, whereas state security officials also resort to similar tactics during counter-terrorism operations.

For instance, Boko haram abducts hundreds of women and girls to use as wives, slaves, etc. Ironically, the military does the same but under different conditions while fulfilling their roles as protectors of victims in IDP Camps or host communities.⁵⁶² Many times, the relief materials meant to service the displaced communities become the bait for these exploitative practices. One Halima who spoke to Aljazeera about how she was forced to trade sex for food by a military officer at an IDP camp in Bama, Maiduguri state in northeast Nigeria, said: “The soldiers are kings. When you see them, everybody is afraid.... they decide, they say nobody should complain. So, I did what he wanted”.⁵⁶³ Such outrageously exploitative practices are possible in the peculiarity of violent conflicts. Therefore, a key question to consider is the role domestic law can play in addressing the unique aspects of SGBV arising from violent conflict. Before delving into this, I will first discuss

⁵⁶⁰ Centre for Information Technology and Development (CITAD), Report on the Rise of Domestic Violence and Other Related Violence against Women in the Context of the Lockdown Occasioned by the Covid-19 Pandemic in Nigeria

⁵⁶¹ Onyemelukwe, Legislating on Violence Against Women, *supra* note 550 at 7-9.

⁵⁶² “Court-Martial Dismisses, Jails Soldier for Raping Minor”, Punch News Paper (October 1, 2020).

⁵⁶³ “Boko Haram Survivors Starved and Raped by Nigeria’s Military” Aljazeera Opinion (May 24, 2018). Online: <<https://www.aljazeera.com/opinions/2018/5/24/boko-haram-survivors-starved-and-raped-by-nigerias-military>>

the rules that existed before the enactment of the Act. By and large, the analysis that follows will show that domestic law, while crucial in addressing SGBV at the local level, may not be very effective in addressing the peculiarities of SGBV that emanate from violent conflicts.

4.6.1 Nigeria's Statutory Provisions on SGBV before the VAPP Act of 2015

Before the VAPP Act was enacted in Nigeria, Nigeria's legal framework for combating SGBV consisted of some provisions in the Criminal Code (CC) and the Penal Code (PC).⁵⁶⁴ The PC applies to Northern Nigeria, while the CC applies to the southern parts. The differences in criminal laws between Northern and Southern Nigeria are primarily a result of historical, cultural, and religious influences that have shaped the legal systems in these regions over time.⁵⁶⁵ These codes criminalise SGBV, but only minimally. Only the crime of rape was explicitly prohibited in both codes. Nigeria's CC criminalises rape by stipulating that:

Rape is the act of having unlawful sexual intercourse with a woman or girl, without her consent or with her consent if the consent is obtained by force or by means of threat or intimidation of any kind, by fear of harm, or by means of false acts, or, in the case of a married woman, by personating her husband.⁵⁶⁶

The punishment for rape is stipulated in section 358 CC and includes imprisonment for life with or without caning. The PC contains a similar provision in section 282. The section specifies that:

A man commits the offence of rape when he has sexual intercourse with a woman in any of the following circumstances: 1. Against her will. 2. Without her consent. 3. With her consent, when the consent has been obtained by putting her in fear of death or hurt. 4. With her consent, when the man knows that he is not married to her and that her consent is given because she believes that the man is another person she is or believes herself to be married.⁵⁶⁷

⁵⁶⁴ *Criminal Code Act, CAP 77, Laws of the Federation of Nigeria, 1990* [Criminal Code]; *The Penal Code Act, Federal Republic of Nigeria, CAP 53 LFN*. [Hereafter Penal Code]

⁵⁶⁵ See "History and Sources of Nigerian Criminal Law". Learning Nigerian Law. Online: <<https://www.learnnigerianlaw.com/learn/criminal-law/history>>; "AN Access to Criminal Laws in Nigeria" (December 4, 2020). Online: <<https://sabilaw.org/an-access-to-criminal-laws-in-nigeria/>>

⁵⁶⁶ s357 Criminal Code.

⁵⁶⁷ s282, Penal Code

A close reading of the provision above highlights, among other things, the gender-specific language of the legal definitions of rape, which traditionally defines rape as a crime that only men can commit and for which only women can be victims. This excludes male victims and does not account for other forms of non-consensual sexual acts, including marital rape, thereby excluding a very prevalent form of rape in Nigeria. Besides, marriage should not be a license for coerced sex, and the law should recognise the autonomy and consent of married women to have sexual intercourse.

Even though both the CC and PC address other gender-based crimes, the degree to which gender-based issues feature in either the CC or PC reflects Nigeria's pluralist legal system and highlights the influence of culture and religion on gender justice. For example, the CC proscribes assault and battery (which could apply to domestic violence cases).⁵⁶⁸ It also proscribes "indecent assault", which is described as an assault accompanied by circumstances of indecency,⁵⁶⁹ making it an offence for any person to assault a woman or girl indecently.⁵⁷⁰ What constitutes indecent assault, however, depends mainly on the court's interpretation and is usually influenced by the judge's social-cultural underpinnings. For example, cases of indecent assault often involve culturally sensitive considerations, such as touching intimate parts or making sexually suggestive comments within a traditional gendered framework. A court in a conservative Nigerian state might rule that grabbing an arm in public with sexual intent constitutes indecent assault, while the same act in a different cultural setting might not be prosecuted.

⁵⁶⁸ s351 Criminal Code.

⁵⁶⁹ Action for Justice Nigeria, "What does the Law say about Sexual Harassment?" Action for Justice Nigeria. Online: <https://nigeria.action4justice.org/legal_areas/sexual-harassment-in-the-workplace/what-does-the-law-say-aboutsexualharassment/#:~:text=The%20Criminal%20Code&text=Section%20360%3A%20Any%20person%20who,the%20offence%20of%20sexual%20harassment.>

⁵⁷⁰ s357 Criminal Code.

The CC also proscribes the “offence of procurement”, which means it prohibits paying money to someone else to have sexual intercourse with a girl or woman.⁵⁷¹ Other aspects like divorce, widowhood, and inheritance rights were regulated under the Matrimonial Causes Act,⁵⁷² which each state reproduced and refined to suit their specific contexts. These provisions summed up the legal framework for gender-based crimes in the southern parts of the country where the CC applies. The court’s interpretation filled any gaps in the system or the customary laws applicable to the person seeking a remedy.

The PC also has a few other provisions on women’s rights worth mentioning. The PC prohibits “outraging a woman’s modesty”.⁵⁷³ However, the PC allows for correctional punishment of a wife by her husband within permissible limits, emphasising the gendered aspect of permissible violence within marriage.⁵⁷⁴ The bottom line here is that a man is permitted to hit a woman as a form of enforcing physical control. Apart from the fact that this inhibits women’s autonomy and violates their rights to live free of violence and attack entrenched in the Nigerian constitution,⁵⁷⁵ it creates an undue hierarchy in human security within the society that, coupled with violent conflict, constitutes severe threats to women’s human security.⁵⁷⁶

Ultimately, the above provisions lacked the scope and depth to address the complex manifestations of SGBV. Scholars and activists believed that the VAPP Act 2015 would bring about much-needed improvements to ensure redress for SGBV in the country.⁵⁷⁷ Despite the NAPs

⁵⁷¹ ss223-224 Criminal Code.

⁵⁷² ss16, 17, 18, 19, 21 and 22 Matrimonial Causes Act, Cap M7, Laws of the Federation of Nigeria, 2010.

⁵⁷³ s398 Penal Code.

⁵⁷⁴ s55(1) (b) Penal Code.

⁵⁷⁵ s1, constitution of the Federal Republic of Nigeria, 1999.

⁵⁷⁶ Human Rights Watch, “Political Sharia. Human Rights and Islamic Law in Northern Nigeria” (September 21, 2004). Online: <<https://www.hrw.org/report/2004/09/21/political-sharia/human-rights-and-islamic-law-northern-nigeria>>; United States Commission on International Religious Freedom, “Sharia Criminal Law in Northern Nigeria. Online: <<https://www.uscifr.gov/publications/shariah-criminal-law-northern-nigeria>>

⁵⁷⁷ Anarado, Chinedu. “Why Nigeria’s New Violence Against Persons (Prohibition) Act is Only the Beginning” Ventures Africa. (June 15, 2015). Online: <<https://venturesafrica.com/why-nigerias-new-violence-against-persons-prohibition-act-is-only-the-beginning/>>

recognising the VAPP Act as a significant advancement for the WPS Agenda in Nigeria, its relevance to the occurrences of SGBV in conflict remains ambiguous. Domestic laws are meant to operate in relatively peaceful climates, and violent conflict settings are usually anything but peaceful.

In conflict contexts with the breakdown of law and order, it becomes challenging to gather evidence and establish culpability, especially for sexual crimes like rape. The chaos and instability often lead to the destruction of evidence, intimidation of witnesses, and lack of proper documentation. Moreover, survivors may be reluctant to come forward due to stigma, fear of retribution, or mistrust in the justice system. Indeed, the difficulties of proving sexual violence in war remain one of the significant setbacks for achieving justice and ensuring legal redress. The absence of trained personnel to handle such sensitive cases and the lack of resources further exacerbate these challenges, making it difficult to hold perpetrators accountable and provide survivors with the justice they deserve.

The lack of trained personnel and resources in handling sensitive cases, such as rape, significantly hinders the delivery of justice for survivors and the accountability of perpetrators. Scholars such as Sara E Davies and Jacqui True emphasise that systemic barriers within legal and institutional frameworks exacerbate these challenges, particularly in resource-constrained and post-conflict settings.⁵⁷⁸ One major issue they highlight is the absence of specialised training among law enforcement, medical professionals, and judicial actors.⁵⁷⁹ Without adequate knowledge of victim-sensitive approaches or an understanding of the deep trauma experienced by survivors, these authorities often mishandle cases. This can lead to survivors being re-traumatised

⁵⁷⁸ True & Davies, “Reframing...” *supra* note 412 at 495

⁵⁷⁹ *Ibid.*

during interrogations, discouraged from reporting incidents, or hampered by incomplete evidence that cannot stand up in court. Such a structural gap obstructs efforts to secure justice.⁵⁸⁰

Additionally, limited resources compound the problem even further. Davies and True point out that forensic facilities, legal aid services, and survivor support networks, such as shelters and counselling centres, are frequently inadequate or inaccessible. Survivors may be left without the tools they need to pursue legal action, while investigators may lack access to critical evidence such as DNA testing, weakening the case against perpetrators. In regions like Nigeria, for instance, DNA facilities are sparse, leaving legal systems to rely heavily on testimonial evidence, which is easier for defence lawyers to discredit.⁵⁸¹

Institutional gaps also play a key role in these failures. As Davies and True argue, justice systems plagued by inefficiencies, corruption, and protracted delays discourage survivors from seeking justice. In under-resourced areas, this is further aggravated by stigma and systemic neglect, making survivors reluctant or unable to report such crimes. Survivors in rural or resource-constrained regions may lack basic access to police stations, face underpaid and overwhelmed law enforcement, or encounter societal backlash for pursuing justice. Perpetrators, in turn, operate with impunity, emboldened by a judicial system that lacks the capacity to prosecute them effectively.⁵⁸² Davies and True further indicate that in post-conflict and fragile societies, women face compounded vulnerabilities. They are at risk not only of SGBV but also of being failed by the porous and underdeveloped systems meant to protect them. This creates a vicious cycle where systemic failures allow perpetrators to escape accountability and perpetuate a culture of silence and injustice. To address these challenges, Davies and True advocate for reforms that involve

⁵⁸⁰ *Ibid.*

⁵⁸¹ *Ibid* at 500.

⁵⁸² *Ibid* at 512.

better training for personnel, stronger institutional frameworks, and adequate resource allocation to support survivors. Without these changes, the justice system will remain ill-equipped to deliver the justice survivors deserve. Their observations resonate strongly with the Nigerian situation under discussion.

In addition to the challenges already mentioned, the lack of standardised procedures for collecting and preserving evidence in conflict zones further complicates the pursuit of justice for conflict-related SGBV. Often, there is a shortage of forensic facilities and experts who can properly document and analyse evidence. Furthermore, cultural and societal norms may discourage reporting, and legal systems in such parts may be ill-equipped or unwilling to prosecute such crimes effectively. Still, the VAPP Act plays a crucial role in Nigeria's WPS Agenda, particularly in ensuring accountability for SGBV, inviting a thoughtful and engaging critique to understand its impact fully. In Chapter Five, I examine the VAPP Act's provisions and evaluate how it contributes to enhancing women's security against conflict-related SGBV by guaranteeing their protection and promoting accountability for such violence.

4.7 WPS Agenda and SGBV in Nigeria's Legal System

As I mentioned earlier, the creators of the 2013 NAP advocated for legislation specifically addressing gender-based violence in Nigeria and urged stakeholders to advocate for the passage of the VAPP Bill by the Nigerian National Assembly. Ultimately, the VAPP Act was enacted in 2015, driven by the activism of civil society organisations, as recommended by the 2013 NAP.⁵⁸³

While NAP-Nigeria 2017 came a few years after the law was passed, it called for the “implementation of existing and new laws and policies that enhance conflict prevention systems for women.”⁵⁸⁴ NAP-Nigeria 2017 also called for “the establishment of new laws to protect women

⁵⁸³ National Action Plan 2013 at 19.

⁵⁸⁴ See Priority Activity 2 of NAP Nigeria 2017 at 16.

and girls' vulnerability to conflict and disaster".⁵⁸⁵ The formulators included the target that between 2017 and 2020, there should be a fifty per cent increase in the number of such laws.⁵⁸⁶ NAP-Nigeria 2017 also established that the VAPP Act is the baseline against which to "deter and prevent violence against women and girls."⁵⁸⁷

However, it is uncertain whether the targets and priorities of increasing the number of laws have been achieved. There is presently no specific law in Nigeria that addresses conflict-related SGBV. The VAPP Act (2015) remains the only law which provides a framework for addressing SGBV, albeit in a domestic context. Still, given that both NAPs suggest that this Act is relevant in addressing SGBV that results from violent conflict, I will analyse its content to decipher its relevance in this regard. On this basis, the following section considers the VAPP Act's relevance, or lack of it as the case may be, to the WPS Agenda.

4.8 The VAPP Act (2015): A Major Achievement for Addressing Conflict-Related SGBV in Nigeria?

The VAPP Act (2015) proscribes "violence in private and public life, prohibits all forms of violence against persons and... provides maximum protection and effective remedies for victims and punishment of offenders; and for related matters."⁵⁸⁸ One immediate attraction of the VAPP Act (2015) based on the above is in its recognition that SGBV is not feminine-specific and can affect people regardless of their sex or gender and from which they need safeguards. Still, how relevant is this Act to victims of SGBV in violent conflicts in Nigeria? I begin by looking at the provisions on rape.

⁵⁸⁵ *Ibid.*

⁵⁸⁶ *Ibid.*

⁵⁸⁷ *Ibid.*

⁵⁸⁸ Preamble, VAPP Act 2015.

4.8.1 Rape as a Crime in the VAPP Act (2015)

The VAPP Act has introduced very significant changes in SGBV laws in Nigeria, and one such change regards what elements make up the crime of rape. The Act provides that:

A person commits the offence of rape if:

(a) he or she intentionally penetrates the vagina, anus, or mouth of another person with any other part of his or her body or anything else.

(b) the other person does not consent to the penetration or

(c) the consent is obtained by force or means of threat or intimidation of any kind or by fear of harm or by means of false and fraudulent representation as to the nature of the act or the use of any substance or additive capable of taking away the will of such person or in the case of a married person by impersonating his or her spouse.⁵⁸⁹

The above provision is a significant improvement on the elements that make for a crime of rape.

The first observable improvement is in the fact that the VAPP Act has de-gendered rape. Rape is no longer seen in the Nigerian legal system as a crime that evil men commit against women and girls. However, this broader categorisation of rape victims and perpetrators has received mixed reactions among legal scholars within the country. While some, such as Shajobi-Ibikunle and Kassim, support this broadening and argue that de-gendering the offence of rape is needed to ensure a more gender-inclusive law,⁵⁹⁰ Onyemelukwe evaluates the law in light of international best practices and claims that its effectiveness is hindered by limited geographical coverage. She proposes that this issue could be addressed through focused advocacy to promote the law's adoption across all states in Nigeria. I, for one, believe that the VAPP Act is one step in the long line of changes that need to be made for the Nigerian legal system to better safeguard its citizens from SGBV.

The provision on rape in the VAPP Act also creates a legal basis for marital rape prosecutions, which could not be found in any other law before now. Furthermore, the provision acknowledges

⁵⁸⁹ See Section 1 (1) A, VAPP Act 2015.

⁵⁹⁰ Gloria Shajobi-Ibikunle & Rahmat Muhammad Kasim, "Domestic Violence: A Critical Review of the Violence Against Persons Prohibition Act (VAPP) 2015 (2023) Encyclopedia of Domestic Violence, 1.

the victim as a unique individual with rights and personhood deserving protection. This distinction holds great importance because, in Nigeria, numerous women and girls are still constrained by cultural and religious norms that force them to derive their identity from their fathers or husbands. As a result, the definition of a violation of a woman's or girl's rights is typically shaped by her husband or father's perspective. In these cases, it is not uncommon to witness young girls being married off to the men who sexually abused them as a form of payment to the father.

Others who find fault with the definition of rape in the VAPP Act (2015) argue that the new definition may "create slippery-slope instances".⁵⁹¹ According to Bolaji Ramos, a slippery slope is "a course of action that seems to lead inevitably from one action or result to another with unintended consequences".⁵⁹² According to Ramos's assessment, this new definition of rape is too broad and could result in acts which ordinarily do not qualify as sexual falling under the said offence. Using the example of masculine heterosexual rape, Bolaji Ramos concludes that due to this new definition, the acts that may qualify as rape could include acts that ordinarily do not fall into the rape category. He clarifies that rape under the VAPP Act (2015) could mean:

- (a) Merely putting his finger(s) inside the woman's mouth.
- (b) Merely putting his hand inside the woman's mouth
- (c) Merely putting his toe(s) inside the woman's mouth
- (d) Merely dipping his tongue inside the woman's mouth (even if he did not kiss her)
- (e) Merely putting or dipping any part of his body inside the woman's mouth
- (f) Merely putting a pencil, biro, carrot, or any other object inside the woman's mouth
- (g) Merely putting a pencil, biro, carrot, or any other object inside the woman's anus
- (i) Merely putting a pencil, biro, carrot, or any other object inside the woman's vagina⁵⁹³

⁵⁹¹ Bolaji S. Ramos, "Degenderisation of the Offence of Rape Under The Violence Against Persons (Prohibitions) Act 2015: AN Assessment of the Practical Challenges and the Slippery-Slope Effects" (2020) 28 African Journal of International and Comparative Law, 488.

⁵⁹² *Ibid* at 500.

⁵⁹³ *Ibid* at 503.

Within a domestic context, these acts may seem far-fetched in outlining the offence of rape, but they take on greater significance when one considers rape in the context of violent conflict. In such terrains, this broader categorisation introduces the much-needed nuance in conceptualising and responding to sexual violence during conflicts. Specific actions like inserting foreign objects into a victim's genitalia become redressable under the VAPP Act. For instance, the insertion of foreign objects into the genitalia of victims, which Ramos sees as trivial, can take on a deeper meaning when employed as a means of torture. Besides, such acts can be very invasive when done without the consent of the victim, even in more peaceful times.

Insertion of foreign objects into genitalia or sexual persecution has been an operative tactic of violent sects within the country. For example, the Nigerian military was accused of inserting guns and other foreign objects into the genital organs of women and boys who were suspected of having affiliations with Boko Haram as torture tactics.⁵⁹⁴ These practices are not rare or trivial but are common practice both by the military and organised non-state armed groups like Boko Haram. This situation is not peculiar to Nigeria but can be found in many places where there is violent conflict on the African continent.

During South Africa's apartheid era, particularly in the context of the liberation struggle from the 1960s to the early 1990s, sexual violence, including rape, was used as a weapon of war. Both state forces and anti-apartheid groups were implicated in acts of sexual violence. The apartheid regime often employed sexual violence to intimidate and control communities, while some anti-apartheid fighters also faced allegations of sexual violence against women, foreign objects like

⁵⁹⁴ Amnesty International, "Violence, Death and Injustice: A Beginner's Guide to Human Rights in Nigeria" (February 17, 2015). Online: <<https://www.amnesty.ca/blog/blog-violence-death-and-injustice-a-beginners-guide-to-human-rights-in-nigeria/>>

broken bottles, guns, etc., were inserted into women's vaginas as part of the torture process.⁵⁹⁵ The militias that fought the wars in Liberia and Sierra Leone also employed the same tactic.⁵⁹⁶ The issue of these unconventional rape methods during this period has been a significant topic in post-apartheid discussions, highlighting the need for justice and recognition of the victims' experiences. Broadening the definition of rape as the VAPP Act has done has brought these seeming rape approaches under domestic legal redress.

In addition, this broadened definition aligns with current international law rules on rape. For instance, the Rome Statute defines rape as “the invasion of any part of the body of the victim by the perpetrator with a sexual organ, or of the anal or genital opening of the victim with any object or any other part of the body in a circumstance which is non-consensual or where such consent is obtained through coercion.”⁵⁹⁷ The definitions of rape in the VAPP Act and in the Rome Statute are significant in addressing war-time rape because, in some instances, the rape is not necessarily carried out with the male genitalia but with objects.

However, there is a drawback with the stipulations on rape in the VAPP Act in that it requires that the prosecution establishes a lack of consent on the part of the victim. The requirement to demonstrate a lack of consent in the VAPP Act (2015) may serve to vitiate its evolutionary qualities for rape victims resulting from violent conflict. The requirement to establish consent for wartime rape has generated critical scholarly debate. Some express the view that consent should not constitute a ground for wartime rape due to the general climate of the use of force.⁵⁹⁸ Others

⁵⁹⁵ Helen Moffett, “‘These Women, They Force Us to Rape Them’: Rape as Narrative of Social Control in Post-Apartheid South Africa.” (2006) 32:1 *Journal of Southern African Studies*, 129.

⁵⁹⁶ Aisling Swain, *Conflict-related Sexual Violence Against Women Transforming Transition* (Cambridge University Press, 2018), 57-88.

⁵⁹⁷ Article 7(1)(g) Rome Statute.

⁵⁹⁸ Scott A. Anderson et. al, “Conceptualising Rape as Coerced Sex” (2016) 127, SSRN, 50.

argue that a consent-based approach in defining rape in wartime is preferred, as it is believed to recognise the victim's agency and rights, as well as the rights of the defendants.⁵⁹⁹

I hold the view that it is preferable to see rape in wartime as not needing the requirement of consent since the WPS Resolutions recognise that rape can be weaponised.⁶⁰⁰ If a person was shot with a rifle, it would not be a question to establish whether they consented to being shot or not. However, it is also important to state that the VAPP Act's applicability in wartime rape is yet to be tested, so it is not yet clear how relevant it will be in such contexts. Furthermore, the requirement for establishing a lack of consent also places an undue burden on the victim to ascertain that they did not provide the perpetrator with consent to act. This shifts the burden of proof in Nigeria's adversarial judicial process which usually rests on the state in criminal matters to the victim. Indeed, the question of applying domestic law to rape is one that is riddled with a lot of uncertainties. However, in Nigeria, there is yet to be any organised prosecution for rape or other forms of SGBV resulting from violent conflict. Perhaps that was why the formulators of the NAP advocated for a local law of the sort. However, the currency of this law in addressing rape in violent conflict is highly questionable.

Still, one must see the potential in the VAPP Act (2015) in broadening the definition of rape, potential victims, and perpetrators. The expansion of the definition of rape beyond vaginal penetration with the penis to include unlawful anal or oral penetration, either with the human genitalia or any other body part or object is a plausible achievement in this context. This implies

⁵⁹⁹ Lea Schneider, "Defining Rape: Coercion or Consent-Based Approach? Towards a Definition of Rape in Wartime in International Criminal Law (ICL) (2020) 6:4 International Journal of Humanities and Social Science, 32-41.

⁶⁰⁰ Resolution 1820; see also Sara Meger et al., "Rape of Congo: Understanding Sexual Violence in the Conflict in the Democratic Republic of Congo" (2010) 28:2, Journal of Contemporary African Studies, 119.

that any non-consensual act that results in the penetration of the sexual organs, can be classified as rape, warranting domestic or international legal action.

4.8.2 The Rights of Rape Victims to Receive Financial Compensation

Another significant change introduced by the VAPP Act (2015) is the creation of the rights of rape victims to receive financial compensation.⁶⁰¹ This compensation can cover expenses related to medical treatment, therapy, and other support needed for the victim's recovery. This provision helps ensure that victims have access to the necessary resources to rebuild their lives after experiencing such traumatic events. This provision also mirrors the spirit of the 2019 UNSC Resolutions in ensuring a survivor-centred approach and attaching some form of economic value to the remedy victims can derive.

Prior to this provision, Nigerian criminal legislation did not recognise the need to compensate victims for any crime committed against them because crimes are committed against the state and not the individual. This is a fundamental principle of criminal law and is implicitly supported by the structure of the legal system and the powers granted to governmental bodies within the Nigerian constitution.⁶⁰² Since rape was seen strictly as a crime under the extant law creating no tortious liability, there was no hope whatsoever for victims to receive compensation before the VAPP Act's inception. The offence of rape was seen as a criminal offence and created no liability in tort. A rape victim may decide to seek a legal remedy in tort for assault, but the offence of rape does not create any tortious liability warranting the payment of damages to the victim. In this regard, compensation included in the VAPP Act is an important legal development on the law of rape.

⁶⁰¹ *Ibid.*

⁶⁰² Ss 6, 36, Nigerian Constitution 1999.

For victims of rape transitioning from the chaotic times of violent conflicts and seeking to reconstruct their lives, having these options open is very important. Financial compensation may also curtail societal stigma by signalling to the entire community that the perpetrator(s) are being held accountable for their actions. In 2017, after the lull of the Boko Haram attacks, the Nigerian government, in conjunction with external partners, including UN attempted a truth and reconciliation commission, which was unsuccessful; survivors of the Boko Haram attacks who were selected to participate in the process roundly rejected the suggestion of forgiving the ex-convicts, who at the time were being rehabilitated by the government to ensure their reintegration into society. They contended that their sufferings were neglected and argued for reparation and financial compensation for the attacks, including the mass rapes and abductions meted on their communities.⁶⁰³

Recent attempts at introducing a transitional justice system by the government are also unpopular with the local communities because these communities see these efforts as prioritising the wellbeing of the ex-combatants.⁶⁰⁴ A recent report by the Centre for Democracy and Development records some of the communities in northeastern Nigeria saying that “we will forgive those that truly repent and accept them back into communities. However, the government should also provide some reparations to survivors. This is important to facilitate the reconciliation process and even their reintegration back to communities.”⁶⁰⁵ The VAPP Act’s provision on financial compensation to victims could become a viable legal basis to a more victim-centred transitional justice efforts and reparations.

⁶⁰³ Idayat Hassan & Justin Tyvoll, “After Boko Haram: Prospects for Transitional Justice in Northeast Nigeria” (July 2018), Centre for Democracy and Development, 6.

⁶⁰⁴ Hassan, “Transitional Justice in Northeast Nigeria...” *supra* note 463 at 2.

⁶⁰⁵ See the statement by the Chief Imam of Damaturu Central Mosque, Adamawa State, Nigeria. Recorded in Idayat Hassan, Transitional Justice in Northeast Nigeria, *supra* note 538 at 7.

4.8.3 Sex Offender Register

The VAPP Act also establishes a sex offenders register, which requires that those convicted of rape crimes have their details entered into a database.⁶⁰⁶ This register is an instance of WPS domestication, which NAP-Nigeria 2017 advocated for.⁶⁰⁷ It serves as a tool for law enforcement agencies to keep track of convicted sex offenders and monitor their activities, even after they have completed their criminal sentences. This measure helps to protect society and prevent repeat offences.

Again, the relevance of the sex offender register in a violent conflict context could be challenged due to the general climate of chaos and the breakdown of law and order that characterises conflict zones. While the relevance of the sex offender register in a conflict context may be challenged by the chaotic breakdown of state law and order, it is important to note that research highlights that militias or non-state actors could establish their own systems of legal regimes, which may also account for record keeping.⁶⁰⁸ These regimes reflect a form of law and order distinct from that of the state. Boko Haram has established such a parallel government in the areas it controlled, especially during its peak territorial expansion between 2014 and 2015.⁶⁰⁹ Elizabeth Zenn and Jacob Pearson's research explores Boko Haram's strategies, including their establishment of control through parallel governance. They highlight how the group uses sharia laws, taxation, and local administration to undermine state authority in the areas they control.⁶¹⁰ Whether such a parallel government could respond to state law is not certain, especially in the case of Boko Haram, which clearly undermines state law. Additionally, actions such as police or

⁶⁰⁶ s41 VAPP Act 2015.

⁶⁰⁷ National Action Plan, 2017 at 18.

⁶⁰⁸ See generally Geoffrey Swenson, "Legal Pluralism in Theory and Practice" (2018) 20:3 International Studies Review, 438–462. DOI: < <https://doi.org/10.1093/isr/vix060>>

⁶⁰⁹ See Elizabeth Pearson and Jacob Zenn, "Boko Haram, the Islamic State, and the Surge in Female Abductions in Southeastern Niger" (February 2021) International Centre for Counter-Terrorism Research paper, 2-39. Online (pdf): < <https://www.jstor.org/stable/pdf/resrep29499.1.pdf>>

⁶¹⁰ *Ibid.*

counterinsurgency violence by state authorities are often conducted within, rather than outside, frameworks of law and order, albeit shaped by the interests or strategies of those in power and, in such cases, the sex offender register, if implemented may come in useful in identifying the officers who abuse their power to exploit.

Nonetheless, the launch of this register was seen as a way of keeping track of the increase in sexual violence in the country due to the “humanitarian and security crisis in Nigeria caused by a decade-long armed conflict campaign that had seen a rise in cases of sexual abuse which needed to be addressed”.⁶¹¹ However, the success of this register is hindered by a lack of frequent updating, even in domestic non-violent contexts.⁶¹² Also, a majority of these cases go unreported due to social stigma and the culture of victim blaming that continues to pervade society.⁶¹³

However, it is important to state that this register aligns with the requirement for data aggregation in the WPS Agenda⁶¹⁴ and the stipulation on monitoring and reporting of sex offenders in NAP-Nigeria 2017.⁶¹⁵ Nevertheless, even though the sex offender register is a step in the right direction, it does not fully satisfy the need for effective data collation and aggregation on sexual offences in the country due to the issues I have highlighted above.⁶¹⁶ Besides, whether this register can succeed in parts of the country experiencing violence is unlikely due to the intractability of sexual crimes in situations of mass displacement. Scholars have noted that mass displacement, coupled with the transient nature of populations in conflict zones, can complicate the registration

⁶¹¹ “Nigeria Launches First National Sex Offenders Register” Aljazeera Online:

<<https://www.aljazeera.com/news/2019/11/26/nigeria-launches-first-national-sex-offenders-register>>

⁶¹² Titilola Oludimu, “Nigeria Now Has a National Sex Offenders Database” (November 2019) TechPoint. Online: <<https://techpoint.africa/2019/11/27/nigerias-sex-offenders-database/>>

⁶¹³ *Ibid.*

⁶¹⁴ Paragraph 9, Resolution 1960 (2010).

⁶¹⁵ “78 Convicted, 320 Court Cases Pending” Sun News Online: <https://sunnewsonline.com/sgbv-78-convicted-320-court-cases-pending-173-under-investigation-says-naptip/#google_vignette>

⁶¹⁶ See “Is Sex Offenders’ Register Enough? Daily Trust. Online: <https://dailytrust.com/is-sex-offenders-register-enough/>

and monitoring of persons, including sex offenders.⁶¹⁷ The lack of coherent legal frameworks weakened or overwhelmed law enforcement agencies, and a lack of timely cooperation between agencies could pose a significant impediment.⁶¹⁸ In addition, cultural norms and stigma may prevent the reporting and documentation of sex offenders.⁶¹⁹

Based on the above, it is unclear how a sex offender register can meaningfully help to redress SGBV in war-torn parts of the country. Still, if used effectively, the register can play a crucial role in tackling this challenge. It serves as a valuable data source for developing and implementing policies. While its impact may be limited, it remains an important resource for planning purposes.

4.8.4 Other Aspects of SGBV Addressed in the VAPP Act

In addition to the crime of rape, the VAPP Act includes provisions that are important for tackling SGBV in conflict situations. Section 2 of the VAPP Act 2015 safeguards individuals from bodily injury. Deprivation of liberty is criminalised under section 10. These provisions, when read together with the provisions on rape, suggest that the legal terrain in Nigeria seems far more prepared to address SGBV and provide gender justice than the period before the year 2000 when the WPS Agenda came into effect.

The above provisions hold tremendous prospects in offering redress for SGBV in local prosecution. These provisions could serve in prosecuting the Boko Haram militia, whose modus operandi involves the abduction and forcefully subjection of women to sexual enslavement and the denial of their liberties. Sexual enslavement and deprivation of personal freedom are also criminalised under domestic and international anti-trafficking laws. Beyond the VAPP Act (2015),

⁶¹⁷ Chandra Lekha Sriram, Olga Martin-Ortega, & Johanna Herman, *War, Conflict Human Rights: Theory and Practice* (Routledge, London, 2018), 259.

⁶¹⁸ UNSG Report 2023, *supra* note 119 at para 29.

⁶¹⁹ Marian T.A Tankink, “The Silences of South-Sudanese Women: Social Risks in Talking about Experiences of Sexual Violence” (2013) 15:4/4 Culture, Health, and Sexuality, 391.

other local legislation like the Anti-trafficking Law⁶²⁰ and the Child's Rights Act⁶²¹ also prohibit abduction and enslavement of persons.

The VAPP Act also criminalises ensuring forced financial dependence or “economic abuse”.⁶²² This could result from a situation where women and girls, for instance, are denied the right to education, to work after education or to own businesses outside their homes due to religious or traditional reasons. The recognition of economic manipulations as a form of gender-based violence is very significant in this context as women, due to unequal economic and social conditions which give men control over most of the economic resources both in the home and society, are routinely forced to remain in abusive relationships due to their inability to provide for themselves economically. In the context of violent conflict, women and girls in IDP camps experience economic abuse frequently.⁶²³ Reports show that food supplies and other items donated or supplied for their sustenance are held by the officers in charge of the camps and offered to them in exchange for sexual favours or other services.⁶²⁴ Economic manipulations coupled with sexual abuses in these IDP camps create a buffet of oppression for victims in the war-torn regions.⁶²⁵ The military and camp officials are usually complicit in these crimes.

⁶²⁰ See ss 16(1), 21 and 23, Trafficking in Persons (Prohibition) Law Enforcement and Administrative Act 2003, LFN CAP 24.

⁶²¹ s28, Child Rights Act, 2003.

⁶²² s12 (1) (2) VAPP Act, 2015.

⁶²³ “Starving Women Raped by Soldiers and Militia who Claim to be Rescuing Them” Amnesty International (May 24, 2018), Online: <<https://www.amnesty.ca/search/Starving%20women%20raped/>>; Amnesty International, “Nigeria: Threats from the Military won’t Deter us from Defending Human Rights” Amnesty International (June 7, 2018). Online: <<https://www.amnesty.ca/human-rights-news/nigeria-threats-from-the-military-wont-deter-us-from-defending-human-rights/>>

⁶²⁴ UN News, “Women in Displacement Camps in Nigeria Resort to Transactional Sex for Survival” Africa Renewal. Online: <<https://www.un.org/africarenewal/news/women-displacement-camps-nigeria-resort-transactional-sex-survival#:~:text=In%20addition%2C%20an%20increasing%20number,order%20to%20feed%20their%20families.>>

⁶²⁵ Patsy Nwogu, “Sex Crimes and High Fertility Rates in Nigeria’s Northern IDP Camps” (April 8, 2024) twenty-ten daily. Online: <<https://twentytendaily.com/sex-crimes-and-high-fertility-rates-in-northern-idp-camps/>>

Indeed, economic deprivation is a significant factor influencing the dynamics of sexual violence, particularly in war-torn and conflict-affected areas. The intersection of poverty and sexual violence manifests in various forms, from intimate partner violence to transactional sex and exploitation by those in power. Economic deprivation at both the individual and national levels is associated with higher rates of intimate partner violence, with the ability to meet daily needs being a more significant predictor than family income.⁶²⁶ The situation significantly aggravates in war-torn regions where applying local laws becomes increasingly difficult.

Nevertheless, the VAPP Act's provisions on economic abuse, while inadequate to completely eradicate economic abuse against women in Nigeria, have significantly complemented the UN WPS Agenda and deepened the requirements for economic empowerment for women and girls. Part of the policies UN entities like UN Women initiate in post-conflict contexts as part of the WPS Agenda are geared towards building the economic autonomy of women.⁶²⁷ The connection between economic abuse and sexual violence is very significant; scholarship on SGBV in war-torn regions has established copiously that sexual oppression rarely goes alone.⁶²⁸ Economic and social deprivation usually go hand in hand, making the inclusion of economic deprivation or exploitation in SGBV crimes significant.

While the WPS Agenda recognises the need to create economic opportunities for women to enhance their economic autonomy, without a law that proscribes economic abuse and addresses its occurrence, efforts made to ensure women's economic autonomy would not achieve much. Proscribing economic deprivation in the VAPP Act is significant considering that studies show

⁶²⁶ Chiara Sabina, "Individual and National Level Associations Between Economic Deprivation and Partner Violence among College Students in 31 National Settings" (2013) 39:4 *Aggressive behaviour*, 247-56. Online: <<https://doi.org/10.1002/ab.21479>>

⁶²⁷ UN Women, The 2030 Agenda for Sustainable Development. Online: <<https://www.unwomen.org/en/what-we-do/2030-agenda-for-sustainable-development>>

⁶²⁸ Sahla Aroussi, Book Review of *Rape Loot Pillage: The Political Economy of Sexual Violence in Armed Conflict* by Sara Merger, (2018) 94:1, *International Affairs*, 200-201.

that economic abuse is usually a complement to other forms of SGBV;⁶²⁹ making it imperative to provide for its redress as a way of checking the incidences of SGBV. Still, there is the need to consider the power dynamics that are usually at play; some victims may be forced to either withdraw or abandon their cases because the offender either has an economic edge over them or controls their economic life.

4.8.5 Emotional and Psychological Abuse

The VAPP Act (2015) also recognises that gender-based abuse can take emotional and psychological turns. The Act provides that: “A person who causes emotional, verbal and psychological abuse on another commits an offence and is liable on conviction to a term of imprisonment not exceeding one year or to a fine not exceeding N200,000 or both”.⁶³⁰ However, what constitutes emotional violence is not defined by the Act. This section can be interpreted as alluding to the psychological consequences of physical or sexual abuse. If that is the case, then the provision on emotional abuse resonates with the need to address instances of post-traumatic stress disorder (PTSD) for victims of SGBV. It may also be pointed out that establishing a case of emotional abuse, especially in conflict zones, is an arduous task given the general air of physical and psychological turmoil that is characteristic of such settings.

While the UN WPS Agenda does not mention PTSD by name, the issues it covers are closely related to the psychological impact of conflict, which can include PTSD. For example, the UN WPS Agenda emphasises the necessity of protecting women and girls from all forms of violence during and after conflict. This implies that the Agenda recognises the need to support women’s psychological health to ensure their overall well-being. By identifying emotional abuse as an offence and providing remedies for victims, the VAPP Act helps to address the gendered aspects

⁶²⁹ Judy L. Postmus, et al., “Economic Abuse as an Invisible Form of Domestic Violence: A Multicounty Review” (2020) 21:2 Trauma Violence and Abuse, 261-283.

⁶³⁰ s14 (1) VAPP Act, 2015.

of women's human security, which considers their health and well-being. It is also important to note that not all parts of the VAPP Act are relevant in contexts of violent conflict. The onus remains on the state government to ensure that conflict-related SGBV are prosecuted, and this can only happen if laws are constantly reviewed to see that they are robust enough to meet the desired goal.

Furthermore, as far as the conflict context in Nigeria is concerned. Making the laws does not necessarily translate into beneficial outcomes for women or victims of SGBV, as enforcement is an important progression in the process. Research by the Orchid Project examines the prevalence of female genital mutilation practices in Nigeria after the enactment of the VAPP Act. It concludes that even though the VAPP Act potentially has changed the terrain of such a practice, the actual impact of the law in this regard is yet to be ascertained as “knowledge of the law and enforcement is generally weak across Nigeria, and it has not been possible to identify any successful prosecutions to date.”⁶³¹ This clearly shows a lack of commitment by the Nigerian government to enforce the law in ways that would transform the status quo of oppression that such practices bring to bear on women and girls.

4.8.6 Harmful Cultural Practices

The VAPP Act recognises that certain cultural practices can be harmful to women, such as “widowhood practices”⁶³² and “harmful traditional practices”.⁶³³ Again, the Act did not define widowhood practices or harmful traditional practices, so these terms' meanings and interpretations are highly subjective. I glean the meaning of this provision from interpretations offered by regional and international legal instruments that Nigeria is a signatory to draw out its relevance to conflict

⁶³¹ Orchid Project and 28 Too Many, “Nigeria: The Law and FGM” (2018) Thomson Reuters Foundation. Online (pdf): < [https://www.fgmcni.org/media/uploads/Law%20Reports/nigeria_law_report_v3_\(august_2022\).pdf](https://www.fgmcni.org/media/uploads/Law%20Reports/nigeria_law_report_v3_(august_2022).pdf)>

⁶³² s15 (1)(2) VAPP Act 2015.

⁶³³ s20 (1)(3) VAPP Act 2015.

contexts. Article 21 of the African Charter on the Rights and Welfare of the Child (ACRWC) stipulates:

1. States parties to the present Charter shall take all appropriate measures to eliminate harmful social and practices affecting the welfare, dignity, normal growth, and development of the child in particular:
 - (a) Those customs and practices prejudicial to the health or life of the child; and
 - (b) Those customs and practices discriminatory to the child on grounds of sex or other status.
2. Child marriage and the betrothal of girls and boys shall be prohibited, and effective action, including legislation, shall be taken to specify the minimum age of marriage to be 18 years and make registration of all marriages in an official registry compulsory.⁶³⁴

According to the ACRWC, all practices that prejudice the health or life of a child and all practices that allow the betrothal and marriage of a child below the age of 18 years are harmful practices.

In addition, the Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa (Maputo Protocol) stipulates in Article 1(g) that "Harmful practices mean all behaviour, attitudes and/or practices which negatively affect the fundamental rights of women and girls, such as their right to life, health, dignity, education and physical integrity." This definition lends credence to the practices proscribed as harmful under the ACRWC.

Again, while CEDAW also does not define what constitutes harmful practices, the CEDAW has proscribed these acts and suggested guidelines on state action.⁶³⁵ Additionally, the CEDAW committee, which monitors states' compliance with the treaty, has made a general recommendation on harmful practices.⁶³⁶ General Recommendation 31 includes female genital

⁶³⁴ Article 21, African Charter on the Rights and Welfare of the Child.

⁶³⁵ Articles 2, 5(a), 10(h) CEDAW.

⁶³⁶ United Nations, Convention on the Elimination of All Forms of Discrimination against Women, and the Convention on the Rights of the Child, "Joint general Recommendation No. 31 of the Committee on the Elimination of Discrimination against Women/general Comment No.18 of the Committee on the Rights of the Child (2019) on Harmful Practices" CEDAW/C/GC/31/REV.1-CRC/C/GC/18/REV.1. Available at: <https://documents.un.org/doc/undoc/gen/g19/134/42/pdf/g1913442.pdf?token=RhIOu49NLyaaWIHqPR&fe=true> [CEDAW GR 31]>.

mutilation, child or forced marriage, polygamy, and honour crimes among its list of harmful practices.⁶³⁷ The committee observed that:

Harmful practices are persistent practices and forms of behaviour that are grounded in discrimination on the basis of, among other things, sex, gender, and age, in addition to multiple and/or intersecting forms of discrimination that often involve violence and cause physical and/or psychological harm or suffering. The harm that such practices cause to the victims surpasses the immediate physical and mental consequences and often has the purpose or effect of impairing the recognition, enjoyment and exercise of the human rights and fundamental freedoms of women and children. There is also a negative impact on their dignity, physical, psychosocial, and moral integrity and development, participation, health, education, and economic and social status. The practices are therefore reflected in the work of both Committees.⁶³⁸

Furthermore, the CEDAW committee, in its general recommendation 30, focuses on women in conflict prevention, conflict and post-conflict situations but does not directly address harmful practices. It recognises that the deliberate targeting of women and girls in situations of violent conflict and their being “subjected to various forms of violence and abuse, ranging from arbitrary killings, torture and mutilation, sexual violence, forced marriage, forced prostitution and forced impregnation to forced termination of pregnancy and sterilisation” prejudices their rights and security⁶³⁹.

UNICEF defines harmful practices as “actions or behaviours that cause physical, psychological, or emotional harm to individuals. These practices can include child marriage, female genital mutilation, honour killings, human trafficking, and domestic violence, among others. The report provides that such practices are often grounded in discriminatory social norms and are particularly detrimental to women and girls.”⁶⁴⁰

⁶³⁷ *Ibid* at 6-9.

⁶³⁸ Paragraph 15, CEDAW GR 31.

⁶³⁹ Paragraph 34, CEDAW GR 31.

⁶⁴⁰ UNICEF, harmful Practices: Child Marriage and Female Genital Mutilation are Internationally Recognised Human Rights Violations. Online: <<https://www.unicef.org/protection/harmful-practices>>

Notably, the proscription against harmful practices in the VAPP Act complements the WPS Agenda's call for states to ensure that harmful practices are eradicated as a way of addressing sexual violence.⁶⁴¹ However, this provision's potential in a pluralist state such as Nigeria, where cultural and Sharia laws co-exist with statutory law, is hard to speculate. Some of these cultural practices allow the marriage of girls who are underage under the law, some customs also allow the guardians or parents of a woman or girl to marry them off without their consent.⁶⁴² Based on the international and regional legal instruments cited above, such practices fall under harmful practices, yet they are allowed in Nigeria under customary and sometimes religious laws. Because these customs possess a status similar to that of secular laws, they complicate the definition and understanding of which practices are classified as harmful and in what context. Thus, the utility of the VAPP Act's provision on harmful practices only holds speculative value.

4.8.7 Spousal Abandonment

The VAPP Act criminalises spousal abandonment, which it defines as the “abandonment of one’s spouse, children and other dependants without sustenance.”⁶⁴³ The provision on spousal abandonment shows that the VAPP Act has been enacted with some level of consideration of local manifestations of SGBV, serving to complement the WPS Resolutions. Spousal abandonment is not a part of what the WPS Agenda considers, but it is a phenomenon that is common within violent conflict contexts. Scholarly research by scholars like Jocelyn Kelly et.al has shown that female sexual victims of rape are more likely to be rejected by their spouses and sometimes stigmatised by entire communities.⁶⁴⁴ Aisling Swaine's analysis of the various manifestations of

⁶⁴¹ Paragraph 8, Resolutions 1820 (2008). See also Resolutions 1888 (2009); 2106 (2013), 2467 (2019), and 2493 (2019).

⁶⁴² Simi Jolaoso, “Orphans Married Off in Nigeria after Mass Wedding Outcry” May 24, 2024, BBC News Lagos. Online: <<https://www.bbc.com/news/articles/cyjj7wr7e9no>>

⁶⁴³ Section 16 (1) (2) VAPP Act 2015.

⁶⁴⁴ Jocelyn Kelly et.al, “Rejection, Acceptance and the Spectrum Between: Understanding Male Attitudes and Experiences Towards Conflict-Related Sexual Violence in Eastern Democratic Republic of Congo” (2017) 17:1, BMC Women’s Health, 127

conflict-related violence against women sheds light on the spousal abandonment of rape victims in conflict-affected environments.⁶⁴⁵ Swaine comments on the limitations of international labelling of SGBV in capturing local manifestations of SGBV:

while the term gender-based violence encapsulates a wide range of named harms, it may not yet include violences that women may want to define for themselves. In both Liberia and Timor-Leste, interview respondents frequently mentioned a form of abuse they called “abandonment”. As one respondent put it, in Timor-Leste, ‘we have cases of abandonment...it is a form of domestic violence where the husband abandons the wife and children and goes and lives with another woman and has [sic] children with her’.... The situation is similar in Liberia, where a man may ‘deny his wife support’ when he leaves to establish a new relationship. These kinds of experiences occur frequently in both contexts where the social flux during and following conflict has an impact on the social norms regulating interactions between men and women.⁶⁴⁶

Swaine, in effect, opines that international labelling of SGBV and responses have ignored this phenomenon that bedevils women, further compounding their victimisation.⁶⁴⁷ This reality underscores the need for a more grounded and context-specific approach to addressing the specificities of conflict-related SGBV.

Therefore, the provision on spousal abandonment in the VAPP Act holds the potential to address the stigma that comes with experiencing sexual violence such as rape or sexual enslavement, as is common in Nigeria’s terrain of violent conflict.⁶⁴⁸ It also serves as a way that local laws and policies could help to make up for the shortfalls of international norms. With regard to the central thesis of this research, the provision on spousal abandonment is an important instance of local legislation aimed at making WPS provisions respond to context-specific needs that are not catered for in the original documents. The stipulation on spousal abandonment is also crucial in

⁶⁴⁵ Swaine, *Conflict-Related...* *supra* note 595 at 221.

⁶⁴⁶ *Ibid.*

⁶⁴⁷ *Ibid* at 222.

⁶⁴⁸ “‘ They Didn’t Know if I Was Alive or Dead’ Military Detention of Children for Suspected Boko Haram Involvement in Northeast Nigeria” Human Rights Watch. Online: <<https://www.hrw.org/report/2019/09/10/they-didnt-know-if-i-was-alive-or-dead/military-detention-children-suspected-boko>>

the Nigerian context because of its potential to offer monetary compensation to women who are victims.

It is significant to note that, to date, the VAPP Act has not been applied in cases of conflict-related SGBV. This indicates that the Act's effectiveness in prosecutions concerning violent conflicts still needs to be tested. For the rest of this chapter, I present and interpret other legal instruments which serve complementary purposes to the WPS Agenda in Nigeria. These legal instruments are both domestic, regional and international, emanating from domestic legislation, the AU as a regional body under which Nigeria is situated and the UN. These developments are not directly connected to the WPS Agenda in Nigeria, but they provide important complements to the efforts in Nigeria, and they provide important apertures through which the commitment of the Nigerian government to advance women's security can be measured. In essence, if there are gaps in the domestic construction of the WPS Agenda, can we reasonably justify the existence of these gaps since Nigeria is a signatory to these regional bodies, and these bodies have developed strategies or laws that, when applied, can make up for the gaps.

4.9 The Terrorism Prevention Amendment Act 2013

The law under which prosecutions of terrorists in Nigeria are instituted is the TPA Act 2022.⁶⁴⁹ The TPA Act 2022 was an amendment to a previous Act, the Terrorism Prevention Act 2011, which laid the foundation for Nigeria's legal framework to address terrorism; it also introduced measures to prevent and prosecute acts of terrorism within the country.⁶⁵⁰ The Terrorism Prevention Act 2011 defined terrorism and laid out offences considered terrorist—including planning, financing, and carrying out terrorist acts.⁶⁵¹ Among the crimes considered under this Act, sexual violence, including rape and abduction for sexual slavery, which are the hallmark of

⁶⁴⁹ TPA Act 2022.

⁶⁵⁰ Section 1, TPA Act, 2022.

⁶⁵¹ Section 2(1) (a-c) TPA Act 2022.

Boko Haram's activities in Nigeria, are not included. The 2011 Act was considered ineffective in addressing the challenge of terrorism in Nigeria because it had a relatively narrow definition of terrorism, which focused primarily on acts that aimed to intimidate or cause harm to the government or public. This limited scope did not adequately cover various forms of terrorist activities, such as cyberterrorism or acts targeting specific groups or communities; it did not have comprehensive provisions to address the financing of terrorism effectively.⁶⁵²

The shortfalls in the 2011 Act necessitated the 2022 amendment to address these gaps and strengthen Nigeria's legal framework in preventing and responding to acts of terrorism within its borders. Even though the TPA Act 2022 introduced several changes to the existing Act of 2011, it did not recognise that SGBV can be employed as a terror act as stipulated in the WPS Resolution 2242 (2015), which recognises that acts of SGBV could be considered acts of terrorism.⁶⁵³

The resultant effect is that the primary law governing the prosecution of alleged terrorists is significantly deficient in gender-based legislation.

4.10 CEDAW General Recommendation No. 30

CEDAW General Recommendation No. 30 focuses on the rights of women in conflict prevention, conflict, and post-conflict situations. It provides comprehensive guidance to countries that have ratified the CEDAW on how to ensure women's rights are protected and promoted in these contexts. The recommendation addresses the impact of conflict on women and girls, emphasising the need for their protection and participation in peace processes.⁶⁵⁴ It aims to ensure that women's rights are upheld during all stages of conflict and in post-conflict reconstruction. It highlights the importance of women's participation in conflict prevention and resolution. States

⁶⁵² Nasiru Tijani, "The Effective Prosecution of the Crime of Terrorism and Terrorism Related Offences in Nigeria: Challenges and Prospects" (2023) 14:1 Beijing Law Review, 300.

⁶⁵³ See paragraphs 1-10, UNSC Resolution 2242 (2015).

⁶⁵⁴ CEDAW GR 30 at p.3.

are encouraged to include women in decision-making processes and peace negotiations to ensure that their perspectives and needs are considered.⁶⁵⁵

The recommendation stresses the need for measures to protect women and girls from conflict-related SGBV.⁶⁵⁶ This includes ensuring access to justice and support services for survivors of violence. It calls for the inclusion of women in post-conflict reconstruction and peacebuilding efforts. Women should have equal opportunities to participate in political and public life, and their contributions should be recognised and valued. States are urged to ensure that women have access to essential services, such as healthcare, education, and economic opportunities, during and after conflicts. This includes addressing the specific needs of women who have been displaced or affected by conflict.⁶⁵⁷

The recommendation advises states to adopt and implement legal and policy frameworks that promote gender equality and protect women's rights in conflict and post-conflict settings. This includes aligning national laws with international human rights standards. It emphasises the importance of collecting data on the impact of conflict on women and girls to inform policy and program development. States should monitor and report on progress in implementing measures to protect and promote women's rights in conflict situations. The recommendation encourages states to collaborate with international organisations, civil society, and other stakeholders to address the challenges faced by women in conflict and post-conflict settings.⁶⁵⁸

Overall, CEDAW General Recommendation No. 30 outlines a thorough framework for safeguarding and promoting women's rights during conflict and post-conflict settings. It underscores the necessity of women's involvement in peace processes and their access to critical

⁶⁵⁵ CEDAW GR 30 at 4.

⁶⁵⁶ Paragraph 15, CEDAW GR 30.

⁶⁵⁷ Paragraphs 34-38, CEDAW GR 30.

⁶⁵⁸ Paragraphs 42-47, CEDAW GR 30.

services to advance their overall security. This General Recommendation can significantly enhance the WPS Agenda Resolutions and WPS efforts in any context, including Nigeria. Although Nigeria's NAPs do not reference this General Recommendation, the country is a CEDAW signatory and is obligated to apply its rules.⁶⁵⁹ Thus, this recommendation can be pivotal in bridging the gaps present in the WPS Agenda.

4.11 Maputo Protocol

The Maputo Protocol, formally known as the Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa, is a significant legal instrument aimed at promoting and protecting the rights of women across the African continent. Adopted by the African Union in Maputo, Mozambique, in 2003, the protocol came into force in 2005. The Maputo Protocol addresses a wide range of issues affecting women, including discrimination, violence, reproductive rights, and economic empowerment.

The protocol obligates state parties to eliminate discrimination against women in all forms and to ensure the protection of women's rights as stipulated in international declarations and conventions.⁶⁶⁰ It emphasises the right of women to dignity and the protection of women from all forms of exploitation and degradation, including trafficking and sexual exploitation.⁶⁶¹ The protocol guarantees women's rights to life, integrity, and security of the person. It calls for the prohibition of all forms of violence against women, including domestic violence, sexual harassment, and harmful practices such as female genital mutilation (FGM).⁶⁶²

⁶⁵⁹ Nigeria signed the convention on 23 April 1984 and ratified it without any reservations on 13 June 1985, and it ratified the optional protocol to CEDAW on 8 September 2001. Find details at:

<https://tbinternet.ohchr.org/_layouts/15/TreatyBodyExternal/Treaty.aspx?CountryID=127&Lang=en>

⁶⁶⁰ Article 2, Maputo Protocol.

⁶⁶¹ Article 3, Maputo Protocol.

⁶⁶² Articles 3, 4 and 5 Maputo protocol.

It sets the minimum age of marriage at 18 and ensures that women have equal rights in marriage and family life, including the right to choose a spouse and to enter into marriage only with free and full consent.⁶⁶³ The protocol also provides for the reproductive health rights of women, including the right to medical abortion in cases of sexual assault, rape, incest, and where the continuation of pregnancy endangers the health of the mother.⁶⁶⁴ It advocates for women's economic empowerment and access to resources, including the right to equal pay for equal work, access to land and property, and the right to sustainable development.⁶⁶⁵

The Maputo Protocol addresses sexual violence in conflict primarily through Article 11, which is dedicated to the protection of women in armed conflicts. This article mandates that states take all necessary measures to ensure the protection of women during such conflicts, explicitly prohibiting all forms of sexual violence, including rape and other forms of sexual abuse. It emphasises the importance of bringing perpetrators of these acts to justice.⁶⁶⁶ By addressing sexual violence in conflict, the Maputo Protocol aims to ensure that women are protected from the severe impacts of armed conflicts and that their rights are upheld even in the most challenging circumstances. It underscores the need for accountability and justice for victims of sexual violence and underscores the importance of women's participation in peacebuilding efforts.

The Maputo Protocol establishes mechanisms for monitoring and reporting on its implementation. State parties are required to submit periodic reports on the measures they have taken to implement the protocol.⁶⁶⁷ The Maputo Protocol is a landmark document that seeks to transform the lives of African women by addressing the legal, social, and economic barriers that

⁶⁶³ Article 6, Maputo Protocol.

⁶⁶⁴ Article 14(2)(c) Maputo Protocol.

⁶⁶⁵ Article 13, Maputo Protocol.

⁶⁶⁶ Article 11(1)(2) Maputo Protocol.

⁶⁶⁷ Article 26 Maputo Protocol.

hinder their full participation in society. It provides valuable complements to the WPS Agenda, and this study will consider how some of its provisions could further enhance and improve women's security if applied in Nigeria.

4.12 AU Plan on the Prevention and Combatting of Terrorism

The AU Plan of Action on the Prevention and Combating of Terrorism is a strategic framework designed to address the threat of terrorism across Africa. This plan provides a comprehensive approach to counter-terrorism efforts, focusing on several key areas. Firstly, it emphasises the importance of establishing robust legal and institutional frameworks to effectively combat terrorism, which includes adopting and implementing relevant international and regional legal instruments.⁶⁶⁸

Secondly, the plan highlights the need to enhance the capacity of member states to prevent and combat terrorism. This involves training and equipping law enforcement agencies, improving intelligence sharing, and strengthening border controls.⁶⁶⁹ It encourages member states to consider the interconnections between terrorism and other practices such as drug trafficking and illicit proliferation of small arms and light weapons, corruption and money laundering as they all form part of transnational organised crimes.⁶⁷⁰ Additionally, the plan calls for increased cooperation and coordination among African Union member states and international partners, which includes sharing information, best practices, and resources to effectively tackle terrorism.⁶⁷¹

Recognising that terrorism is often fueled by underlying socio-economic and political issues, the plan advocates for addressing the root causes of terrorism. This involves promoting good

⁶⁶⁸ Preamble, Plan of Action of the African Union for the Prevention and Combating Terrorism. Mtg/HLIG/Conv.Terror/Plan (I). Online (pdf): <<https://www.peaceau.org/uploads/au-anti-terrorism-plan-of-action.pdf>>

⁶⁶⁹ Paragraph 10 (c), AU Plan of Action on Combating Terrorism.

⁶⁷⁰ Paragraph 10 (d), AU Plan of Action on Combating Terrorism.

⁶⁷¹ Paragraph 11, AU Plan of Action on Combating Terrorism.

governance, economic development, and social inclusion. Furthermore, the plan underscores the importance of raising public awareness about the threat of terrorism and engaging communities in prevention efforts. This includes promoting a culture of peace and tolerance and countering extremist ideologies.⁶⁷² Nigeria, as an AU member state, ratified the AU Plan of Action on July 25, 2002. In the following chapter, using the research questions formulated in Chapter One, I will evaluate whether or not the plan has made any significant impact on the prosecutions of alleged terrorists in Nigeria and the implications on women's rights and security. Overall, these additional legal instruments showcase a need for better synergy of relevant laws. As I will demonstrate in the chapter that follows, this synergy, so far, is lacking, and the quality of the legal structure under which the WPS Agenda could be advanced in Nigeria is considerably weakened.

4.13 Chapter Summary

In this chapter, I have presented and analysed the legal and policy documents relevant to the WPS Agenda in Nigeria. Some of the legal instruments discussed did not emanate as a direct component of the WPS Agenda, either in Nigeria or internationally. Still, they provide vital complements to the WPS Agenda, and, I believe, will strengthen the potential of the WPS Agenda where efforts are made to synergise their provisions into the foundational legal instruments that stand for the WPS Agenda. In the chapter that follows, I discuss the significance of the efforts made in Nigeria to advance the WPS Agenda and consider their relevance to addressing conflict-related SGBV.

⁶⁷² Paragraph 10 (d), AU Plan of Action on Combatting Terrorism.

CHAPTER FIVE: Discussion of Findings

5.0 Introduction

In the present chapter, I will focus on whether or not the data I presented in Chapter Four has answered the research questions formulated in Chapter One, especially as regards the potential relevance of the efforts made in Nigeria in advancing the WPS Agenda and consider their significance in addressing conflict-related SGBV. Having presented, analysed and interpreted data in the previous chapter, my discussion of findings will focus on whether or not that data has answered the research questions formulated in Chapter One.

5.1 Efforts Made in Nigeria to Domesticate the WPS Agenda

Nigeria has enacted two NAPs in its efforts to advance the WPS Agenda. The NAPs have also adopted the UN WPS Resolutions as part of the WPS structure in Nigeria. Other legal and policy developments that could possibly advance accountability for conflict-related SGBV are included in the VAPP Act with its expansion on the definition of rape, provisions on spousal abandonment and the Sex Offender Register. As far as the research done for this thesis could find, prosecutions for SGBV offences committed during violent conflict have not utilised the VAPP Act. Hence, the potential of this law to address conflict-related SGBV is yet to be tested.

The NAPs themselves contain lapses that weaken their potency as policy documents capable of delivering strategic guidelines for ensuring holistic accountability for SGBV. In other words, while the NAPs offer key stipulations on paper, there is a need to ensure full and consistent implementation of their strategic goals and objectives. A summary of the notable lapses which I have discussed in the previous chapter includes lack of adequate funding, lack of full and meaningful engagement of women in decision-making processes, lack of clear accountability measures and the use of passive language, which undermines the potency of intended goals and objectives. Other fundamental lapses in the NAPs include the uncritical reproduction of the language of the UN WPS Agenda, which has no clear indication of how it is responsive to the

specificity of context. Also, a lack of attention to how intersectionality can aid in understanding how conflicts affect women and girls, as well as the challenges they face and the solutions needed, is another key issue of oversight.

5.2 Opportunities These Efforts Avail for Addressing Conflict-related SGBV

In this section, I start by exploring the potential of the documents discussed above in ensuring accountability for conflict-related SGBV. A crucial relevance of the VAPP Act for instance, is that it has expanded and contextually interpreted the stipulations in the WPS Agenda on ensuring accountability for rape as an aspect of SGBV. For instance, Resolution 1325 urges states to take measures to protect women and girls from all forms of gender-based violence, particularly rape and other forms of sexual violence, in situations of armed conflicts by criminalising it without exception, establishing procedures for protection and support for survivors, and taking a gender-sensitive approach to addressing sexual violence.⁶⁷³

However, as with the WPS Agenda, the VAPP Act is not sufficient to shift the focus on the individual perpetrator as the object of accountability, thereby underscoring the need for socio-legal approaches that could afford a broader scope for accountability. While the NAPs create the strategic foundation for such a broader approach, there is very little to suggest that work is done to actualise these objectives within the state system. As I show later in the chapter, CSOs have taken up the broadening of accountability measures beyond the strict legal boundaries favoured by the state, but these efforts are considered peripheral to, and not as part of, the main system of accountability for conflict-related SGBV within Nigeria.

The focus on the individual perpetrator as the object of accountability reflects previous laws within the country as well as the posture of international law on SGBV crimes.⁶⁷⁴ Notably, legal

⁶⁷³ Paragraph 10 Resolution 1325 (2000).

⁶⁷⁴ Paragraph 11, Resolution 1820.

accountability for SGBV in war-torn zones is highly individualised, ignoring vital connections such as the trade in arms and ammunition, the exploitation of natural mineral resources as well as vested political interests that create the enabling environment for SGBV to occur and thrive. These connections are hinged on historical, structural and systemic failures in the deployment of power that predate the conflict era within and across the conflict context.⁶⁷⁵ Carol Cohn and Claire Duncanson note that ignoring these vital connections is tantamount to allowing the undisturbed existence of the very factors that compromise women's human security, thereby undermining the ultimate goal of achieving gender equality by ensuring women's human security.⁶⁷⁶

Still, adopting the individual perpetrator approach towards accountability implicitly limits who can be held accountable for SGBV crimes. For instance, the two NAPs in Nigeria have both ignored state security agents like the police and the military as subjects of accountability, inadvertently excluding them from any direct responsibility for the SGBV they commit. The NAPs only recognise the need to train state security agents on how to handle cases of SGBV without calling on the need to ensure that there are systems in place to account for the SGBV perpetrated by these agents. This is a grave oversight because, as I established earlier, state security agents, including the military and the police, are known to exploit civilians sexually, and usually, in conflict contexts, women and girls bear the brunt. Not calling for clear strategies on how state security agents could be held accountable for these crimes is a grave oversight.

Incidences of military and police rape of women and girls in IDP camps are consistently reported by both local and international NGOs,⁶⁷⁷ but very little is ever done to hold those

⁶⁷⁵ Corrine Mason, *Manufacturing Urgency: The Development Industry and Violence Against Women* (University of Regina Press, 2017), 132; see also Parashar, *supra* note 208.

⁶⁷⁶ Cohn and Duncanson, "in a Changing Climate..." *supra* note 200 at 742.

⁶⁷⁷ Federal Ministry of Women and Gender Affairs Nigeria, "National Gender Policy" (2021-2026), 50. Online: <<https://womenaffairs.gov.ng/index.php/articles/ncc>>

responsible to account. As I established earlier, the Nigerian military and the Nigerian police have been singled out as perpetrators of egregious and heinous acts of SGBV on populations in IDP camps and those trapped in war-torn parts whom they are supposed to be protecting.⁶⁷⁸ Consequently, there is a need to critique the utility of these local initiatives, especially on how they have provided guidelines for state-coordinated action in addressing the multi-plex vectors of SGBV, which is indispensable for ensuring effective accountability. In other words, while accountability for SGBV seems to be on the front radar in addressing the challenge, there exists sacred cows within the system that manage to escape scrutiny. So, seeking for the prosecution of offenders does not really help the situation because of the general climate of impunity since “those responsible for human rights violations, including members of the military and police, are rarely held to account, sending the message that they can get away with it.”⁶⁷⁹

International legal instruments like the WPS Agenda have recognised that sexual violence can be used as a strategy of war. This supposes that wars are generally not fought on an individualised basis but often include a conglomeration of actors serving different purposes to achieve unified objectives. While there is compelling research-based evidence that refutes the above,⁶⁸⁰ it is also equally possible that sexual violence can be weaponised in warfare.⁶⁸¹ In such instances, and at the very least, there is a network of actors who agree to and deploy sexual violence as a weapon, some who may be directly involved in combat and others who may not be. The legal approach

⁶⁷⁸ Reuters, Nightmare in Nigeria. More Women Describe Enduring Forced Abortions in Nigerian Army Programme. Available at: <https://www.reuters.com/investigates/special-report/nigeria-military-forced-abortions/>

⁶⁷⁹ Amnesty International, “Violence, Death and Injustice: A Beginner’s Guide to Human Rights in Nigeria” (February 17, 2015). Available at: <https://www.amnesty.ca/blog/blog-violence-death-and-injustice-a-beginners-guide-to-human-rights-in-nigeria/>

⁶⁸⁰ Baaz and Stern, *Sexual Violence as a Weapon of War...* *supra* note 329 at 42-63; Swaine, *Conflict-related Violence against women...* *supra* note 595 at 91-138.

⁶⁸¹ Maleke Fourati et al., “Sexual Violence as a Weapon of War” (February 2021) NOVAFRICA Working Paper No 2103; Lindsay Stark and Mike Wessells, “Sexual Violence as a Weapon of War” (2012) 308:7 JAMA, 677. Doi: 10.1001/jama.2012.9733.

towards accountability that focuses on the role of the individual perpetrator is not enough, and there must be efforts to broaden the scope of accountability to include the network of actors that facilitate the existence of violent conflict, those directly carrying out the attacks, and those who benefit from the general climate of violence from whence these acts emanate. So far, the Nigerian government has focused more on the individual in its legal response, and while this is a step in the right direction, there is a need to diversify accountability measures owing to the interconnections of human activities in war-torn areas that engender and sustain SGBV. Failing to do so will enhance the climate of impunity that underscores most conflict-related SGBV crimes.

Corrine Mason highlights the links between human activities, both economic and political, in establishing systems that foster conditions for SGBV in wars and maintain a situation of impunity. Her research investigates how the pursuit of natural mineral resources in specific regions fuels ongoing conflicts there.⁶⁸² Mason's work underscores the necessity of bearing these connections in mind as yardsticks for redress measures to ensure a more holistic accountability approach. While bringing the individual perpetrator to justice is crucial, it is equally essential to ensure that all complicit in the challenge account for their role.

Furthermore, legal measures intended to address SGBV in whatever context may not yield so much in terms of positive impact if lawmakers continue to conceptualise these occurrences with two actors or two sets of actors: the violator(s) and the victim(s). At least through concerted feminist scholarly critique, it is now difficult to convincingly argue that people rape because they are fundamentally evil-minded.⁶⁸³ However, law and policy still grapple unsuccessfully with ensuring redress in ways that could resonate with and upend the root of the problem. Ann Russo's take on accounting for sexual violence in the US is that the solution does not lie only in legal

⁶⁸² Mason, *Manufacturing Urgency...* *supra* note 674 at 132-166.

⁶⁸³ Baaz & Stern, *Sexual Violence as a Weapon of War...*, *supra* note 329 at 63-87.

justice models (the courts, the prisons, etc.) but must be conceptualised to encompass a system of accountability whereby every stakeholder calls themselves to account for the wrong being perpetuated.⁶⁸⁴ This argument also resonates with the Nigerian situation.

I believe that states' efforts on accountability can do more than seek to bring the individual violator to justice. The law is a powerful tool that can be employed to set guidelines and processes for pursuing holistic accountability. However, it has its limits, which must be compensated by other social approaches. For this to be achieved, states must not be blind to the limits of prosecution when making laws and must create alternative measures to compensate for the lapses in legal measures. In addition, it is worth emphasising that the singular focus on the individual perpetrator as the subject of accountability has far-reaching implications for the promises of laws and their potential impact when applied. For example, it ignores that rape in violent conflict is not an isolated phenomenon and that victims seldom experience rape exclusively but usually in connection with other war-impacted ills. If retributive justice is the solution for rape, then how do we address poverty, malnutrition, lack of clean water, and a host of other human rights violations that occur concurrently.

Furthermore, viewing redress for SGBV as a legalistic and prosecutorial endeavour creates a third category of actor(s): the outsider-intervener who heroically comes to save. In this instance, the law becomes the hero's tool for the deliverance of the victim by punishing the perpetrator. But as Maria Eriksson Baaz and Maria Stern observed, this posture ignores the victim's "account of her own worries, which in most instances concerns her lack of means of survival, concerns over lack of land to cultivate, lack of clean water, concerns over her hungry and often malnourished, sickly children".⁶⁸⁵ Individual accountability, therefore, leaves out those who are complicit in the

⁶⁸⁴ Ann Russo, *Feminist Accountability...* *supra* note 288 at 85.

⁶⁸⁵ Baaz & Stern, *Sexual Violence as a Weapon of War?*... *Supra* note 329 at 94.

creation and sustenance of these challenges, like the failures in the state and government institutions to provide the amenities necessary to alleviate human suffering, which drives many youth to a life of crime and make extremist ideas like those propagated by the Boko Haram alluring because they offer a way of financial empowerment.

Looking at how SGBV is addressed in Nigeria shows that the primacy accorded to the individual perpetrator in legal accountability, in whatever context, is riddled with shortcomings and cannot provide a satisfactory solution to the challenge. This aligns with the observation of postcolonial scholars that law, fundamentally, is a machinery through which hegemony is inscribed in any given context.⁶⁸⁶ One may wonder how local laws such as the VAPP Act, formulated locally, can be seen as reinscribing Western hegemony. The answer is in the fact that the VAPP Act, for instance, just as any other legal initiative in this space, fails to account for the history of colonialism and the fact that the legal foundations upon which these laws stand are colonial,⁶⁸⁷ needing a major overhaul to reflect the values and challenges of contemporary Nigeria.

This is because of the primal assumption that the focus on the individual perpetrator which is the emphasis of the law is the ideal response to these problems even though SGBV has persisted despite several decades of there being some form of legal response to it. This uncritical approach suggests that international norms are incorporated locally without critically examining their applicability and relevance. As I highlighted earlier, the Nigerian government's initiatives in the WPS Agenda seek primarily to make laws and prosecute those who violate those laws to ensure accountability. Looking at NAP-Nigeria 2017 critically, I believe this was the motivation that the formulators of the NAPs in Nigeria worked with, which necessitated their call for a comprehensive

⁶⁸⁶ Fitzpatrick & Darian-Smith, "*Laws of the Postcolonial...*" *supra* note 262 at 15.

⁶⁸⁷ Boaventura de Sousa Santos, *Towards a New Common Sense: Law, Globalisation, and Emancipation* (Law in Context) (Cambridge, Cambridge University Press 2020), 44.

gender-based law. However, I express doubts as to whether this approach would yield tangible results; this perspective overlooks a crucial point: despite the absence of a comprehensive law on conflict-related SGBV in Nigeria prior to the VAPP Act, the country had access to numerous international treaties that could help tackle this problem.

Since independence in 1960, Nigeria has signed several treaties to protect the human rights and security of its citizens. For example, Nigeria signed and ratified the CEDAW between 1984 and 1985.⁶⁸⁸ By ratifying the convention, Nigeria committed itself to implementing measures that eliminate discrimination against women in all forms, ensuring women's total development and advancement in political, social, economic, and cultural fields. As detailed in Chapter Four, the CEDAW General Recommendation 30 developed essential guidelines that could boost local efforts in this regard. Yet, many of the problems that continue to compromise women's quality of life in the country, including but not limited to conflict-related SGBV, continue unabated.

Again, the focus on the individual perpetrator suggests that the ruling elites, through the instrumentality of the law, have only one responsibility and that responsibility is to punish perpetrators for their crimes. Enacting laws then becomes a way of making a show of addressing the problem without making any real commitment to do so. So, laws, whether made locally or internationally, become a tool in the hands of the ruling class to perpetuate themselves in power by pumping up their relevance. However, this fact leaves SGBV victims in a critical condition. Just as influential players in the international space can divest themselves of responsibility by calling for state action, states divest themselves of responsibility by making domestic laws with

⁶⁸⁸ Mojbol Olufunke Okome, "Domestic, Regional and International Protection of Nigerian Women Against Discrimination: Constraints and Possibilities" (2002) 6:3 *African Studies Quarterly*, 33; Ijeoma Aniekwu Nkolika, "The Convention on the Elimination of All Forms of Discrimination Against Women and the Status of Implementation on the Right to Health Care in Nigeria" (2006) 13:3/10 *Human Rights Brief*, 34.

no commitment to enforce. Therefore, the systems that support the violence upon which SGBV stands are left unchallenged.

What this connotes is that intersectionality is key in legal redress efforts. Considering laws through an intersectional prism could mean that lawmakers must be conscious of the network of political, economic, religious, and social factors that create and sustain SGBV during conflict and see how laws could respond to these interconnections. Modern societies are highly interconnected, and these connections matter. At the same time, these systems that adversely affect some create opportunities for others, and these must be fully conceptualised.

Jena McGill and Grace Ajele have succinctly presented this. Their paper on “Intersectionality in Law and Legal Context” discusses how systems of privilege for some can marginalise and adversely affect others. They highlight that privilege and oppression are interconnected and that legal systems often fail to recognise the complex realities of individuals' lives. By focusing on intersectionality, the authors argue that it is possible to understand better and address the overlapping systems of discrimination that can disadvantage certain groups while privileging others. This approach calls for a more nuanced understanding of how different aspects of identity, such as race, gender, and class, intersect to create unique experiences of privilege and oppression.⁶⁸⁹

Although their analysis is contextualised against the Canadian legal system, whose laws are not faced with the challenge of addressing violent conflict, I find that their argument is relevant to underscore the critical importance of understanding how structural dynamics—such as militarism, capitalist-imperialism, patriarchy, ethnicity, religion, culture, social groups, and class—contribute to and sustain inequalities within legal systems and Nigeria’s legal system in particular. These

⁶⁸⁹ McGill and Ajele, *supra* note 328 at 24-30.

dynamics are often exploited and amplified during periods of armed conflict. Ignoring these factors undermines the law's ability to serve the interests of victims of violent conflicts, particularly survivors of SGBV. Legal systems are generally not keen on paying attention to these dynamics, but it is necessary to address these intersecting inequalities to protect and empower these victims truly.

As far as war is concerned, I maintain that the individual fighter (violator) is not the only problem; the one who supplies the guns with which to fight as well as the one who, even amid the war, can exploit natural resources for sale, and the one who buys and benefit from the chaos at the expense of the victims are equally responsible. These networks of beneficiaries can be within and outside of the warring context. As Ratna Kapur argued regarding India, the violence evident in the Third World is influenced by the impact of colonialism and current economic policies tilted in favour of the West.⁶⁹⁰ How, then, does holding the individual perpetrator of SGBV accountable address these vital connections? There is a gross disregard in local efforts to curb these connections, and the fact that locally generated efforts fail to seek to address these vital connections speaks volumes about the will to address the challenge of conflict-related SGBV meaningfully, just as internationally generated policies have failed to identify and provide redress for these connections.

Therefore, even though ensuring that the individual perpetrators account for their crimes, the law cannot be very beneficial if the only focus remains on the violator. In other words, by ignoring these connections, the law then becomes a way of reinforcing and perpetuating gendered power imbalances, economic inequalities and cultural biases that continue to undermine women's

⁶⁹⁰ Ratna Kapur, "Gender, Sovereignty..." *supra* note 281 at 2.

security generally and support the perpetuation of SGBV. The law can then serve as an oppressive rather than a liberatory tool.⁶⁹¹

Furthermore, the provisions on SGBV highlighted in the VAPP Act may seem helpful. Still, I believe they are limited in the sense that the underlying ideology is liberalism, which places a strong emphasis on individual rights, freedoms, and responsibility.⁶⁹² This underscores the continuous influence of colonialism in the Nigerian legal system. Liberalism presumes that individuals must account for their crimes since they are presumed rational decision-makers in control of their actions.⁶⁹³ However, research has shown that this presumption of rational decision-making does not hold water with regard to SGBV crimes in violent conflict contexts, as sometimes the perpetrator is also the victim.⁶⁹⁴ Neither does the liberalist presumptions of rationality help to hold those communities accountable for crimes where the entire community is complicit, like in the case of the Rwanda genocide.

Consequently, it is doubtful how the VAPP Act can address SGBV resulting from violent conflict. This is because, even though SGBV occurring in conflict has its roots in systems and structures that existed before the conflict started and will continue after it ends, if at all, the peculiarity of violent conflict means that SGBV that manifests during the phase of active conflict and even after it ends warrants nuance due to this peculiarity. What is peculiar about violent conflict periods is usually the lack of order accompanied sometimes by the breakdown in legal authorities to maintain stability. This means that SGBV in such contexts could happen for several reasons, with or without a direct connection to the war effort.⁶⁹⁵ For example, instances of intimate

⁶⁹¹ Oloka-Onyang & Tamale, *The Personal Is Political...* *supra* note 318 at 700.

⁶⁹² Bottomley and Bronitt, *Law in Context* *supra* note 264 at 58.

⁶⁹³ *Ibid* at 18.

⁶⁹⁴ See Swaine, *Conflict-Related Violence Against Women...* *supra* note 595 at 91

⁶⁹⁵ Baaz and Stern, *Sexual Violence as a Weapon of War...* *supra* note 329 at 1-11

partner violence, or SGBV, perpetrated by civilians against civilians in IDP camps may not be directly connected to the war effort, but they bear enough nexus to warrant action. But at other times, it could be that armed groups weaponised SGBV, especially sexual violence, including rape, sexual slavery and forced sterilisation and abortions in furtherance of their war efforts. Even at that, there is a need to seek to understand and appreciate the nuances that undergird this challenge.

This is why scholars have argued that seeing SGBV, especially rape during violent conflicts, solely as a weapon, though beneficial, fails to recognise the complexities that underscore such occurrences.⁶⁹⁶ According to Doris Buss, “the overall effect of ‘rape as an instrument of the [Rwanda] genocide’ limits the types of questions that are asked about sexual violence and about the nature of the violence surrounding the genocide. ‘Rape as an instrument of the genocide leads away from questions about why rape, and (other modalities of violence) happened.’”⁶⁹⁷

It is on this premise (of the necessity to understand rape beyond the standard narrative of its use as a weapon), I believe, that Maria Eriksson Baaz and Maria Stern devote a whole chapter of their book to understanding why soldiers rape in the war in the Democratic Republic of Congo (DRC). Their conclusion that war-time rape in the DRC failed to meet the standards upon which weaponisation was arrived at vis “strategicness” informed by the rational actions of perpetrators⁶⁹⁸ further underscores the need to not only rethink popular narratives about conflict-related SGBV but also carefully consider how these narratives influence law and policy initiatives to address the challenge. In other words, to ensure that laws and policies are fashioned with the robustness to address and redress the complexities of SGBV, the idea that sexual violence, or any other aspect

⁶⁹⁶ Doris Buss, “Rethinking ‘Rape as a Weapon of War’” (2009) 17 *Feminist Legal Studies*, 145.

⁶⁹⁷ *Ibid* at 160.

⁶⁹⁸ Baaz and Stern, *Sexual Violence as a Weapon of War...* *supra* note 329 at p.52.

of SGBV, can be weaponised is not without its merit but at the same time, warrants careful consideration.

However, believing that domestic laws such as the VAPP Act could address these peculiarities is a risky assumption. So, I am conscious of the shortfalls of the VAPP Act in addressing the peculiarities of violent conflict. But at the same time, this is the only legal instrument providing a domestic framework for addressing SGBV in Nigeria. As the formulators of NAP-Nigeria 2017 foresaw, this law is relevant to the WPS Agenda in Nigeria in the sense that it has provided more comprehensive legal provisions for addressing various manifestations of SGBV domestically. Following the above, concluding that the VAPP Act can offer any valuable form of legal redress to SGBV during conflict is complicated.

Additionally, the complexities of law-making in a pluralist legal system such as Nigeria further compound its relevance. In other words, how can one interpret the relevance of provisions of the VAPP Act against ethno-religious systems whose beliefs on womanhood may contrast the egalitarian spirit of the VAPP Act, but which are allowed to function legitimately within the Nigerian state. Besides, the VAPP Act as a federal law can only influence SGBV prosecutions within states where such states domesticate it through legislation. This means apart from terrorism based offences, which the federal government enjoys jurisdiction over, the VAPP Act may not be relevant for prosecutory purposes except states domesticate it.⁶⁹⁹

So, to conclude this aspect, as a domestic law, it offers potential, but the peculiarities of violent conflict have a limiting influence on the relevance of this law in such a context. The call for a gender-responsive law relevant to conflict contexts in NAP-Nigeria 2013 and 2017, though very appropriate, has yet to be heeded. To fully understand the relevance of domestic law to victims

⁶⁹⁹ For the nature of the Nigerian legal system, refer to my explanation on the Nigerian context in Chapter 1.

experiencing SGBV resulting from violent conflicts in Nigeria warrants a critique of enforcement efforts, which is the focus of the next section.

5.2.1 What is the Status of Rape, Abductions, and Sexual Slavery in Nigeria's Notable Prosecutorial Efforts against Terror?

Although Nigeria is riddled with diverse armed groups, the war against terror in Nigeria has primarily focused on the Boko Haram sect. As I highlighted earlier, this sect is renowned for its employment of SGBV, particularly rape, abductions for marriage, and sexual slavery, in its terror campaigns. Yet, there is a lack of evidence to indicate that perpetrators of conflict-related SGBV are prosecuted.

Nigeria has prosecuted at least a hundred cases related to the Boko Haram insurgency, which has been devastating much of northeast Nigeria and, more recently, affecting the entire northern region. These local prosecution efforts are based on the TPA Act of (2022). As I noted earlier, this Act does not classify SGBV as a terrorist crime. The implications of this situation are significant. Primarily, terrorists, including Boko Haram members, are prosecuted under the TPA (2022), the very Act that does not recognise that terrorist crimes in Nigeria could be gendered. Therefore, even though the NAP-Nigeria 2017 and the VAPP Act (2015) call for the prosecution of SGBV in Nigeria, there is no evidence that this is being implemented, as far as the research conducted for this thesis could ascertain. Thus, despite the existence of these laws, a considerable gap remains between legal provisions and actual outcomes. This also calls for the need to ensure synergy between the available legal instruments. It makes no sense for a group like Boko Haram not to be prosecuted for sexual violence, at least since they are notoriously known worldwide for utilising sexual violence in their tactics. As I indicated in Chapter One, their one-time leader, Abubakar Shekau, boldly declared that women are spoils of war to be used or sold off as they desire.

Since I began this research, I have made several inquiries to the relevant authorities to acquire evidence of sexual violence charges in the trials of alleged Boko Haram members, and all my efforts have yielded abysmal results. I contacted the Abuja Federal High Court, where some of the Boko Haram cases were heard, requesting a record of proceedings. The initial records sent to me were snapshots of the court's register on the day of the trials with names and case titles without any other information. The snapshots were blurry, so I could not be sure, but it showed that the place for the trials could be the same as the cases Human Rights Watch reported were held in a city called Kainji in Niger state Nigeria.⁷⁰⁰ What was sent to me contained no facts or charges, only the register having a list of cases for hearing. On further requests, I was sent the court records of two cases tried in the Federal High Court Abuja, which I referred to below.

In one of the judgments, I received in the case of the *Federal Republic of Nigeria v. Mohammed Gado*,⁷⁰¹ the accused was arraigned on withholding information from law enforcement officers regarding a relative's membership of Boko Haram and belonging to Boko Haram. The facts of the case and the judgement were irrelevant to the subject of my research. In the second judgement, which is the case of the *Federal Republic of Nigeria v. Daniel Iorvaa Tyukwa*,⁷⁰² the accused was arraigned on a six-count charge, including aiding and financing terrorist attacks. This case also had no relevance to my research. I find this interesting as my request indicated my subject of study and that I was looking to see evidence of prosecution for SGBV-related crimes. I maintain that the difficulty in ascertaining charges of SGBV in prosecutions in Nigeria's war against insurgency

⁷⁰⁰ "Nigeria: Flawed Trials of Boko Haram Suspects Ensure Due Process, Victim Participation" Human Rights Watch (September 17, 2018). Online: <<https://www.hrw.org/news/2018/09/17/nigeria-flawed-trials-boko-haram-suspects#:~:text=In%20October%202017%2C%20authorities%20began,violent%20support%20to%20the%20group>>

⁷⁰¹ *Federal Republic of Nigeria V. Mohammed Gado* (Chest No:1539) FHC/Kainji/CR/1/2018 (Unreported) A copy of the judgment is in custody of the researcher and will be attached to the thesis.

⁷⁰² *Federal Republic of Nigeria v. Daniel Iorvaa* FHC/ABJ/CR/38/2018. (Unreported) A copy of the judgment is in the custody of the researcher and will be attached to the thesis for submission.

and terrorism is not due to a lack of prosecution but to apparent disregard for the need to hold perpetrators accountable even though domestic laws and policy, as well as regional and international legal instruments and policies to which Nigeria is privy to amply emphasise.

Additionally, the mass trial of alleged Boko Haram convicts carried out across different periods from 2015 to 2018 did not record any single charge of sexual violence. A rough estimate of about 1670 people detained in Kainji from 2015 to 2017 were awaiting the determination of their cases and were part of the mass trials.⁷⁰³ A good percentage of those prosecuted at the time were summarily tried on minor charges of withholding information from the federal government, funding, or offering some form of support to Boko Haram activities under the amended TPA Act 2013.⁷⁰⁴

The mass trials conducted in 2018 related to membership or support of the armed group, and very few touched on crimes under international law or even crimes against persons; sexual violence was again ubiquitously missing.⁷⁰⁵ This suggests that beyond churning out legal documents, there is very little evidence that the gender-based laws and policies within the country and the international norms on the WPS Agenda have yet to transform the way redress for SGBV is addressed. This begs the question of why there is such a profound disconnect between legal and policy initiatives and the willingness to employ them in addressing this menace. At the very least, the apparent sexualised attacks of Boko Haram on communities in the northeast and the trials

⁷⁰³ The Guardian, “Dozens of Boko Haram Members Convicted in Mass Trials in Nigeria”, The Guardian (October 14, 2017) Online: <<https://www.theguardian.com/world/2017/oct/14/dozens-of-boko-haram-members-convicted-in-mass-secret-trial-in-nigeria>>; “Willingly Unable: ICC Preliminary Examination and Nigeria’s Failure to Address Impunity for International Crimes” Amnesty International (2018) Index: AFR 44/9481/2018, 18. Online: <[amnesty.org](https://www.amnesty.org)>

⁷⁰⁴ “Willingly Unable: Nigeria: Flawed Trials of Boko Haram Suspects” (September 17, 2018) Human Rights Watch. Online: <<https://www.hrw.org/news/2018/09/17/nigeria-flawed-trials-boko-haram-suspects>>

⁷⁰⁵ *Ibid*, Government of Nigeria, “AGF Set to Commence Trial of Suspected Boko haram Terrorists, (September 2011) Report of the Ministry of Justice Press Statement. Online: <<http://www.justice.gov.ng/index.php/ogp-nigeria?task=document.view&id=63>>

conducted should warrant the application of these laws. The disconnect between the promises of the law and its uptake in courts mirrors the rhetoric that scholars have observed as continuing to retard the progress of the WPS Agenda.

Indeed, failing to prosecute SGBV offenders is not due to the paucity of laws. As the previous chapter has clearly illustrated, local prosecution could leverage international, regional and domestic law with its various stipulations on several aspects of SGBV prevalent in the country. Still, there is no evidence to show that Nigeria has leveraged these legal instruments in its war against terror as far as sexual violence is concerned.⁷⁰⁶ Out of the more than 1000 cases that have been tried since 2015, not one alleged insurgent has been arraigned on cases bordering on sexual violence. This amounts to “a conspiracy of silence”.⁷⁰⁷ But more significantly, it shows the lack of commitment to address the problem meaningfully. In addition, this highlights a profound disconnect between the agitations of the WPS Agenda in Nigeria and the judicial process on terrorist trials within the country.

As earlier indicated, the WPS Agenda recognises several instances where SGBV can constitute acts of terrorism, showing a clear connection between terrorist activities and SGBV. Resolution 2245 (2015) explicitly acknowledges the role of sexual violence as a tactic of terrorism and calls for a more significant response to it.⁷⁰⁸ Resolution 2245 (2015) also acknowledges the importance of addressing sexual violence and gender-based violence in counter-terror efforts.⁷⁰⁹ The UN Global Counter-Terrorism Strategy⁷¹⁰ has increasingly recognised the importance of gender

⁷⁰⁶ *Ibid*; Adam Abu-basal, “500 Boko Haram Members Jailed in Nigeria since February” World Africa (March 23, 2021) Online: <<https://www.aa.com.tr/en/africa/500-boko-haram-members-jailed-in-nigeria-since-february/2185867#>>

⁷⁰⁷ Christiana Attah, “Boko Haram and Sexual Terrorism: The Conspiracy of Silence of the Nigerian Anti-Terrorism Laws” (2016) 16:2 African Human Rights Journal, 385-406.

⁷⁰⁸ See generally Resolution 2245 (2015)

⁷⁰⁹ *Ibid*

⁷¹⁰ United Nations General Assembly, The United Nations Global Counter-Terrorism Strategy, (2006) A/RES/60/288.

perspectives in counter-terrorism measures. Similarly, the UN SG's Plan of Action to Prevent Violent Extremism calls for integrating gender perspectives in counter-terrorism efforts. It underscores the importance of empowering women in prevention efforts against violent extremism, which it recognises can include sexual violence.⁷¹¹ In addition, the UN Counter-Terrorism Implementation Task Force (CTITF) established a Working Group on Gender and Counterterrorism to integrate gender perspectives into counterterrorism and ensure that efforts to combat terrorism do not undermine women's rights.⁷¹²

At the regional level, the AU Plan of Action on Combating Terrorism accounts for SGBV, recognising it as both a component and a consequence of terrorist activities. The key components of the AU's counter-terrorism framework include the AU Convention on the Prevention and Combatting of Terrorism (1999).⁷¹³ This Convention laid the foundation for the AU's counter-terrorism efforts and has been supplemented by additional protocols to address evolving threats. The Protocol to the African Union Convention on the Prevention and Combatting of Terrorism (2004)⁷¹⁴ enhances the original convention by providing specific measures to prevent and combat terrorism, including cooperation on criminal justice matters regarding sexual violence.

Additionally, the African Union Counter Terrorism Framework⁷¹⁵ recognises that terrorism affects men and women differently and emphasises the need to consider gender-specific impacts, including gender-based violence, in counter-terrorism policies and actions. The AU Plan of Action

⁷¹¹ United Nations General Assembly, Plan of Action to Prevent Violent Extremism, Report of the Secretary-General, (2015), A/70/674, (December 24, 2015), paragraphs 16, 26, 53-54.

⁷¹² See generally UN Office of Counter-Terrorism, UN Global Counter-Terrorism Coordination Compact Entities. Online: < <https://www.un.org/counterterrorism/global-ct-compact/entities> >

⁷¹³ African Union, OAU Convention on the Prevention and Combating of Terrorism (1999). Online (pdf): < <https://www.african-court.org/wpafc/wp-content/uploads/2020/10/13-OAU-CONVENTION-ON-TERRORISM.pdf> >

⁷¹⁴ See generally African Union, Protocol to the OAU Convention on the Prevention and Combating of Terrorism (2004). Online (pdf): < https://au.int/sites/default/files/treaties/37291-treaty-0030_-_protocol_to_the_oau_convention_on_the_prevention_and_combating_of_terrorism_e.pdf >

⁷¹⁵ African Union, African Union Counterterrorism Framework. Online (pdf):

on the Prevention and Combating of Terrorism⁷¹⁶ highlights the importance of integrating gender perspectives into counter-terrorism strategies and ensuring that responses do not infringe upon women's rights. Overall, the AU's approach to counterterrorism recognises that addressing gender-based violence is crucial for effective counter-terrorism strategies. This includes understanding how terrorist groups use sexual violence as a tactic to terrorise communities, recruit members, or fund their operations. The AU framework also encourages member states to develop gender-sensitive policies that protect women and girls from such violence and ensure their participation in prevention and response strategies.⁷¹⁷

If, indeed, prosecution is the best line of action, then there is no want for applicable legal instruments upon which Nigeria could leverage since the TPA Act (2022) [being the prime law guiding prosecutions of the Boko Haram militias] calls for the application of relevant regional and international law.⁷¹⁸ The above legal instruments and policies, as well as the provisions of the 2017 NAP, as they pertain to prosecution for SGBV, should ordinarily apply, or there should be domestic efforts towards their domestication as a first step to ensure their application. The absence of evidence on prosecution for conflict-related SGBV cases means that despite the myriads of legal and policy initiatives, both locally and internationally, the human security of women continues to be relegated to the background. In other words, from a legal point of view, there is no justifiable reason why perpetrators of conflict-related SGBV should continue to evade accountability. Therefore, the situation I have demonstrated above challenges states' will to prosecute for conflict-related SGBV satisfactorily, and I elaborate more on this in the following subsection.

⁷¹⁶ African Union, AU Plan of Action on the Prevention... *supra* note 709. <<https://www.caert.org.dz/official-documents/AU-CT-Framework.pdf>>

⁷¹⁷ Protocol to the OAU Convention... *supra* note 712.

⁷¹⁸ s1 TPA Act 2022.

5.2.2 Implications on Nigeria's Will to Address Conflict-Related SGBV

Nigeria's efforts to prosecute alleged members of terror groups, particularly Boko Haram, have been marked by significant challenges and shortcomings, especially in addressing SGBV crimes. While the country has undertaken the prosecution of individuals accused of violent and terror attacks, the commitment to prosecuting conflict-related SGBV remains notably absent. Therefore, while Nigeria's legal system has developed an impressive body of case law addressing various aspects of terrorism, such as defining terrorism,⁷¹⁹ determining its elements,⁷²⁰ and establishing punishments,⁷²¹ and despite the routine use of SGBV by terrorist organisations like Boko Haram, these crimes have not been reflected in the burgeoning case law. This oversight is evident in the mass trials of alleged Boko Haram members, where charges predominantly focused on providing material and non-violent support to the group, with no SGBV charges recorded. The trials, such as those held in Niger State, Nigeria, have been criticised for procedural lapses, including brief proceedings, vague charges, and inadequate legal defence.⁷²² These issues raise fair trial and due process concerns, further complicating the prosecution of more serious offences, including conflict-related SGBV.

Several factors contribute to the failure to prosecute SGBV crimes, and this also shows the unpreparedness and capacity of Nigerian legal institutions, including the courts and prosecutors, to pursue and guarantee accountability and access to justice adequately. First, there is a lack of technical knowledge regarding the intersection of SGBV and terrorism, leading to these crimes not being considered terrorism-related offences under the TPA 2022. Second, a huge lack of synergy across domestic laws like the TPA Act 2022 and the VAPP Act, and with international

⁷¹⁹ *Abdulummini v. F.R.N* (2018) 13 NWLR (pt. 1635) 106; *Jibrin V. F.R.N* (2020) 4 NWLR (pt. 1875) 423.

⁷²⁰ *Ibid* at para-F.

⁷²¹ *Ibid* at 123, paras E; *Ogbuawa V. F.R.N* (2013) 12 NWLR (pt. 1260) 100.

⁷²² Kodili Henry Chukwuma, "Proscribing Time? Proscription and Temporality in Terrorism Trials" (2024) 18, *International Political Sociology*, 1.

and regional legal instruments, further compounds the challenge. Despite the laws, including the VAPP Act, that have created a stronger legal foothold for ensuring access to justice for SGBV, more evidence of their application in recent trials is needed.

As earlier stated in this research, the WPS Resolutions underscore, to a great extent, the role of states in ensuring accountability for SGBV, ensuring access to justice, and the protection of women from SGBV resulting from violent conflict through prosecutions. Yet, as I have demonstrated with the Nigerian situation, simply having laws does little to guarantee accountability. This section demonstrates the limited opportunities local initiatives in Nigeria have provided for addressing conflict-related SGBV. It vividly highlights the significant implementation gap between the WPS Resolutions and the experiences of those affected by violent conflict. In the following section, I will critique what this indicates regarding the focus on integrating the WPS Agenda to ensure accountability for SGBV crimes in Nigeria.

5.3 What the Above Reveals about the Potential of the WPS Agenda to Engender Legal Accountability for Conflict-Related SGBV in Nigeria?

Based on the above analysis, it is challenging to appreciate the potential of the WPS Agenda in Nigeria beyond the NAPs regarding legal accountability. This is because no clear institutional or legal development centralises the WPS Agenda's core tenets, which seek to address women's security and human rights challenges resulting from violent conflicts. Essentially, localisation and domestication hold promise, but only if it is done in ways that focus on women's experiences of violent conflict, and that is still missing in Nigeria's legal landscape.

Although the WPS Agenda has been recognised in Nigeria for over a decade, alleviating the plight of women due to conflict has never occupied the central stage in any legal or policy initiatives beyond the NAPs. This shows that the role of states in advancing the WPS Agenda must be conceptualised beyond the texts of NAPs, as formulating NAPs may not always translate

into laws and policies that directly address the challenges women and girls face in conflict. The absence of effective domestication stems from a reliance on dominant ideas, which fails to account for the necessary nuances for local relevance.

Another significant undoing of the WPS Agenda in Nigeria is its over-reliance on the state to make the provisions of the Agenda operational. Though crucial, the role of CSOs and human rights defender organisations is usually considered ancillary or subject to the allowances that the states, through their institutions, make available.⁷²³ State-centrism continues to influence international security even after the inflexion of the international security architecture with a gendered notion, evidenced by the WPS Agenda. The weighty emphasis on the role of the state in the WPS Agenda marks a significant shift away from human security, which was the initial emphasis of Resolution 1325 (2000), to the protection of state borders. Indeed, the return, full-scale, to state-centrism means that the patriarchal and androcentric notions within traditional security structures that feminist scholars have fought for several decades to dismantle have been reinstated within the system.

Consequentially, state-centrism divests the WPS Agenda of its emancipatory notions of security with the human security of women at its centre. With this posture, advancing the Agenda ultimately becomes the objective of ensuring protection for states' interests and maintaining its sovereign integrity with minimal impact, if at all, on the lives of women and girls directly affected

⁷²³ Security Council Report, "In Hindsight: Negotiations on Resolutions 2493 on Women, Peace and Security" (December 2019 Monthly Forecast). Online: <<https://www.securitycouncilreport.org>> See the debate leading to Resolution 2493 (2019) on the role of the Informal Expert group (IEG) on the WPS. The initial draft had called for a formal recognition of the work done by the IEG. This was cut, however. States like Russia and China opposed this as offering too much power to the IEG, seeing that it is not a member of the council or a state. According to China, "the Group is not an official body of the Council" and "the work it does in the name of the Council must respect the views of all Council members in a manner consistent with the Security Council mandate and the rules of procedure, or its decisions will not be authoritative or morally binding." Russia declared that it was "compelled to conclude that the Group has not fully succeeded in becoming a coordinating link in the chain of the work in this area." Among other aspects, Russia criticised the IEG for being "unable to avoid a certain degree of politicisation in its work."

by conflict. The Nigerian state itself is a colonial invention and remains very instrumental in perpetuating coloniality and advancing the hegemonic intentions of the erstwhile colonial powers in Africa.

Regrettably, the current system is unable to fully address the rights of individuals, including women and girls. This is due to the involvement of various actors, both local and external, who are committed to preserving the systems that perpetuate war and conflict. Their interests are tied to the continuation of these systems, which results in the exploitation of others. Meredith Turshen's conclusion that rape in armed conflicts in Africa is rooted in both patriarchal norms and colonial legacies, and the state is highlighted as the colonial tool that did establish colonial rule and continues to perpetuate colonial legacies of oppression in postcolonial African societies is apt,⁷²⁴ even though it calls out only two of the myriads of factors which I highlighted earlier.

African states continue to have an uneasy relationship with their citizens because of their close ties to colonialism: the apparent continuous allegiance they continue to exercise towards the erstwhile colonial powers and the perpetuation of brutal colonialist-like oppressions create an environment of distrust with citizens. According to Filomena Steady, postcolonial African states are far more vicious in this delivery of oppression.⁷²⁵ Postcolonial African states "combine exploitative models of development.... with traditional African views of women's roles and European sexism"⁷²⁶ to deliver a very lethal form of subjugation. The reality of the historical role of the state in colonial and postcolonial African societies casts severe doubts on the utility of

⁷²⁴ Meredith Turshen, "The Political Economy of Rape: An Analysis of Systematic Rape and Sexual Abuse of Women during Armed Conflicts in Africa" In Caroline O.N Moser and Fiona C. Clark, *Victims, Perpetrators or Actors? Gender, Armed Conflicts and Political Violence* (ZED Books, 2001), 55.

⁷²⁵ Filomena Steady, "African Feminism: A Worldwide Perspective" In Rosalyn Terborg-Penn and Andrea Benton Rushing (eds), *Women in Africa and the African Diaspora: A Reader* (Howard University Press, Washington DC 1996), 10.

⁷²⁶ *Ibid* at 11.

centralising the state as the vehicle for gender justice or as the site for ensuring redress for SGBV resulting from violent conflict.

Thus, the consequence of depending on the state to advance women's rights and security is doubly damning as it leaves women with no remedy or agency, either from the state or from international organisations such as the UN. The idea of a double bind of oppression is what TWAIL feminist scholars like Vasuki Nesiah argue undermines Third World Women's rights both within their states and internationally.⁷²⁷ Consequently, Vasuki Nesiah believes that TWAIL-feminism must necessarily launch a dual critique against state-generated oppression and that emanating from international organisations such as the UN.⁷²⁸

I maintain that at this rate, state-generated policies and laws cannot deliver on the vision of peace and security originally conceived by the women who attended the Hague Conference in 1915.⁷²⁹ In Nigeria, this vision is hampered by the combined effects of the state as a neocolonial tool and the WPS Agenda as an offshoot of imperialism and hegemony inherent in international law, which prevents a critical reflection on the state's complicity in the challenges that women in the Third World experience.

The connections between the state as a colonial tool and gendered oppression predate modernity.⁷³⁰ According to Filomena Steady, "colonial penetration in Africa.... reinforced existing systems of social inequality and introduced oppressive forms of social stratification...

⁷²⁷ See generally Nesiah, "TWAIL Feminist Perspectives..." *supra* note 140.

⁷²⁸ *Ibid.*

⁷²⁹ The Hague Conference of 1915, officially the "International Congress of Women", was held from April 28 to May 1, 1915, in The Hague, Netherlands. The conference was organised nine months into World War I and was a gathering of over 1,100 women from various nations to advocate for peace and diplomacy amidst the ongoing war. Key highlights of this conference included A strong protest against the horrors of war and violence, relief initiatives for non-combatants impacted by the war, proposals for lasting peace through mediation and diplomacy, and the formation of women's international organisations to work towards these goals. See e.g. Jane Addams, Emily G. Balch, and Alice Hamilton, *Women at the Hague: The International Congress of Women and its Results* (Macmillan, New York, 1915).

⁷³⁰ Steady, African Feminism... *supra* note 723 at 8.

through the machinery of the state.⁷³¹ There is, therefore, every need to continuously critique the centrality of states as an institution in advancing women's human rights and security and reimagining women's security outside of the state-centric model within which it is presently predominantly conceived. In addition, the centrality of state-generated policies and laws in advancing women's rights also impacts the work of other key actors, which I undertake to discuss below.

5.3.1 Relegation of the Role of Civil Society and Human Rights Defender Organisations

One effect of state-centrism in the WPS is that civil society, NGO participation, and non-state actors' efforts in advancing the Agenda are relegated to the background, silenced, or seen as complementing state actions. This implies that states are invested in exerting control on the advancement of the Agenda and controlling its outcomes, which could, in turn, ensure that state structures that perpetuate violence and oppression continue to go without being subjected to accountability.

In Nigeria, the WPS Agenda has towed this path of centralising the state and its agencies in its operations.⁷³² The state and its agencies are the chief initiators and custodians of WPS norms and initiatives. The Federal Ministry of Women's Affairs is responsible for developing policies and programs on the WPS Agenda, including the NAP and other policies.⁷³³ Regarding ensuring prevention, protection, participation and relief of the material impacts of violent conflict for women from SGBV, the bulk of the responsibility is vested in state agencies like the police, the militaries and the courts.⁷³⁴ Civil society and NGOs are seen only as appendages to help actualise the state's vision without much room to influence the outlook of gendered security meaningfully.⁷³⁵

⁷³¹ *Ibid* at 9.

⁷³² National Action Plan, 2017, 2-3.

⁷³³ *Ibid* at ix.

⁷³⁴ *Ibid* at 9-13

⁷³⁵ Asante, *supra* note 253 at 430.

5.3.2 Making the WPS Agenda a Women's Issue Devoid of Adequate Connection to Mainstream Security

Nigeria's WPS efforts prioritise the protection of women from SGBV while positioning the state as the hero of women subjected to or in danger of experiencing SGBV because of Conflict. With this posture, the role of women in peace negotiations and post-conflict reconstructions is seen as ancillary to states' efforts to protect them. The implications are telling. Firstly, Nigeria as a state is still predominantly a patriarchal society. This means that laws and policies continue to discriminate against women or fail to afford them their rights adequately. For example, women are still overwhelmingly subjected to discrimination in contesting and holding political positions in the country. For example, in the current House of Senate constituted after the 2023 general elections, women hold 3 out of the 109 seats and 17 out of the 360 seats in the House of Representatives.⁷³⁶

The under-representation of women in political positions, including in the parliament, government cabinets, judiciary, and other key public offices like the courts or financial sectors, shows a lack of commitment to women's empowerment generally. This also highlights the hypocrisy of the government when it deploys soldiers or police forces to conflict sites for the purpose of protecting women, as fundamentally, the system is engineered in a way that undermines their contributions and agencies in peace processes and post-conflict reconstruction. What better way to protect a population than to seek to advance their power and authority within the system? Women will remain vulnerable without any meaningful effort to ensure that they are adequately represented in key decision-making processes. It is my firm belief that all the pillars of the WPS Agenda are connected, and to deliver on their potential, emphasis must be given to each one of them equally.

⁷³⁶ "Worrying Numbers for Women in 10th NASS, May 18, 2023, Policy and Legal Advocacy Centre." LEGIST Online: <<https://placng.org/Legist/worrying-numbers-for-women-in-10th-nass/>>

The reality of women's underrepresentation in key decision-making processes within Nigeria's governing structures mirrors the problem of advancing the WPS Agenda internationally and, in this case, depicts an unhealthy process of domestication that does not care to correct or address the shortfalls in the international norm but absolve them uncritically. As scholars have observed about the UN system, the underrepresentation of women in key decision-making positions reinforces protective stereotypes of state masculinity and women's femininity.⁷³⁷ This reality aptly aligns with Dianne Otto's observation that the UNSC is more committed to reviving its usefulness in the international schema than advancing women's security with the WPS Agenda.⁷³⁸ At the state level, and particularly in Nigeria, this focus shows that the Agenda could become a tool for the state to perpetuate its control and maintain the systems of patriarchy that occlude marginalised groups from challenging state excesses. Ultimately, state-centrism shows that Nigeria's WPS Agenda, like the UN WPS Agenda, could perpetuate the powers of the state rather than ensuring a local WPS Agenda that is attentive to the needs of women and girls in conflict, particularly SGBV.

Secondly, state-centrism, facilitated by positioning the state as the creator and formulator of norms, policies, and programs for women's engagement in security endeavours, ignores Nigerian women's histories as active fighters and agitators for their rights and freedoms. Nigerian women have historically acted as change agents, with the ability to organise and transform oppressive governance practices into more emancipatory outcomes, often even at the expense of their own lives.⁷³⁹

During the colonial era, women challenged colonial rule and organised activities against colonial systems that oppressed their communities. Military regimes and their dictators were

⁷³⁷ Dianne Otto, "Contesting Feminism's Doubles..." *supra* note 188 at 434.

⁷³⁸ Dianne Otto, "The Exile of Inclusion: Reflections on Gender Issues in International Law Over the Last Decade" (2009) 10 Melbourne Journal of International Law, 11.

⁷³⁹ Filomena Steady, "African Feminism..." *supra* note 723 at 14.

actively opposed by women-led and feminist organisations, with many paying the ultimate sacrifice of death.⁷⁴⁰ In contemporary times, Nigerian women, through civil society organisations, NGOs and human rights defender organisations, consistently organise and mobilise for legal and policy reforms in various aspects of life. Positioning the state as the predominant formulator of WPS norms not only denies women's agency and their unique contributions to the country's peace and security but also obliterates this very important history.

In addition, in pre-colonial African societies, including in the geographical location now known as Nigeria, women's participation in matters of governance was not subject to that of men but was seen as parallel. According to Niara Sudarkasa, women's "participation through their spokespersons paralleled the participation of males through theirs."⁷⁴¹ In essence, the androcentric and patriarchal configuration of modern-day African states means that African states, just like their colonial ancestry, may not be able to transform women's gendered experiences of war meaningfully.

Another way that state initiatives in the WPS Agenda in Nigeria have failed to improve on the UN WPS Agenda is by failing to unpack the homogeneity of the women and girls' subjects in the UN WPS Agenda. I discuss that in the following section.

5.3.3 "Women and Girls" as Subjects for the WPS Agenda

As a matter of definition, the WPS Agenda does not define the term "women" in the WPS Resolutions, and neither does either of the two NAPs passed in Nigeria. This leaves a lot of room for analytical interpretations. However, feminist scholars understand the Agenda to include all

⁷⁴⁰ Olufunke Mojubaolu Okome, "Unknown Soldier: Women's Radicalisation, Activism and State Violence in Twentieth-Century Nigeria" In Ronke Iyabowale Ako-Nai (ed); *Gender and Power Relations in Nigeria* (Plymouth UK: Lexington Books, 2013), 239; Amina Mama and Margo Akazawa-Rey, "Militarism, Conflict and Women's Activism in the Global Era: Challenges and Prospects for Women in Three West African Contexts" (2012) 101 *Feminist Review*, 1.

⁷⁴¹ Niara Sudarkasa, "The Status of Women in Indigenous African Societies" In Rosalyn Terborg-Penn and Andrea Benton Rushing (eds); *Women in Africa and the African Diaspora: A Reader* (Howard University Press, Washington DC 1996), 81.

persons who identify as women. Hence, there is an emphasis on an intersectional interpretation of the Agenda,⁷⁴² which is argued to account for diversity among women.⁷⁴³

Intersectional considerations of identity among women, which are ubiquitously missing in the UN WPS Agenda, have also been replicated in the Nigerian situation, obliterating any chances of considering women's experiences of SGBV exclusive of non-sexual but highly gendered experiences. This, in essence, amounts to perpetuating the dominant standards of liberal, western womanhood inherent in the UN WPS Agenda. The term “women” is not a monolith, and ignoring the dynamic differences among women amounts to formulating laws and policies that may not apply to all women. The term women may apply to a broad category of persons. Still, when one considers differences based on ethnicity, race, religious affiliation, geopolitical location, ableism, and class, it becomes glaring that for the term “women” to be helpful, it needs a more nuanced consideration. For example, women in the geo-political north-east and north-central regions of the country are more prone to Boko Haram’s violence and its unique manifestation of kidnappings and forced conscription of girls as female suicide bombers in addition to other forms of sexual violence like rape, forced marriages, etc., while women in the south-west may not necessarily experience it at the same degree. In addition to violence perpetrated by Boko Haram and the military, women in the north-central region also face vulnerability occasioned by the herdsmen attacks that devastate their homes and farmlands and disrupt their means of survival. These attacks disproportionately affect women who are over-represented in the subsistence farming sector due to other systemic factors that limit their chances for formal employment and career opportunities.

Religion can also play a huge role in how women experience violent conflict and SGBV resulting from it. For example, religious radicalism is higher in the northern parts of Nigeria than

⁷⁴² Matfess, “Dangerous Blind Spots...” *supra* note 288.

⁷⁴³ See Jamie Hagen, “Queering Women, Peace and Security” (2016) *International Affairs*, 313.

in the south, where there are higher rates of inter-religious marriages. These inter-religious marriages mean that in one family, you have both Christians and Muslims, thereby creating higher levels of tolerance than in the north, where the predominant religion is Islam. Also, in the south, higher levels of religious integration have created more liberal interpretations of religious books like the Quran, giving less room for radicalism. Closely related to intermarriages amongst the different religions is that the south has higher levels of literacy than the north, meaning that women's position in society in terms of rights and autonomy is of a higher priority than in the north. Another related factor is that there is a higher level of media publicity in the south than in the north, translating in effect to mean that egregious acts of violence are prone to receive faster media publicity and, therefore, are curtailed faster than in the north. The ultimate result could be that women in the northern parts of the country, where there is a higher level of religious radicalism, lower literacy levels, including amongst women and less media publicity, could be worse off in situations of violent conflict than their counterparts in the south.

The failure to account for diversity among women in the UN WPS Agenda is attributed to the overwhelming influence of liberalist ideas in the WPS Agenda and international law.⁷⁴⁴ It is equally lamentable that local efforts outside of the West, where liberal ideas hold sway, should uncritically reproduce the same narrative. This speaks to the pervasive influence of Western hegemony that has proliferated Third World nations and, in this situation, is actively assisted by local laws and policies that fail to critique those ideas. According to NAP-Nigeria 2017, Nigeria's WPS efforts are based upon the foundations of the UN Resolution and international human rights and legal instruments like CEDAW's General Recommendation 30, which ensures women's human rights at all times, including during violent conflict and internal insurrections.⁷⁴⁵ This

⁷⁴⁴ Pratt and Ritcher-Devroe, *Women, Peace and Security*, *supra* note 39 at 36.

⁷⁴⁵ Nigeria National Action Plan 2017, p.4.

indicates that the Nigerian WPS Agenda has acquired more resources for success compared to the UN WPS Agenda, where challenges in effectively integrating with other entities, such as CEDAW, are noted.⁷⁴⁶

However, a careful reading and nuanced application of these international, regional and domestic instruments to account for diversity is necessary to deliver the much-needed results of accounting for all experiences of SGBV among women in Nigeria. In a complex and multi-faceted terrain like Nigeria with various cultural and social inclinations, unpacking the homogenous “women and girls” would go a long way in determining the successes of the WPS Agenda. Unpacking the homogenous “women and girls” would provide a legal and policy basis for seeking to understand how different women experience the phenomenon. For example, what “woman” really means with all the trappings of single, married, divorced, pregnant, educated, wealthy, disabled, and so forth and how these impact their experiences of SGBV in real terms matters a lot in this context.

Aisling Swaine’s research on sexual violence in the war in Liberia shows that rape does not impact women in the same way. For married women, for example, being raped could mean losing one’s spouse, while to an unmarried woman, it could mean losing social status and value in the eyes of the rest of the community.⁷⁴⁷ This means that the process of addressing the rape of a married woman cannot be the same as that of an unmarried woman. Again, culture plays a vital role in this situation. Some cultures are much more liberal with issues of sexual violations than others; in many cultures in Nigeria, the woman is still blamed and, therefore, made to bear the brunt for her violation. In north-east Nigeria, women and girls who were abducted by Boko Haram and who escaped their abductors and returned to their communities are being rejected by their

⁷⁴⁶ O’Rourke and Swaine, CEDAW and the Security Council, *supra* note 225 at 167.

⁷⁴⁷ Swaine, *Conflict-Related Violence Against Women...* *supra* note 595 at 172.

communities and given the name “Boko Haram wives”.⁷⁴⁸ Children born of such captivity are ostracised from their societies and named terrorists. In essence, for the WPS Agenda initiatives to succeed in Nigeria, there is a need for a highly nuanced and grounded WPS policy that pays attention to the complexities of addressing the unique challenges of women in these diverse and intricately woven contexts, hence the need for an intersectional WPS policy. In addition to the above is the role that culture and religion play in how women from diverse contexts experience conflict-related SGBV. I undertake to discuss that in the following section.

5.3.4 Culture and SGBV

In contemporary Nigeria, cultural beliefs and religious practices strongly influence women's personhood and rights. Sometimes, these beliefs and practices make women subject to their culture's authority above the stipulations that the law provides to guarantee their rights and security. Navigating this terrain can sometimes be very dicey, as many women believe that their sense of self is intrinsic to their cultural and religious beliefs. Thus, the influence of these institutions cannot be overemphasised. The currency of the WPS Agenda in this space could be its ability to effectively balance advancing its advocacy for women's rights and interests against their cultural inclinations, not as it appears in codified documents but dynamically as society evolves. This apparently marks a disconnection between codified culture and the actual culture in operation. The term codified culture here refers to documents that tend to portend what the culture of a people is, while leaving culture is what an observer can conclude is the way of life of a people by observing their everyday lives.

⁷⁴⁸ Alamin Umar, “Stigma and Other Roadblocks as Reintegrated “Boko Haram Wives” Seek a Fresh Start” HumAngle (September 2, 2023) Online: <<https://humanglemedia.com/boko-haram-wives-face-stigma-from-the-society/>>

Scholars have argued that codified cultural practices and the everyday cultural practices accepted by the people can sometimes be very diametrical.⁷⁴⁹ By nature, African cultures were not written, the idea of archiving cultural practices in written format was a colonial invention to ensure ease of the colonial administration.⁷⁵⁰ So, codified cultural norms are a colonial invention which is stagnant and un-evolving and is believed to stifle the dynamism that characterised pre-colonial African cultures.⁷⁵¹ In other words, codified cultures are more or less dead letters and obsolete.

On the other hand, living culture is dynamic and constantly evolving because it arises from everyday cultural practices and traditions. These practices are not formalised or codified but are integral to daily life.⁷⁵² Due to the cumbersome nature of codification, codified culture is always behind living culture and so cannot provide an accurate yardstick for policy. This means that what cultural practices documents recognise as harmful does not accurately represent the real-time manifestation of those practices. This underscores the need for policy initiatives on the WPS Agenda to recognise the dynamism of culture and prepare to tackle its various manifestations.

Instances of these abusive cultural practices against women and girls abound in Nigeria. Recently, the current Nigerian Minister of Women Affairs (Uju Kennedy-Ohanenye) had to intervene in the mass marriage of one hundred girls orphaned by Boko Haram terrorist attacks in the country organised by the speaker of Niger State (Abdulmalik Sarkin-Daji), one of the northern states ravaged by the Boko Haram terror attacks. He organised these marriages as part of his constituency project. Most of these girls were below the age of consent for marriage under Nigerian law, which stipulates the age of consent to marry at 18 years.⁷⁵³ While the marriage of under-aged

⁷⁴⁹ Bennet TW Vermeulen, "Codification of Customary Law" (1980) 24:2 *Journal of African Law*, 206.

⁷⁵⁰ Sylvia Tamale, *Decolonisation and Afro-Feminism supra* note 308 at 133-140.

⁷⁵¹ See generally Gabriel E. Idang, "African culture and values" (2015) 16:2 *Phronimon*, 97.

⁷⁵² *Ibid* at 106.

⁷⁵³ The Vanguard "Women Affairs Minister Sues Niger Speaker over plans to Marry 100 girls." May 14, 2024. Online: <<https://www.vanguardngr.com/2024/05/women-affairs-minister-sues-niger-speaker-over-plans-to-marry-100-girls/>>

girls is proscribed by law in Nigeria,⁷⁵⁴ it is possible to marry an under-aged girl based on cultural allowances and religion. In communities where the marriage of under-aged girls is practiced, it will take more than a state law or policy saying otherwise to shift the mentality of the people. This underscores the need for having modalities in place to actively engage the communities in ways that will engender positive change from amongst them, a change they could own. If community ownership is not emphasised in the process, there is a risk that the intended outcome will not be achieved due to local resistance.

Still, it is important to emphasize culture's vital role in women's lives and how much it defines their identity and way of life. This means that progressive gender policies can be resisted even by women because such policies do not represent their culture as they know it; that is, the living culture which regulates their daily lives. Sylvia Tamale succinctly presents this idea by arguing, in essence, that codified cultures often do not represent the wishes of the people because they have continued to reflect the colonial system of law-making that marks most of Africa's legal system.⁷⁵⁵ According to Tamale, codified culture is made to serve neo-colonialism in modern African states due to its adherence to reinforcing colonial structures of gendered norms that undermine the agency of women.⁷⁵⁶ This underscores the need to be mindful of the influence that culture may have on the reception of even the most progressive ideas meant to address women's experiences of violent conflict. In addition to the above, there is the need to think through the role that colonial legacies in Nigeria continue to play in engendering violent conflict and its attendant ills, particularly SGBV.

5.3.5 The Influence of Colonialism on WPS in Former Colonial Spaces

Relative to the above, colonial structures continue to exert considerable influence on gender justice in Africa and Nigeria. This underscores the need for local initiatives to carefully consider

⁷⁵⁴ s22 Child Rights Act, 2003.

⁷⁵⁵ Tamale, *Decolonisation and Afro-Feminism*, *supra* note 308 at 140.

⁷⁵⁶ *Ibid* at 141-152.

the role that colonialism continues to play in the creation and sustenance of SGBV and how laws and policy initiatives can respond accordingly. One example is the emphasis on military protection of women while disregarding the fact that the military is many times the perpetrator of those crimes. Historically, within Nigeria and the rest of Africa, the military and police have served as colonial tools of oppression, and violence against women was an intrinsic tactic of colonial rule, with the police and military playing a central role.

During various military campaigns and conflicts within Nigeria, such as the suppression of resistance movements, there were reports of rape and sexual abuse perpetrated by colonial troops against local women.⁷⁵⁷ There are accounts of colonial officers facilitating or turning a blind eye to forced marriages, where young women were compelled to marry against their will, sometimes to settle disputes or as part of political alliances.⁷⁵⁸ Nigerian women and girls who worked as domestic servants for colonial officials were particularly vulnerable to sexual abuse and harassment due to their isolated working conditions and the power imbalance between them and their employers.⁷⁵⁹ Policies that disrupted traditional economic activities undermined women's economic autonomy during colonial rule.⁷⁶⁰ The military and police were instrumental in exerting these violent acts on behalf of their colonial masters. In essence, the Nigerian security sector has always been and remains a colonial invention.

The narrative enumerated above cuts across most of Africa, highlighting the need for recognising and addressing the harmful impacts of colonialism, which ought to form a vital part of efforts to provide redress for SGBV in these contexts. Azile Coetzee and Loise du Troit argue

⁷⁵⁷ Brett Shadle, "The Politics and Histories of Sexual and Gender-Based Violence" (2014) 26:1 *Journal of Women's History*, 185.

⁷⁵⁸ *Ibid.*

⁷⁵⁹ Saheed Aderinto, "'The Problem of Nigeria is Slavery, not White Slave Traffic': Globalization and the Politicization of Prostitution in Southern Nigeria, 1921-1955" (2012) 46:1 *Canadian Journal of African Studies*, 7.

⁷⁶⁰ Andrew E. Barnes, "The Women's War of 1929: Gender and Violence in Colonial Nigeria" (2014) 47:2 *The International Journal of African Historical Studies*, 366.

that the radical dehumanisation of native women through sexual violence in South Africa was a key component of colonial violence and that legacy continues to influence SGBV in contemporary South Africa.⁷⁶¹ During Congo DRC's colonial history, King Leopold of Belgium reportedly used sexual violence, amongst other crimes, like amputation of limbs, to suppress opposition to colonial rule.⁷⁶²

However, contemporary initiatives of addressing SGBV within Africa, such as the WPS efforts within Nigeria, just as those institutionalised within the UN, seem to ignore the role that colonialism continues to play in local conflicts and SGBV, by extension. This underscores the fact that hegemony influences the WPS Agenda locally. At this level, hegemony has become so institutionalised that it functions automatically with little or no direct Western intervention. The lack of consciousness of the role of the military and police in perpetuating SGBV is even more regrettable since the postcolonial climate does not show any change in the propensity of the military and the police to exert violence of an egregious nature on civilians. What has changed is the beneficiary of these violent conducts. While the colonialists reaped the benefits of the gendered crimes that women suffered in colonial Nigeria, the governing elites and their allies get to reap the benefits from these acts in postcolonial Nigeria.

In other words, this culture of violence and coercion has outlived colonialism and is entrenched in the postcolonial era as a means to gain and perpetuate power by African leaders. This postcolonial and capitalist arrangement in Africa has resulted in a highly stratified and individualised society where survival of the fittest is the norm. Consequently, women are marginalised in all spheres and even objectified as articles to be bought and sold in marriage.

⁷⁶¹ Azile Coetzee & Louise du Troit, "Facing the Sexual Demon of Colonial Power: Decolonising Sexual Violence in South Africa" (2017) 25:2, *European Journal of Women's Studies*, 214.

⁷⁶² Halistan Lake, & Kristin Ann Shockley, "Colonialism in Africa: the Impact on Sexual and Gender-Based Violence" (2022) 11, *Dorothy F Schmidt College of Arts and Letters*, 63.

Amina Mama's work demonstrates this reality, highlighting that one of the tools for effecting this brutal control just as the colonial predecessors continue to be the subjugation of the sexual and human rights of women.⁷⁶³

All across Africa, postcolonial African regimes have not fared any better in guaranteeing women's rights and security. Alicia Decker's critique of Idi Amin's regime of violence and calumny is a classic example.⁷⁶⁴ Many recent examples of unwarranted state violence, like the 2021 shooting of peacefully protesting youth against police violence, usually dubbed as the #ENDSARS" protest in Nigeria, are illustrative. At that incident, many Nigeran youth peacefully protesting police brutality were shot and killed by the military at the behest of the then president; some were forcefully incarcerated by the police and were subjected to egregious acts of torture, including sexual violence.⁷⁶⁵ During the protests, there were indeed reports and allegations of sexual violence. Protesters and observers claimed that sexual abuse and harassment were part of the intimidation and violence faced by demonstrators, particularly women.⁷⁶⁶ These reports also included instances of police and security forces allegedly committing acts of sexual violence against protesters.⁷⁶⁷ The government has failed to investigate these allegations up to the time of writing this project in 2024-2025.

⁷⁶³ Amina Mama, "Khaki in the Family: Gender discourses and Militarism in Nigeria" (1994) 41:2 African Studies Review, 1.

⁷⁶⁴ Alicia Decker, *In Idi Amin's Shadow: Women, Gender, and Militarism in Uganda* (Ohio University Press, 2014), 92.

⁷⁶⁵ Amnesty International, "Nigeria: No Justice for Victims of Police Brutality One Year After EndSars Protests." Online: <<https://www.amnesty.ca/human-rights-news/nigeria-no-justice-for-victims-of-police-brutality-one-year-after-endsars-protests/>>

⁷⁶⁶ Hannah Uguru, "Human Rights Abuses Still Persist Six Months on From Nigeria's #ENDSARS Movement" (08 July 2021) Investigations. Available at: <https://meetingofmindsuk.uk/investigations/human-rights-abuses-still-persist-six-months-on-from-nigerias-endsars-movement/>; "#ENDSARS: Is a Woman's Place Really in the Revolution?" (October 25, 2020) African Feminism. Online: <<https://africanfeminism.com/endsars-is-a-womans-place-really-in-the-revolution/#:~:text=In%20one%20of%20the%20protests,against%20the%20brutality%20of%20SARS.>>

⁷⁶⁷ Temple Uwakaka, "Mobile Internet and Contentious Politics in Nigeria: Using the Organisational Tools of Mobile Social Networking Applications to Sustain Protest Movements" (2023) 4:1 Journalism and Media, 396; Amnesty International, "Nigeria: Killing of EndSars Protesters by the Military Must Be Investigated". Online:

5.3.6 Resource and Mineral Exploitation

Another oversight I have observed in Nigeria's WPS initiatives is the failure to consider how natural and mineral resource exploitation could contribute to either engender or aggravate women's experiences of conflict, including SGBV and how local policies could mitigate their impact. Many modern conflicts in Nigeria, as with the rest of Africa, are linked to economic activities through the exploration of mineral resources for local consumption and export. It is a well-known fact that Africa sits on a great wealth of natural and mineral resources, and the clamour for Africa's resources has historically been a cause for violent upheavals. The whole colonial initiative disguised as a civilising mission was to create a conducive atmosphere whereby European countries could benefit from this wealth of natural resources.⁷⁶⁸ Sexual violence was one of the many brutal tools used to facilitate colonial exploitation in many parts of Africa, including Nigeria, under British rule.⁷⁶⁹

Postcolonial economic relationships also bear the marks of colonialism. Multinational companies operating in Nigeria have created power dynamics similar to those during colonial times, with local workers, particularly women, becoming vulnerable to sexual coercion and abuse by those in positions of power within or affiliated with the company.⁷⁷⁰ In some parts of the country, land dispossession for large-scale agricultural or mining projects means that women who lose their land and livelihoods may be pushed into exploitative situations, including sexual exploitation.

<https://www.amnesty.ca/human-rights-news/nigeria-killing-of-endsars-protesters-by-the-military-must-be-investigated/>

⁷⁶⁸ See Walter Rodney, *How Europe Underdeveloped Africa* (Verso, London, 2018) 106-160.

⁷⁶⁹ Andrew E. Barnes, "The Women's War of 1929: Gender and Violence in Colonial Nigeria" (2014) 47:2 *The Intl J. of African Historical Studies*, 370.

⁷⁷⁰ Sylvia Tamale. "Eroticism, Sensuality and 'Women's Secrets' Among the Baganda." (2006) 37:5 *The Institute of Development Studies and Partner Organisations. Journal Contribution*, 1. Online: <<https://hdl.handle.net/20.500.12413/8366>>

This article examines how women's sexuality has been shaped and exploited under different regimes, including colonial and neocolonial contexts.

These situations are exacerbated considerably when violent conflicts break out. The protracted violence in the Niger Delta region of Nigeria has been a result of the locals' reaction to the exploitation of their lands for petroleum extraction, making the lands and water bodies unsuitable for farming and fishing.⁷⁷¹ These events hold relevance to the WPS Agenda as they engender violent conflict, creating a viable environment for SGBV to thrive. Considering the dynamic of mineral and resource exploitation and the connections to violent conflict and SGBV could be a great way to strengthen local WPS Agenda initiatives.

SGBV represents not only a breach of security but also a serious violation of human rights and a crucial issue in conflict-affected areas both domestically and globally. Atrocities such as rape, sexual slavery, and various forms of SGBV should never be ignored because of profit motives. It is encouraging to see that in recent years, the international community, including scholars and NGOs, have begun acknowledging this issue and emphasising the necessity for the UNSC to hold accountable those individuals and entities involved as part of the WPS Agenda.⁷⁷² However, tangible outcomes from these appeals remain elusive, as the UNSC has yet to take meaningful action. I firmly believe that this broad accountability framework must encompass multinational companies operating in conflict zones, as they may play a direct or indirect role in facilitating SGBV, a connection that is increasingly hard to ignore.

Several reports and studies have shed light on the link between multinational companies and SGBV. For example, a report by the Special Representative of the UNSG on Sexual Violence in Conflict in 2014 highlighted how the trade in conflict minerals at the black markets, such as gold,

⁷⁷¹Amnesty International, "Decades of Injustice, Oil and Violence in the Niger Delta" Online: <<https://www.amnesty.ca/blog/blog-decades-injustice-oil-and-violence-niger-delta/>>

⁷⁷²United Nations, "Strongly Condemning Rise in Conflict-Related Sexual Violence, Speakers Urge Security Council to Better Prevent, Enforce Accountability for Such Crimes" (July 14, 2023) 9378th Meeting (AM &PM) SC/15357. Online: <<https://press.un.org/en/2023/sc15357.doc.htm>>

tungsten, tantalum, and tin, which are used in the production of consumer electronics, can finance armed groups involved in sexual violence.⁷⁷³ These minerals are often extracted and stolen from mines in conflict-affected regions, where armed groups use rape as a weapon of war to control populations and gain access to these valuable resources.⁷⁷⁴

The recent uptick in the market for gold mined in north-western Nigeria has seen a significant rise in violent conflicts in these parts. Even though gold mining in Nigeria dates to colonial times, it was not undertaken on a large scale until recently because petroleum seemed a more lucrative venture for the colonial administration.⁷⁷⁵ Gold mining in Nigeria's north-western states like Zamfara has ignited significant violence in these parts.⁷⁷⁶ As I explained in the first chapter, the gendered implications of the violent conflict in Nigeria's northwest are increasingly becoming concerning. This underscores the need for policies and programs that are poised to address the challenge meaningfully.

Indeed, the private sector has an important role in curbing violent conflict and SGBV as a result. Corporations must be made to see the need to commit to developing ethical and transparent supply chains that do not source minerals illegally, especially from conflict zones. That the UN WPS Agenda has failed to consider this an important factor in addressing SGBV does not mean states cannot do so. State initiatives could set out guidelines for conditions under which corporations can operate. Unfortunately, this is yet to be seen in Nigeria.

⁷⁷³ Zainab Hawa Bangura, "Corporate Social Responsibility in the Fight Against Sexual Violence in Conflict" (June 10, 2014) LSE Blogs. Online: <<https://blogs.lse.ac.uk/africaatlse/2014/06/10/corporate-social-responsibility-in-the-fight-against-sexual-violence-in-conflict/>>

⁷⁷⁴ *Ibid.*

⁷⁷⁵ Garba, I, "Late Pan-African Tectonics and origin of Gold Mineralisation and Rare-Metal Pegmatites in the Kushaka Schist Belt, Northwestern Nigeria" (2002) 38:1 Nigerian J. of Mining and Geology, 1. This article provides a comprehensive overview of gold deposits in Nigeria, including geological background, mining techniques, and economic potential.

⁷⁷⁶ "Who are the 'bandits' Terrorising Nigeria's 'Wild West'?" Aljazeera (March 29, 2023). Online: <<https://www.aljazeera.com/features/2022/3/29/who-are-the-armed-bandits-of-northwest-nigeria>>

The model for addressing SGBV in violent conflict in the country seems more like a replication of the UN WPS Agenda, and this fails to reflect some salient issues evidenced on the ground, including the role that multinational mineral exploitation companies play and the role that the drive for the market of conflict minerals continue to play in sustaining violent conflict and SGBV as a result.

In other words, there is a need for state governments to take on the responsibility to regulate and hold multinational companies accountable for their actions within conflict-affected territories. They can develop regulations requiring companies to complete due diligence to determine the origin of minerals in their supply chains and impose targeted sanctions on perpetrators of SGBV. This kind of approach is lacking in Nigeria. For several decades, oil exploration and exploitation in Nigeria has fueled violent conflict,⁷⁷⁷ such that it almost smacks on negligence to omit to consider and address the role of multi-national companies in engendering SGBV that occurs because of violent conflict since the climate of insecurity fuels such violent expressions.

To conclude this section, I argue that by adopting the UN WPS Agenda without fully considering the dynamics I have discussed above, the Nigerian government has missed a crucial chance to effectively integrate the Agenda in a manner that could significantly benefit Nigerian women.

5.4 Chapter Summary

This chapter has responded to the research questions raised in Chapter One. Using the outcome of the analysis and interpretation of the data presented in the last chapter, the chapter has revealed how the efforts created for addressing conflict-related SGBV either answer or fail to answer the research questions. The chapter has also considered what the Nigerian situation reveals about the

⁷⁷⁷ John Osagie et.al, “Causes of Conflicts in the Niger Delta Region of Nigeria as Expressed by the Youth in Delta State” (2010) 5 *Procedia Social and Behavioural Sciences*, 82; Angela Ajodo-Adebanjoko, “Towards Ending Conflict and Insecurity in the Niger Delta Region” (2017) 17:1, *African Journal on Conflict Resolution*, p.9.

potential of the WPS Agenda to engender legal accountability for conflict-related SGBV. The final and concluding chapter reflects on what has been achieved in this study and makes concluding remarks.

CHAPTER SIX: Summary of Findings, Recommendations and Conclusion

6.0 Introduction

This is the last and concluding chapter of the research. Here, I have presented a summary of the study, the research findings, and proffered recommendations, and have drawn a conclusion based on these findings.

6.1 Summary of Research

In this research, I have examined Nigeria's domestication of the WPS Agenda in its legal system to address incidences of SGBV emanating from violent conflicts. The research was motivated by the necessity of understanding the lack of accountability measures in addressing SGBV related to violent conflicts despite more than a decade after Nigeria committed to implementing the WPS Agenda.

My motivation to start this project stemmed from my personal experiences and the ongoing issue of SGBV linked to violent conflict, despite numerous commitments from authorities regarding law and policy. I chose to concentrate on the WPS Agenda due to its distinctive approach as a gender-focused initiative aimed at addressing SGBV during conflict. Given that there are numerous scholarly research works and reports showing that SGBV remains a problem wherever violent conflict occurs, despite the presence of the WPS Agenda, my objective was to understand the gap that continues to exist between the WPS Agenda and the reality of SGBV that seems to trail violent conflicts. I settled on Nigeria as a case study for this analysis primarily because my own experiences of armed violence stem from this context and because the conflicts in Nigeria are complex and protracted, with egregious acts of violence, including SGBV.

The research aimed to analyse the domestication of the WPS Agenda in Nigeria, particularly in the parts of the country affected by violent conflict. It critiques the Agenda's effectiveness in fulfilling its promises to mitigate the war's impacts on the country, highlighting its achievements and shortcomings relative to its foundational objectives. As a result, the study assessed how

Nigeria has incorporated the Agenda into its legal and policy frameworks, focusing on ensuring accountability for gender-based crimes stemming from violent conflict.

To achieve these objectives, I employed the Doctrinal Research Methodology, which supports the analysis of legal statutes and case law. I analysed these documents using a postcolonial-TWAIL theoretical lens, with intersectionality as the analytical bedrock.

6.2 Research Findings

The research proposed three research questions, and these formed the basis of the interrogations made in the study. I have reiterated the questions below and summarised the findings I made on each question.

6.2.1 Research Question One: *What are the efforts made in Nigeria to domesticate the WPS Agenda?*

The findings of the study indicate that the Nigerian government, through the Ministry of Women Affairs, had taken steps to domesticate the WPS Agenda by making two NAPs, the first made in 2013 and the second in 2017. These NAPs do not by themselves suggest that the WPS Agenda has made any meaningful inroads into the country's legal system by way of impacting gender-based laws and policies intended to curb SGBV due to violent conflict.

Nonetheless, other developments like the enactment of the VAPP Act are examples of local laws that the NAP in 2013 recommended to be made. The eventual enactment of the VAPP Act was significantly influenced by the heightened awareness that the WPS Agenda advocates had created within the states. However, the viability of this law in addressing conflict-related SGBV could not be ascertained since it has not been tested in such situations during the time of researching and writing this work. Other developments, like the creation of the sexual offender register, are significant, as are the provisions for financial or material compensations, which could form the basis for reparations, which is fundamental in transitional justice cases.

6.2.2 Research Question Two: *What opportunities do these efforts avail for addressing SGBV perpetrated by both armed groups and state forces?*

The study reveals that there is a paucity of local efforts to meaningfully account for conflict-related SGBV, and what is available has done very little to set the necessary structures that could ensure holistic accountability for SGBV committed by all perpetrators. For example, although the VAPP Act marks Nigeria's first detailed gender-based legislation, its effectiveness in addressing legal redress for conflict-related SGBV remains ambiguous. This uncertainty stems from several factors, particularly the unique nature of conflict violence, which I contend necessitates specially tailored approaches that may significantly differ from conventional domestic laws. Moreover, lacking evidence of the law's enforcement in violent conflict situations nine years post-enactment complicates the assessment of its applicability in domestic prosecutions of conflict-related SGBV crimes.

The study also finds that just as it is with the UN WPS Agenda, the WPS Agenda in Nigeria has not shifted the focus on the individual perpetrator as the object of accountability for SGBV. This means that the network of factors that conflate to create conditions ideal for SGBV to thrive are not included, either in the policies or laws emanating in accountability measures. The focus on the individual perpetrator also means that other persons who are not directly involved in the crime but whose actions create an enabling environment for conflict-related SGBV to thrive are not called to account. One could excuse the limits of legal redress measures since, by its very nature, the law focuses on the individual, but the failure to meaningfully include women in other conflict resolution measures like the Operation Safe Corridor and Sulhu reinforces the conviction that women's issues yet again have fallen between the cracks of accountability in the WPS Agenda, despite their being the subject of its existence.

Ultimately, this study finds that the focus on prosecuting individual offenders, as evident in legal and policy developments within the country, does not adequately address the network of actors complicit in the issue of SGBV arising from violent conflict. It also fails to respond sufficiently to structural dynamics, including culture, religion, and the ongoing presence of colonial structures, which contribute to the creation of violent conflicts and the resulting SGBV. Furthermore, it overlooks the connection between the exploitation of mineral resources and the violent conflict that underpins this challenge. Given this reality, what is the potential of the WPS Agenda in Nigeria? The next subsection will discuss the findings of that final question.

6.2.3 What does the above reveal about the potential of the WPS Agenda in the face of increasing violent conflict challenges in the country?

The analysis in this study shows that it is difficult to trace the presence of the WPS Agenda in Nigeria beyond the NAPs. Even though one could find traces of laws and policies that leverage the WPS Resolutions, there is no explicit institutional or legal development that centralises the core tenets of the WPS Agenda, which seeks to address women's security and human rights challenges resulting from violent conflicts. This highlights the ongoing implementation gap that scholars assert persists. This implies that the WPS Agenda will remain theoretical within international circles and among NGOs until states actively embrace their responsibility to adopt the Agenda with clear intentions and articulated outcomes.

In the following section, I propose strategies for effectively integrating the WPS Agenda into local contexts, such as Nigeria, to enhance opportunities for its successful implementation.

6.3 Recommendations

Properly incorporating the WPS Agenda locally calls for careful and well-articulated policies and laws that are attentive to terrain, including keenly considering the history and contemporary factors that engender and continue to drive conflict and SGBV. Such approaches should perhaps consider the complex ways in which local contexts are intertwined with international power and

structural dynamics, which may inadvertently threaten or undermine the human security of women. This consideration seems crucial, as these factors can complicate the unique experiences within these local settings. It appears that by adopting the UN WPS Agenda with minimal attention to these dynamics, the Nigerian government may have missed an important opportunity to adopt the WPS Agenda in a manner that could resonate more meaningfully with Nigerian women.

Additionally, there must be specific laws and policies in place targeting the unique experiences of women and girls in violent conflict contexts. My conclusion about Nigeria is that this aspect is grossly lacking as there exists a paucity of specific laws and policies intended to target addressing SGBV occurring during violent conflicts directly. Reliance on domestic laws like the VAPP Act to address these unique challenges may be ineffective. Besides, SGBV during violent conflict is a complex issue that often transcends the boundaries of domestic law for several reasons. Violent conflicts often result in the breakdown of legal and social institutions that would typically protect individuals from SGBV. As the Nigerian situation has shown, law enforcement agencies may be non-functional or complicit in the violence and so unable or unwilling to enforce the existing laws. In addition, domestic laws such as the VAPP Act are not comprehensive enough to cover the types of SGBV that occur during conflicts, such as sexual violence used as a weapon of war.

Still, violent conflicts often lead to displacement, with individuals fleeing to areas where the domestic law of their home country does not apply and where they may not have any legal protection against SGBV. This means that policy initiatives addressing the challenge must harness domestic, transnational and international legal instruments. SGBV in conflict settings often constitutes a violation of international human rights and humanitarian laws. Addressing these violations goes beyond the scope of any single country's domestic laws. Leveraging international legal instruments must be done in ways that would transcend rhetorical commitments to engender

action. In the case of Nigeria, efforts must be made to domesticate all relevant international legal instruments and set up structures within the systems for enforcement and accountability.

In Nigeria, this could require enacting local legislation that recognises those international treaties as part of the laws operational in the Nigerian legal system. An example of such an international treaty that could be useful if domesticated in Nigeria is the Arms Trade Treaty.⁷⁷⁸ The Arms Trade Treaty is a multilateral treaty that regulates international trade in conventional arms and seeks to prevent and eradicate trade and diversion of conventional arms by establishing international standards governing arms transfers. Domestication of this treaty could be relevant in this context because of the proliferation of small, medium and light weapons in the country and how much these weapons are employed to create terror by immobilising potential victims to violate them sexually. Even though Nigeria signed this treaty in September 2013, the country has not yet ratified it.⁷⁷⁹

To transform the culture of impunity upon which SGBV crimes thrive would also require healthy international cooperation in the solutions efforts. Healthy cooperation in this context means all stakeholders see themselves as part of the challenge and are willing to work collectively to arrive at the solutions. This kind of cooperation would disrupt the saviour mentality that underlines much of the support institutions like the UN offer to Third World countries like Nigeria. The saviour mentality suggests that Third World women, specifically Nigerian women (based on the context of the study), are victimised by local problems and actors and, as such, need to be saved by people outside of their context.⁷⁸⁰ So, the outsider becomes the custodian of solutions to local

⁷⁷⁸ *The Arms Trade Treaty* 2013, UNTS 3013 (entered into force 24 December 2014).

⁷⁷⁹ <https://thearmstradetreaty.org/search.html?q=signatories>

⁷⁸⁰ Anne Orford, "Feminism, Imperialism and the Mission of International Law" (2002) 71 *Nordic Journal of International Law*, 275; Makau Mutua, "Savages, Victims and Saviours: The Metaphors of Human Rights" (2001) 42 *Harvard International Law Journal*, 201.

problems. The healthy cooperation suggested in this study means that all stakeholders must see themselves as part of the problem, and their coming together is to collectively fashion out ways to address the challenge.

The concept of a "healthy cooperation approach" emphasises the interconnectedness of global economic and political systems. This perspective acknowledges that violent conflicts can significantly disrupt transnational economic activities while paradoxically creating economic opportunities for entities outside the conflict zones. For instance, countries that produce and export arms may experience financial gains by selling weapons to volatile regions while those arms are used to commit crimes, including SGBV. The revenue generated from these sales can then be channelled into their economic development, creating a stark contrast between the prospering economies of the arms manufacturers and the devastation in the conflict areas.

Moreover, multinational companies that have the capacity to maintain operations in conflict-affected regions often continue to reap economic benefits. Due to their robust nature or strategic importance, these companies can withstand adverse conditions and exploit the economic opportunities that arise, even amidst the turmoil. This dynamic illustrates that no single country or context can fully distance itself from the repercussions of challenges that arise elsewhere. The sale of arms and the uninterrupted operations of businesses in conflict zones are clear examples of how actions taken in one part of the world can have profound, often detrimental, impacts on another.

The pervasive interconnectedness of global economies and politics suggests that both local and international stakeholders, including pivotal bodies such as the UN and the UNSC, bear a collective responsibility. This shared duty stems from the recognition that the root causes and consequences of violent conflicts, including SGBV cannot be effectively addressed in isolation. A

concerted effort that goes beyond national borders is essential, considering the extensive impact that local decisions and actions can have on the global stage.

The role of the UNSC is critical in this context, as it has the authority to implement measures to maintain or restore international peace and security. Therefore, it is incumbent upon such influential entities to lead and coordinate comprehensive strategies that mitigate the adverse effects of conflict. These strategies should not only focus on the culpability of others but also strive to tackle underlying issues that they are complicit in and that contribute to instability, such as economic disparities, resource exploitation, and arms proliferation. This approach calls for a nuanced understanding of how local conflicts can have far-reaching consequences, such as regional destabilisation and global economic disruptions. It also prompts a re-evaluation of international policies and practices, including arms sales and foreign investment in conflict zones, to ensure they do not exacerbate existing tensions or undermine peacebuilding efforts.

The failure to consider these dynamics connotes a lack of real commitment to addressing SGBV during violent conflict beyond rhetorical commitments. One way to explain this is to see it as the continuous influence of coloniality and hegemony in Third World societies whereby Western concepts and ideas are adopted as the solution to problems in non-Western societies, even by indigenous governments and actors, but without any real commitment to transforming those global laws and policies in a way that could be of benefit in the local contexts. Incorporating such laws only ensures that these leaders are in goodwill with their international benefactors. Coloniality and hegemony, therefore, are now a concept that functions to benefit a network of actors both within Third World spaces and to serve certain interests in the West.

In connection to the need to preserve international ties for the benefit of the few is the issue of political will. The term political will is a vague but much-vaunted term, not just to explain the

failures of the WPS Agenda but for other international law regimes. Perhaps the vagueness of this term makes it a suitable explanation for the many failures of international law. For the WPS Agenda, at least, the failures occasioned by Nigeria to meaningfully incorporate the WPS Agenda within the state are not due to a lack of ability to do so but rather due to the fact that women's human and security rights are not seen as pressing issues in the country and I draw this inference from the fact that the Nigerian governments have consistently failed to exercise the will to act in advancing laws and policies in ways that could provide clear roadmaps for comprehensively addressing SGBV that result from violent conflict. So, in this sense, the definition of political will as "the determination of an individual political actor to do and say things that will produce a desired outcome"⁷⁸¹ is significant in understanding the lack of targeted legal and policy initiatives to ensure comprehensive accountability for conflict-related SGBV.

The demonstration of political will is evident when concrete, actionable plans are established and sufficiently funded to ensure their successful implementation. A cooperative approach is essential to accomplish such objectives, where all stakeholders—both within the state and in the international arena—share the responsibility. Within this framework, it is crucial for the state to engage in self-scrutiny, holding itself accountable for any roles it may have played in contributing to the issues at hand. This includes acknowledging and addressing any complicity in adverse outcomes. Similarly, the state must be prepared to hold its international allies accountable, challenging them when their actions have contributed to or prolonged the problem.

This collective determination to confront and resolve issues can be encapsulated in the phrase "the community of wills." It represents a unified front of various actors, each contributing their resolve and resources towards a common goal of addressing and solving complex challenges. A

⁷⁸¹ United Kingdom Government, "Assets Publishing Service" Online:
<<https://assets.publishing.service.gov.uk/media/57a08cbfed915d622c001551/R8236Appendix3.pdf>>

“community of wills”, therefore, transcends the will of one or a group of political leaders. It transcends efforts made by one state in one geographical location. It involves global efforts by stakeholders whose decisions to act, and subsequent actions are propelled by first recognising their complicity in the global pandemic of SGBV in violent conflicts and whose actions are propelled by recognising and acknowledging their complicity in the problem, buoyed by the desire to find a lasting solution to the challenge.

The term community of wills is inspired by the dual ideologies of African communalism and feminist ethics of solidarity. African communalism refers to a social and economic system that is characterised by communities working together and sharing resources in a way that benefits all members of the community.⁷⁸² This concept is rooted in traditional African societies where the sense of community and collective responsibility is vital. In many African cultures, the well-being of the individual is closely tied to the well-being of the group, and there is a strong emphasis on mutual assistance, cooperation, and loyalty to the community. In southern parts of Africa, such a system is known as “ubuntu”, which translates to the interdependence of individuals and groups on each other for sustenance.⁷⁸³ This contrasts with more individualistic approaches where personal responsibility or gain may be prioritised over collective welfare, which has, thus far, proven ineffective in arresting the pervasive incidences of SGBV globally.

The suitability of this approach is primarily in its emphasis on shared responsibilities in fostering a more equitable and just society. Under this system, resources such as land and livestock are often owned communally and managed for the benefit of all members of the community.

⁷⁸² See Ifeanyi A. Menkiti, “Person and Community in African Traditional Thought” In R.A Wright (ed); *African Philosophy: An Introduction* (University Press of America, 1984), 171.

⁷⁸³ Heidi Hudson, “One for All, All for One: Taking Collective Responsibility for Ending War and Sustaining Peace” in Megan Mackenzie and Nicole Wegner (eds); *Feminist Solutions for Ending War* (Pluto Press, London, 2021), 29.

African communalism places importance on extended family and kinship networks, which provide social security and support. These networks are responsible for social welfare, education, and the passing on of cultural values.

Decision-making is typically based on consensus rather than hierarchical structures. Elders (both male and female) or other respected community members often play key roles in mediating disputes and guiding the community based on collective interests. Systems of restorative justice are common, with a focus on repairing harm and restoring relationships rather than punitive measures.⁷⁸⁴

African communalism, with its emphasis on collective well-being and community support, can indeed align with feminist solidarity in various ways. Feminist solidarity is about uniting women (and allies) to work towards gender equality, addressing issues such as women's rights and empowerment, and dismantling patriarchal structures that undermine women's rights. Considering both African communalism and feminist solidarity, especially in policies to advance the WPS Agenda, can create a more equitable society where women are actively engaged as stakeholders in transforming their experiences. African communalism's focus on mutual support can provide a strong foundation for collective action against SGBV, as African communalism values the role of community in supporting individuals. Feminist movements can thrive in environments where community support is strong, as it can provide a network for mobilisation, sharing resources, and offering protection for activists. Also, the communalist approach to consensus and collective decision-making can be conducive to incorporating diverse women's voices and experiences into community governance, thus promoting gender-inclusive policies.

⁷⁸⁴ See Menkiti, "*Persons and Community...*" *supra* note 780 at 172-180.

Furthermore, African communalism's approach to restorative justice aligns with feminist advocacy for alternatives to punitive justice systems, which often fail to address or prevent SGBV adequately. Considering both approaches in policies aimed at transforming the scourge of SGBV would enhance communal ownership and resource sharing, which can potentially reduce economic inequalities that disproportionately affect women and expose them to sexual exploitation by ensuring that women have access to land, capital, and opportunities.

Still, both African communalism and feminist solidarity can challenge cultural norms that perpetuate inequality. By drawing on communal values of respect and dignity for all members, there is potential to reshape patriarchal cultural practices that are oppressive to women by undermining their sexual autonomy, thereby combatting their vulnerability to SGBV during violent conflict. While this study has examined the WPS Agenda and its potential to address conflict-related SGBV within states once it is domesticated, there are certain areas beyond the study's immediate focus, due to its limited scope and time frame, that require further investigation. These areas are pointed out in the following section.

6.4 Areas for Further Studies

Based on insights from this research, I suggest further research into the following related areas:

- i. The role of Security Agencies in the implementation of laws on SGBV in Nigeria and the implications for the safety and rights of women and girls in conflict contexts
- ii. Gain insight into the training soldiers undergo before local and international peacekeeping missions and how this affects the rates at which peacekeepers commit sexual offenses violence
- iii. Assess the impact of local cultures and traditions on the implementation of the WPS Agenda's provisions in Nigeria and other Third World nations
- iv. An in-depth evaluation of the role of CSOs in advancing the WPS Agenda

6.5 Chapter Summary

I conclude from the findings of this study that the Nigerian government has made efforts to implement the WPS Agenda domestically. Although these initiatives are commendable as they enhance the safety of women impacted by SGBV if enforced, the lack of enforcement remains a significant drawback. Also, there is much need to improve on what has been done to account for the interconnected factors and actors that contribute to the perpetuation of SGBV stemming from violent conflict. Adopting the community of wills approach could enhance these initiatives significantly. To effectively implement the WPS Agenda and achieve meaningful outcomes, particularly in local contexts like Nigeria, it is essential to address the identified gaps accordingly.

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