

## Human Rights and Child Protection Norms in Armed Conflicts: Bridging International Standards with Domestic Realities

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DOI: 10.56201/JLGP.vol.10.no5.2025.pg40.52

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### **Abstract**

*This article explores the intersection between international human rights and child protection norms in armed conflicts, with a focus on bridging global standards and domestic implementation realities. It examines the normative frameworks established by international human rights law (IHRL), international humanitarian law (IHL), and international criminal law (ICL), as reflected in instruments such as the Convention on the Rights of the Child (CRC), the Optional Protocol on the Involvement of Children in Armed Conflict (OPAC), the African Charter on the Rights and Welfare of the Child (ACRWC), and the Paris Principles. The paper argues that while these instruments collectively provide comprehensive protection against recruitment, exploitation, and abuse of children, significant gaps persist in their translation into domestic practice, particularly in conflict-affected African states like Nigeria. Legal fragmentation, institutional weaknesses, and socio-economic vulnerabilities undermine enforcement and perpetuate cycles of child recruitment and victimization. Through an analysis of Nigeria's Child Rights Act (2003) and its uneven adoption across states, the paper demonstrates how weak institutional capacities, poor reintegration programs, and punitive security approaches hinder effective protection. The study also highlights international criminal accountability through the Lubanga case at the International Criminal Court (ICC) as a precedent for deterrence but notes that international justice alone cannot fill domestic enforcement gaps. It concludes by proposing holistic reforms involving legal harmonization, capacity building, socio-economic investment, and child-sensitive operational mechanisms as pathways toward effective protection, reintegration, and accountability, ensuring that normative commitments translate into real-world safeguards for children in armed conflict situations.*

**Keywords:** Human Rights, Children Armed Conflict, Child Soldiers, Child Protection, Welfare of the Child, Paris Principles

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### **1. Introduction**

The issue of protecting children in armed conflict has gained the attention of the international community largely because of the unique vulnerabilities and rights of children in these situations. In armed conflict, children face abduction, forced recruitment, sexual violence, and their education and means of survival are also disrupted, often with long-term psychological and social consequences. Treaties like the Convention on the Rights of the Child (CRC), the Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict (OPAC) and the African Charter on the Rights and Welfare of the Child (ACRWC) all create certain obligations for States to prevent, protect, and rehabilitate children affected by armed

conflict.<sup>1</sup> This treaty framework, supported by international humanitarian law (IHL) and international criminal law (ICL), provides normative guidance and accountability processes to protect children's rights.<sup>2</sup>

Although there is a robust normative framework, there are still major gaps in translating international standards into meaningful protection domestically. In federal states such as Nigeria, where domestic law exists, it may not be uniformly applied amongst the sub-national jurisdictions, leaving children in some regions more vulnerable than children in other regions.<sup>3</sup> Institutional weaknesses, including capacity limitations of judicial and enforcement authorities, insufficient psychosocial and reintegration programs, and punitive-based approaches, also contribute to children's vulnerability. The dynamics of conflict, including insurgency and displacement, and sociocultural factors compound the problems of protecting children and reintegrating former child soldiers into the community. These ongoing gaps point to the need to address the gap between international norms and domestic realities.<sup>4</sup>

This article will examine the conceptual, legal, and operational dimensions of child protection in armed conflict, specifically drawing upon Nigeria's experience. It discusses the normative frameworks established through international human rights, humanitarian, and criminal law; the challenges in operationalizing these frameworks; and whether there is a disconnect between law and practice. I highlight the importance of domestic or national frameworks and institutions on the one hand, and community in the implementation of safeguarding children; this reveals the need for integrated strategies that emphasize legal harmonization, institutional programs and investment, accountability, and monitoring. In a global exploration of the convergence of international norms with local practice, the study helps us interrogate ways to strengthen child protection systems, including reintegrating children back into the community in conflict-affected contexts.

## 2. Conceptual and normative framework

The safeguarding of children in conflict is premised on a multi-layered human rights normative framework spanning international human rights law (IHRL), international humanitarian law (IHL), and international criminal law (ICL). IHRL provides basis principles recognizing children's inherent dignity and their civil and political, social and economic rights, established in the Convention on the Rights of the Child (CRC) and discussed by scholars such as Donnelly, who cites children's rights are universal and the State's obligation to protect their rights.<sup>5</sup> The CRC and its reference and Optional Protocol on the Involvement of Children in Armed Conflict (OPAC) directly tackle the issue of children's vulnerabilities with armed conflict as both No states may recruit children under eighteen and advocate for recovery and reintegration. These instruments

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<sup>1</sup> De Than C. and Shorts E.; *International Criminal Law and Human Rights*, Sweet & Maxwell Limited, London, 2003.

<sup>2</sup> Drumbl, M. A.; *Reimagining Child Soldiers in International Law and Policy*, Oxford, Oxford University Press, 2012.

<sup>3</sup> Hagler, S.O.; *The Application of Principles And Rules of International Humanitarian Law To Other Situations of Violence (OSVs)*, Abia State University, Faculty of Law, 2018. See also; Ese, Malemi.; *The Nigerian Constitutional Law*, Princeton Publishing Company Nigeria, 2017.

<sup>4</sup> Okorie, H.; *Child Soldiering and Protection, Northeast Nigeria in Perspective*, University of Benin Law Journal, Vol. 17, No. 1, 2016. See also; UNICEF; *Children in Armed Conflict: Releases, Reintegration, and Protection Challenges*, UNICEF, 2019.

<sup>5</sup> Donnelly, J.; *Universal Human Rights in Theory and Practice*, Ithaca, Cornell University Press, 2003.

specifically implement the prevention obligations of states, meaning states must legislatures enact legislation, raise awareness of the problems, and develop policies that are child-sensitive to prevent recruitment, abduction or onward exploitation.<sup>6</sup>

The second pillar of normative mechanisms is the international humanitarian law, which governs the behavior when armed conflict arises and grants special rights to the children in both the international and non-international armed conflict. According to Green and Hagler, IHL lays responsibilities upon all parties to a conflict in the effort to safeguard children against hostilities, bans direct involvement, assaults upon schools or hospitals and sexual exploitation.<sup>7</sup> The decisions made by IHL conflict with the human rights requirements, so the protection of children is not denied even in case of armed confrontations. Researchers like Fatima et al. and Hagler point out that IHL does not only stipulate defensive guidelines but also sets forth operational principles to armed forces, humanitarian actors, and States, which results in a framework that protects the rights of a child, as well as the behavior of combatants.<sup>8</sup>

The third normative dimension is international criminal law, which offers responsibility over most atrocious crimes against children in conflict. According to the Rome Statute of the International Criminal Court (ICC), the use of a child below the age of fifteen in hostilities, the recruitment or enlistment of such a child is also a criminalized offense and is a war crime, which provides a complementary mechanism in instances in which the domestic systems are incapacitated or unwilling to prosecute them.<sup>9</sup> The ICL is operational in a way that removes the need to punish offenders to deter crime, individual accountability, and victim rights which ICC jurisprudence involving the Lubanga case illustrates. Such regional regimes as the African Charter on the Rights and Welfare of the Child (ACRWC) also complement these international norms by requiring African States to legislate, prevent, and reintegrate children affected by the conflict.<sup>10</sup> These sets of interconnected normative frameworks together create a holistic structure of prevention, protection, recovery and reintegration between the ideal policy of children rights and practical responsibilities of the States and the international community

### 3. Key International and Regional Standards

#### i. The Convention on the Rights of the Child (CRC) and OPAC, 1989.

The Convention on the Rights of the Child (CRC) that was adopted in 1989 is the very foundation of the international legal discourse of children rights where children become the carriers of holistic rights to survival, growth, safety, and input. It identifies a child as someone below 18 years of age and imposes on States the obligation to take legislative, administrative and other steps to protect the rights at this age. Article 1 of the Optional Protocol to the CRC on the involvement of children in armed conflict<sup>11</sup> is a specific treaty that deals with the exposure of children to the hostilities and

<sup>6</sup> Brett, R. and McCallin, M.; *Children: The Invisible Soldiers*, Stockholm, Rädda Barnen, 1998.

<sup>7</sup> Green L.C.; *The Contemporary Law of Armed Conflict*, Manchester University Press, Manchester, 2008. See also; Hagler, S.O.; *The Law of Armed Conflict: Concepts and Principles*, Lagos, Princeton and Associates Publishing Co. Ltd., 2021.

<sup>8</sup> Fatima et al.; *Protecting Children in Armed Conflict*, Hart Publishing, Oxford, 2018. See also; Green L.C.; *The Contemporary Law of Armed Conflict*, Manchester University Press, Manchester, 2008.

<sup>9</sup> Drumbl, M. A.; *Reimagining Child Soldiers in International Law and Policy*, Oxford, Oxford University Press, 2012.

<sup>10</sup> Okorie, H.; *Child Soldiering and Protection, Northeast Nigeria in Perspective*, University of Benin Law Journal, Vol. 17, No. 1, 2016.

<sup>11</sup> Article 1 of the Optional Protocol to the CRC, 1989.

states that have ratified this treaty must raise the standards of recruitment and participation to include criminalizing illegal recruitment and taking all practicable measures to ensure that under 18 years old are not used in armed forces or armed groups. Prevention, demobilization, and reintegration are also emphasized in OPAC where rehabilitation and social reintegration programs should be provided on the basis of the special needs of children.<sup>12</sup> The CRC along with the OPAC make the best interests of the child, the non-discrimination, and recovery and reintegration central to the State responsibilities, establishing a normative framework that is legally binding and has both prevention and remedy aspects as related to children of armed conflict.<sup>13</sup>

## **ii. Paris Principles and Operational Guidelines**

The Paris Principles was adopted in 2007; it is practical and operational in dealing with the treatment of children linked to the armed forces of armed groups (CAAFG). They do the conversion of the legal requirement of treaties such as the CRC and OPAC into programmatic requirements whereby they focus on child-sensitive versions of disarmament, demobilization, and reintegration (DDR). The essential areas of operation comprise family tracing, psychosocial support, safe reintegration, education, and livelihood programs all of which are oriented towards supporting the recovery process in the long term as opposed to administering punitive measures. Notably, the Paris Principles warn not to criminalize children who had been used by militant groups since they are the main victims, but not the perpetrators. These principles thus fill the gap between the international legal norms and field practice and offer a roadmap to how States, humanitarian actors and development organizations can carry out protective and rehabilitative interventions that address the human rights and dignity of children.<sup>14</sup>

## **iii. International Criminal Law: Rome Statute and ICC jurisprudence**

Child protection is strengthened within the international criminal law framework, as it provides accountability and deterrence mechanisms. The Rome Statute of the International Criminal Court considers the conscription and enlistment of children under the age of fifteen, as well as their use in hostilities, to be war crimes, providing a serious legal mechanism for individual criminal responsibility.<sup>15</sup> The Lubanga case was a very important decision, with the International Criminal Court convicting Thomas Lubanga Dyilo of recruiting and using children in hostilities in the Democratic Republic of Congo. The Lubanga case is a very important case because it was the judiciary process that brought the international norms into a judicial space.<sup>16</sup> This case illustrates how international criminal justice plays the role of a back-up accountability mechanism when domestic legal systems are ineffective after a serious violation.<sup>17</sup> It can be argued that the foundation of any accountability system is to deter the potential perpetrator and reinforce the normative principle that children should never be recruited or used in hostilities. As a result, the Rome Statute and its Elements of Crimes provide the legal basis for prosecution and the normative signal about the violations against children carrying significant international normative implications.<sup>18</sup>

<sup>12</sup> ICRC; *Children and Armed Conflict: Operational Guidelines for Armed Forces and Humanitarian Actors*, International Committee of the Red Cross, Geneva, 2021.

<sup>13</sup> UNICEF; *Children in Armed Conflict: Releases, Reintegration, and Protection Challenges*, UNICEF, 2019.

<sup>14</sup> ICRC; *Children and Armed Conflict: Operational Guidelines for Armed Forces and Humanitarian Actors*, International Committee of the Red Cross, Geneva, 2021.

<sup>15</sup> Ese, Malemi.; *The Nigerian Constitutional Law*, Princeton Publishing Company Nigeria, 2017.

<sup>16</sup> International Criminal Court; *The Prosecutor v. Thomas Lubanga Dyilo*, ICC-01/04-01/06, 2012.

<sup>17</sup> Supra

<sup>18</sup> Supra

**iv. Regional Norm: African Charter on the Rights and Welfare of the Child (ACRWC)**

The African Charter on the Rights and Welfare of the Child (1990; entered into force 1999) enhances universal instruments by representing the unique preoccupations of the region - cultural factors, conflict situations, and the trajectory towards and need for cooperation. The African Charter provides a space for articulating children's rights in Africa and encourages the States Parties to take legislative, administrative and social measures to ensure that children's rights are realized without prejudice inducing situations in armed conflicts.<sup>19</sup> In doing this, the Charter contends with both protective and promotive obligations rendering a strengthened regional legal order required to harmonize domestic laws to be compatible with international legal requirements related to the protection of children paving the way toward successfully supporting or rehabilitating child combatants, continued education opportunities, or simply reintegrating into their communities. Simultaneously, the Charter offered a regionally accountable legal framework encouraging and strengthening cooperation between African States to implement children's rights to their continuing protection from harm, exploitation, and abuse.<sup>20</sup>

**4. From Norm to Practice: Common Implementation Gaps**

Even with an elaborate international regime, there are still a number of repetitive fault-lines, which prevent total protection of children in conflict-affected countries. These may be categorized as legal, institutional, operational and socio-economic gaps.

**a. Legal and legislative gaps**

Although there is a broad international system of normative barriers on child protection in armed conflict such as the CRC, OPAC, and Rome Statute, there nevertheless remains a very big gap between the normative barriers on the one hand and domestic practice on the other especially in the states that are conflict-prone. One of the greatest challenges is legal and legislative weaknesses, since most States joined treaties but failed to internalize them, with this, resulting in laws that are not fully compliant with international laws and set lower recruitment age standards or formalized informal recruitment.<sup>21</sup> This issue is great in Nigeria since, despite the progressive nature and the combination of prohibitions on child recruitment, exploitation, and abuse, the Child Rights Act (2003) has not been universally applied on the federal level, creating disparities in protection geographically and making the enforcement processes ineffective.<sup>22</sup> Certain institutional and operational weaknesses add to this gap of low quality of judicial, security, and social welfare staff, inadequate coordination of child protection services, and a lack of resources to implement legal provisions into the practice expose children to the risks of recruiting, detaining, and abusing them.<sup>23</sup> Aggravated by these issues, socio-economic factors, including poverty, displacement, lack of access to education, and social marginalization, present forces that armed groups utilize to recruit children, and communities and specific institutions face the difficulty of offering sufficient

<sup>19</sup> African Union; *African Charter on the Rights and Welfare of the Child*, 1990, entered into force 1999.

<sup>20</sup> Ibid.

<sup>21</sup> De Than C. and Shorts E.; *International Criminal Law and Human Rights*, Sweet & Maxwell Limited, London, 2003. See also; Donnelly, J.; *Universal Human Rights in Theory and Practice*, Ithaca, Cornell University Press, 2003.

<sup>22</sup> Hagler, S.O.; *The Application of Principles And Rules of International Humanitarian Law To Other Situations of Violence (OSVs)*, Abia State University, Faculty of Law, 2018. See also; Hagler, S.O.; *Enforcement of International Humanitarian Law: Appraisal of the Role of National Committees*, Ph.D thesis submitted to the Faculty of Law, ABSU, 2016.

<sup>23</sup> Ibid, See also; Brett, R. and McCallin, M.; *Children: The Invisible Soldiers*, Stockholm, Rädda Barnen, 1998.

reintegration and psychosocial support.<sup>24</sup> Therefore, despite the fact that international and regional tools have created a strong normative framework and operation principles, gaps in laws, institutional shortcomings, operational issues, and structural socio-economic vulnerabilities make sure that such safeguards are still on paper, and children have been left exposed to the multidisciplinary ills of armed conflict.<sup>25</sup>

#### **a. Institutional and capacity constraints**

A proper protection of the child norms within the armed conflict depends on the capacity, training, and organizing the domestic institutions as well as the legal frameworks of the armed conflict. It requires a well-trained judicial system, child-receptive law enforcement, properly working social system, and properly staffed child-protection agencies to translate the international standards into practical protection and reintegration efforts.<sup>26</sup> Nonetheless, institutions are either overworked, underinvested or weaker in structure and incapable of offering protection to children in most conflict-prone environments.<sup>27</sup> The Judicial systems are commonly not trained to implement child-sensitive procedures that result in delays or inability to prosecute children as would be expected of combatants or are simply not executed as required by the CRC, OPAC, or even regional instruments like the ACRWC.<sup>28</sup> Security forces under high operational pressure can occasionally arrest children involved with armed groups instead of recognizing them as victims to be reintegrated, a situation that makes it more complicated to overcome the traumas and more likely to be re-recruited.<sup>29</sup> It is regularly reported and documented by the UN Secretary-General and ReliefWeb, as well as in regular reports on agendas such as an investigation of Rohingya genocide, that gross violations of children continue to exist exactly where there is inadequate institutional capacity, which further demonstrates that despite well-crafted legal norms, in the absence of strong, child-oriented institutional mechanisms, even such intricate standards of agendas are likely to remain only on paper.<sup>30</sup> Reinforcement of institutions, child protection capacity building, and inter-agency coordination strategies are thus important in ensuring that normative commitments are indeed met into reality protection and sustainable reintegration of child victims of armed conflict.<sup>31</sup>

#### **b. Operational tensions in security responses**

Operational responses to armed conflict, particularly in counter-insurgency and stabilization contexts, can inadvertently exacerbate the vulnerability of children and undermine protection efforts. Emergency security measures, including mass detentions, curfews, and the establishment of informal community defense arrangements, often blur the line between children as victims and

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<sup>24</sup> Almila E.; *Sexual Violence Against Children in Armed Conflict*, University of Helsinki, Helsinki, 2022.

<sup>25</sup> Ibid.

<sup>26</sup> Fatima et al.; *Protecting Children in Armed Conflict*, Hart Publishing, Oxford, 2018.

<sup>27</sup> Brett, R. and McCallin, M.; *Children: The Invisible Soldiers*, Stockholm, Rädda Barnen, 1998.

<sup>28</sup> Okorie, H.; *Child Soldiering and Protection, Northeast Nigeria in Perspective*, University of Benin Law Journal, Vol. 17, No. 1, 2016.

<sup>29</sup> Hagler, S.O.; *The Application of Principles And Rules of International Humanitarian Law To Other Situations of Violence (OSVs)*, Abia State University, Faculty of Law, 2018.

<sup>30</sup> Ibid. See also; United Nations Secretary-General; *Report on Children and Armed Conflict*, New York, United Nations, 2024.

ReliefWeb; *Children and Armed Conflict in Nigeria: Situational Analysis*, ReliefWeb, 2023.

<sup>31</sup> De Than C. and Shorts E.; *International Criminal Law and Human Rights*, Sweet & Maxwell Limited, London, 2003.

as alleged perpetrators, leading to the criminalization of children for acts they were coerced or manipulated into committing.<sup>32</sup> Scholars such as Hagler and Fatima et al. emphasize that such operational pressures frequently prioritize immediate security objectives over long-term child protection, resulting in practices that contravene both international human rights law and the principles outlined in the CRC, OPAC, and regional instruments such as the ACRWC.<sup>33</sup> Programmatic guidance, including the Paris Principles and ICRC operational manuals, advocates for child-sensitive alternatives: screening procedures to identify children associated with armed forces or groups (CAAFG) as victims rather than offenders, community-based reintegration, and psychosocial support interventions.<sup>34</sup> However, in high-intensity conflict zones, short-term operational imperatives often dominate, leading to punitive measures such as detention or prosecution that compromise reintegration prospects and increase the risk of traumatization and recruitment.<sup>35</sup> Consequently, operational tensions in security responses illustrate a critical gap between normative guidance and field practice, highlighting the need for security frameworks that integrate child protection priorities into tactical and strategic decision-making without compromising operational effectiveness.<sup>36</sup>

### c. Socio-economic drivers and community dynamics

The socio-economic vulnerability of children and the social dynamics within their communities are crucial factors that influence children's involvement in recruitment and handling during armed conflict. Factors like poverty, limited access to education, displacement, and reduced social cohesion create environments for the coercion, persuasion, or willing engagement of children with armed groups as part of a strategy for survival or belonging.<sup>37</sup> For example, in the Lake Chad Basin, the effects of conflict, as well as a lack of social development, places children in situations where armed group affiliation occurs parallel to their socio-economic vulnerability and the decline of their social dynamics.<sup>38</sup> Experts suggest that programs related to protection, reintegration, and rehabilitation must go beyond relief and demobilization support, and address the underlying socio-economic determinants—such as educational opportunities, household support, and social trust—of engagement with armed groups to ultimately prevent and reduce the risk of future conflict; for example, reintegration programs must focus and provide educational opportunities and skills development.<sup>39</sup> UNIDIR further underscores that holistic approaches combining security, social,

<sup>32</sup> Brett, R. and McCallin, M.; *Children: The Invisible Soldiers*, Stockholm, Rädda Barnen, 1998.

<sup>33</sup> Hagler, S.O.; *The Application of Principles And Rules of International Humanitarian Law To Other Situations of Violence (OSVs)*, Abia State University, Faculty of Law, 2018. See also; Fatima et al.; *Protecting Children in Armed Conflict*, Hart Publishing, Oxford, 2018.

<sup>34</sup> ICRC; *Children and Armed Conflict: Operational Guidelines for Armed Forces and Humanitarian Actors*, International Committee of the Red Cross, Geneva, 2021.

<sup>35</sup> Hagler, S.O.; *The Application of Principles And Rules of International Humanitarian Law To Other Situations of Violence (OSVs)*, Abia State University, Faculty of Law, 2018. See also; Okorie, H.; *Child Soldiering and Protection, Northeast Nigeria in Perspective*, University of Benin Law Journal, Vol. 17, No. 1, 2016.

<sup>36</sup> Ibid.

<sup>37</sup> Drumbl, M. A.; *Reimagining Child Soldiers in International Law and Policy*, Oxford, Oxford University Press, 2012.

<sup>38</sup> Hagler, S.O.; *The Application of Principles And Rules of International Humanitarian Law To Other Situations of Violence (OSVs)*, Abia State University, Faculty of Law, 2018.

<sup>39</sup> Okorie, H.; *Child Soldiering and Protection, Northeast Nigeria in Perspective*, University of Benin Law Journal, Vol. 17, No. 1, 2016.

and economic interventions are essential to building resilient communities and protecting children, highlighting the interdependence between child protection and broader socio-economic stability.<sup>40</sup> Without addressing these structural drivers, even well-designed legal and operational frameworks risk limited effectiveness, as children remain embedded within communities that reproduce vulnerabilities and expose them to renewed cycles of violence.<sup>41</sup>

## 5. Nigeria as Case Study: Law, Practice, And Persisting Challenges

**a. Legal Framework and Adoption Gaps:** The federal Child Rights Act (CRA) of 2003 is Nigeria's foundational piece of legislation to safeguard children in accordance with applicable international standards including the United Nations Convention on the Rights of the Child (CRC) and the Optional Protocol on the Involvement of Children in Armed Conflict (OPAC). The CRA incorporates the best-interests principle, prevents exposure to harm and assists protection from harmful and exploitative circumstances, and details protection safeguards through the lenses of respective protections, health, education, and juvenile justice.<sup>42</sup> However, since Nigeria operates on a federal system, the CRA must be domesticated at the state level to take full legal effect, and this process is not uniform across Nigeria. Varying levels of protection of children are present in Nigeria by states, leaving children in a state that has not domesticated the CRA unprotected and vulnerable to recruitment, harm, abuse, and neglect.<sup>43</sup> Similarly, both Hagler's and Okorie's work emphasized that besides the CRA being domesticated, severe enforcement gaps exist based on weak judicial systems, child advocacy issues during law enforcement, insufficient child-sensitive law enforcement, and limited social service agency budgets and capacities which create a gap between statutory protection and enforcement protection.<sup>44</sup> These uneven levels of legal protection and enforcement converse with the urgent need for certain federating units to harmonize their laws and invest in programs to strengthen the institutions and the laws toward practical enforcement and improved protection and outcomes for children and young people.<sup>45</sup>

**b. Children and the Boko Haram Insurgency:** The lengthy insurgency in Nigeria's northeast, led by Boko Haram and splinter groups, has resulted in extensive and systematic abuses of children's rights, such as abduction, forced recruitment, sexual violence, attacks on schools, and mass displacement.<sup>46</sup> Reports from UNICEF and the UN Secretary-General have documented both the extent of abuses, as well as some select progress in releasing children from armed groups.<sup>47</sup> Although reintegration programs — for example, community-based psychosocial support, access

<sup>40</sup> UNIDIR; *Building a More Secure World: Children, Armed Conflict, and Community Resilience*, United Nations Institute for Disarmament Research, Geneva, 2020

<sup>41</sup> Almila E.; *Sexual Violence Against Children in Armed Conflict*, University of Helsinki, Helsinki, 2022.

<sup>42</sup> Ese, Malemi.; *The Nigerian Constitutional Law*, Princeton Publishing Company Nigeria, 2017.

<sup>43</sup> PLACNG; *Report on the Domestication of the Child Rights Act in Nigeria*, Policy and Legal Advocacy Centre, Abuja, 2020.

<sup>44</sup> Hagler, S.O.; *Enforcement of International Humanitarian Law: Appraisal of the Role of National Committees*, Ph.D thesis submitted to the Faculty of Law, ABSU, 2016.

<sup>45</sup> Okorie, H.; *Child Soldiering and Protection, Northeast Nigeria in Perspective*, University of Benin Law Journal, Vol. 17, No. 1, 2016.

<sup>46</sup> Brett, R. and McCallin, M.; *Children: The Invisible Soldiers*, Stockholm, Rädda Barnen, 1998. See also; Drumbl, M. A.; *Reimagining Child Soldiers in International Law and Policy*, Oxford, Oxford University Press, 2012.

<sup>47</sup> United Nations Secretary-General; *Report on Children and Armed Conflict*, New York, United Nations, 2024. ICRC; *Children and Armed Conflict: Operational Guidelines for Armed Forces and Humanitarian Actors*, International Committee of the Red Cross, Geneva, 2021.

to education, and livelihoods intervention — have had important local successes, significant progress is still not made as stakeholders continue to face considerable challenges, which include finding and reconnecting with families, backing from family and community members, long-term psychosocial care, sustainable educational and livelihood opportunities for formerly abducted child combatants.<sup>48</sup> The tension of promissory achievements and systemic challenges highlight the normative-implementation gap, where international and domestic commitments toward child protection can still only be realized in part in conflict-affected environments.<sup>49</sup>

**c. Criminal Justice, Detention, and Victimhood:** A widespread issue in areas affected by conflict is the criminalization of children associated with armed groups despite rehabilitation guidance and reinforcement of child protection policies. The Paris Principles and OPAC both clearly establish that children need to be treated as victims and protected from punishment. Yet, security actors consistently opt for arrest and prosecution, and continue to view children as alleged combatants rather than children who need rehabilitative programming.<sup>50</sup> Scholars writing on this punitive practice, like Hagler and Fatima et al., assert that this ultimately has implications for delaying any future options of reintegration, and builds mistrust between affected communities and authorities, and adds risk factors of re-traumatization.<sup>51</sup> In northeast Nigeria, these issues have been observed post military intervention against Boko Haram, where children recovered from armed groups are placed into correctional facilities or ordered interrogated, prior to considering any chance of reintegration, and confirm an ongoing operational-practice gap which fundamentally undermines normative obligations and long term protection objectives.<sup>52</sup>

## **6. International accountability and jurisprudence: deterrence and limits**

The prosecution of Thomas Lubanga by the international criminal court (ICC) is a significant milestone in the standard of international criminal law and it is important to note that the ICC has the ability to prosecute in criminal line those involved in recruiting and using children in warfare. The Lubanga case set a legal precedent that the use of children under the age of fifteen years as a war criminal is the carrying of a crime, as the international community understands the special interests of children in protection, and it is important to ensure that they are avoided in conflict.<sup>53</sup> Otherwise, beyond the legal responsibility, such notions play a deterrence role by sending a message to commanders and armed groups, as well as States, that breaches of child protection standards have serious consequences. ICC jurisprudence, as Hagler observes, is strengthening the normative framework of child protection because it establishes a connection between the international human rights framework, the humanitarian law framework, and the criminal law

<sup>48</sup> Fatima et al.; *Protecting Children in Armed Conflict*, Hart Publishing, Oxford, 2018.

<sup>49</sup> Hagler, S.O.; *The Application of Principles And Rules of International Humanitarian Law To Other Situations of Violence (OSVs)*, Abia State University, Faculty of Law, 2018

<sup>50</sup> De Than C. and Shorts E.; *International Criminal Law and Human Rights*, Sweet & Maxwell Limited, London, 2003. See also; ICRC; *Children and Armed Conflict: Operational Guidelines for Armed Forces and Humanitarian Actors*, International Committee of the Red Cross, Geneva, 2021.

<sup>51</sup> Hagler, S.O.; *Enforcement of International Humanitarian Law: Appraisal of the Role of National Committees*, Ph.D thesis submitted to the Faculty of Law, ABSU, 2016.

<sup>52</sup> Almila E.; *Sexual Violence Against Children in Armed Conflict*, University of Helsinki, Helsinki, 2022.

<sup>53</sup> De Than C. and Shorts E.; *International Criminal Law and Human Rights*, Sweet & Maxwell Limited, London, 2003.

framework, therefore, establishing the interaction between the dynamic of protection commitments and personal responsibility.<sup>54</sup>

In spite of these successes, the jurisdiction of the ICC is mainly complementary and limited in its capacity, but only steps in cases that national systems have no intention or capacity to prosecute innocent crimes that are very serious. This shortcoming has emphasized that international criminal justice, as important as it is, is not powerful enough to seal the protection gaps on children in the state of conflict.<sup>55</sup> The protection clique would eventually need strong domestic criminal justice systems that could administer fair trials, use child-sensitive procedures, and offer victim-centered reparations and re-integrations.<sup>56</sup> In the absence of such domestic capacity, children will continue to be susceptible to recruitment, abuse and impunity even where ICC may theoretically intervene. In turn, the ICC activity should be complemented by enjoying superior legal frameworks nationally, efficient judicial structures, and integrative reintegration, that is, accountability, protection, and rehabilitation are to work in the synergy to address the rights and well-being of children victims of armed conflict.<sup>57</sup>

## **7. Bridging the Gap: Legal, Institutional and Programmatic Reforms**

To close the gap between international child protection standards and domestic reality, a comprehensive approach is needed that addresses normative harmonization, the development of institutional capacity, child-sensitive practice, socio-economic level programming, and monitoring. While instruments like the CRC, the OPAC, and the ACRWC offer definitive legal and normative guidance, transforming the international instruments into effective protection domestically entails transformative reforms to legal, judicial, security, and community systems. Scholars note that burrowing the gap should not be viewed solely as a legislative exercise but rather a holistic effort that includes training, programming investment, reintegration, accountability, and data-driven monitoring.<sup>58</sup>

### **1. Legal harmonization and penal reform**

To effectively achieve child protection, domestic laws should comply with international and regional standards. States should harmonize domestic legislation with their obligations under OPAC and ACRWC provisions, raising age thresholds for recruitment to eighteen years for participation in hostilities, explicitly prohibiting unlawful recruitment and use of children, and eliminating all exceptions that could allow for the indirect or informal recruitment of children.<sup>59</sup> In federal states, such as Nigeria, harmonization involves the adoption of protective laws, such as the Child Rights Act (2003), by sub-national states to eliminate protected rights disparities and guarantee uniformity in protection.<sup>60</sup> In addition, penal reform should provide visible enforcement mechanisms with proportionate sanctions to deter any violations, while simultaneously protecting

<sup>54</sup> Hagler, S.O.; *The Application of Principles And Rules of International Humanitarian Law To Other Situations of Violence (OSVs)*, Abia State University, Faculty of Law, 2018.

<sup>55</sup> Donnelly, J.; *Universal Human Rights in Theory and Practice*, Ithaca, Cornell University Press, 2003.

<sup>56</sup> Ibid.

<sup>57</sup> Almila E.; *Sexual Violence Against Children in Armed Conflict*, University of Helsinki, Helsinki, 2022.

<sup>58</sup> De Than C. and Shorts E.; *International Criminal Law and Human Rights*, Sweet & Maxwell Limited, London, 2003.

<sup>59</sup> Drumbl, M. A.; *Reimagining Child Soldiers in International Law and Policy*, Oxford, Oxford University Press, 2012. See also; Fatima et al.; *Protecting Children in Armed Conflict*, Hart Publishing, Oxford, 2018.

<sup>60</sup> Ese, Malemi.; *The Nigerian Constitutional Law*, Princeton Publishing Company Nigeria, 2017.

the child victims' rights. It is posited by OHCHR, that legal harmonization provides the foundation for successful operationalization of child protection norms, as well as underpinning stronger accountability mechanisms.<sup>61</sup>

## **2. Strengthen child-sensitive justice and alternatives to detention**

Safeguarding children during conflict needs judicial and security systems that are equipped and sensitized to child-sensitive procedures. The police, military, and judicial personnel must recognize children associated with armed groups as victims instead of offenders, implement rehabilitative solutions, and refer them to agency child protection services quickly.<sup>62</sup> Standard Operating Procedures (SOPs) that are informed by the Paris Principles of 2007 and international best practices, should be incorporated into national security operations to ensure consistent practice.<sup>63</sup> By focusing on diversion and non-punitive approaches, States will avoid re-traumatization, foster goodwill with affected communities, and improve effectiveness of reintegration programs.

## **3. Invest in protection systems and reintegration pathways**

Sustainable reintegration of children requires long-term investments in psychosocial support, family tracing, education, vocational training, and community reconciliation.<sup>64</sup> Donors and States should shift financing from short-term emergency interventions toward medium- to long-term programs that strengthen livelihoods, education, and social cohesion. Community-based reconciliation initiatives, stigma-reduction campaigns, and engagement of local leaders are critical to fostering acceptance of returning children, minimizing the risk of re-recruitment, and promoting sustainable reintegration. These programmatic interventions must be tailored to the local context and embedded within broader child protection systems to ensure continuity and effectiveness.<sup>65</sup>

## **4. Data, Monitoring and Reporting**

Robust data-collection, monitoring, and reporting mechanisms are essential to close the gap between law and practice. States should systematically document violations, cooperate fully with UN monitoring mechanisms such as the Secretary-General's Children and Armed Conflict (CAAC) reporting, and use data to guide targeted interventions.<sup>66</sup> Transparent reporting strengthens accountability, informs national and international programming, and enables evidence-based allocation of resources. It also fosters international confidence in domestic protection efforts, enhancing support from donors, humanitarian actors, and multilateral organizations.<sup>67</sup>

<sup>61</sup> OHCHR; *Protecting Children in Armed Conflict: Legal Standards and State Obligations*, Office of the High Commissioner for Human Rights, Geneva, 2018.

<sup>62</sup> Drumbl, M. A.; *Reimagining Child Soldiers in International Law and Policy*, Oxford, Oxford University Press, 2012.

<sup>63</sup> Hagler, S.O.; *Enforcement of International Humanitarian Law: Appraisal of the Role of National Committees*, Ph.D thesis submitted to the Faculty of Law, ABSU, 2016.

<sup>64</sup> Okorie, H.; *Child Soldiering and Protection, Northeast Nigeria in Perspective*, University of Benin Law Journal, Vol. 17, No. 1, 2016.

<sup>65</sup> ReliefWeb; *Children and Armed Conflict in Nigeria: Situational Analysis*, ReliefWeb, 2023.  
UNICEF; *Children in Armed Conflict: Releases, Reintegration, and Protection Challenges*, UNICEF, 2019.  
International Criminal Court; *The Prosecutor v. Thomas Lubanga Dyilo*, ICC-01/04-01/06, 2012.

<sup>66</sup> Ibid.

<sup>67</sup> ReliefWeb; *Children and Armed Conflict in Nigeria: Situational Analysis*, ReliefWeb, 2023.  
UNICEF; *Children in Armed Conflict: Releases, Reintegration, and Protection Challenges*, UNICEF, 2019.  
International Criminal Court; *The Prosecutor v. Thomas Lubanga Dyilo*, ICC-01/04-01/06, 2012.

## 5. Accountability and reparations

Ensuring justice and reparations is indispensable for comprehensive child protection. States must investigate and prosecute adults responsible for grave violations against children while providing victims with trauma-informed reparations, rehabilitation, and reintegration support.<sup>68</sup> Where domestic capacity is insufficient, complementary international mechanisms, including cooperation with the ICC, should be pursued to uphold accountability. Reparations programs must be child-specific, incorporating psychological care, educational support, and economic empowerment opportunities, thereby addressing both immediate harms and long-term vulnerabilities while reinforcing the normative principle that children affected by armed conflict are primarily victims requiring protection and rehabilitation.<sup>69</sup>

## 8. Conclusion and Recommendation

Bridging the gap between international child protection standards and domestic realities requires a holistic and multi-layered approach. While international instruments provide clear normative guidance, their effective implementation depends on strong domestic legal frameworks, child-sensitive judicial and security systems, and well-resourced protection and reintegration programs. The experience of conflict-affected regions shows that uneven adoption of protective laws, operational deficits, and socio-economic vulnerabilities leave children exposed to recruitment, exploitation, and marginalization, despite formal legal safeguards. Operational challenges, such as punitive approaches to children associated with armed groups, weak monitoring, and limited reintegration pathways, demonstrate that protection is not merely a matter of legislation but also of consistent programmatic interventions, community engagement, and accountability mechanisms. Furthermore, international criminal justice, while important for ensuring accountability, cannot substitute for robust domestic enforcement and sustained support for affected children. Ultimately, safeguarding children in conflict requires the coordination of legal, institutional, and social measures that address both immediate harms and the structural factors that perpetuate vulnerability.

To enhance child protection in armed conflict, states and stakeholders should prioritize legal harmonization, institutional capacity development, and programmatic investment. Domestic laws should be fully aligned with international standards, including consistent age thresholds and clear criminal provisions, and should be uniformly applied across all jurisdictions to eliminate disparities. Judicial, law enforcement, and security actors should be trained in child-sensitive procedures, with operational guidelines that emphasize rehabilitation and diversion rather than punitive measures. Reintegration and protection systems require long-term investment, including psychosocial care, family tracing, education, vocational training, and community reconciliation, with a focus on building sustainable livelihoods and social cohesion. Data collection, monitoring, and reporting mechanisms should be strengthened to guide interventions and enhance accountability, while ensuring transparency and informed decision-making. Finally, perpetrators of serious violations must be held accountable, and children affected by conflict should receive trauma-informed reparations and reintegration support, recognizing their primary status as victims.

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<sup>68</sup> ICRC; *Children and Armed Conflict: Operational Guidelines for Armed Forces and Humanitarian Actors*, International Committee of the Red Cross, Geneva, 2021.

Okorie, H.; *Child Soldiering and Protection, Northeast Nigeria in Perspective*, University of Benin Law Journal, Vol. 17, No. 1, 2016.

<sup>69</sup> Ibid.

Collectively, these measures provide a practical framework for closing the gap between legal obligations and real-world protection, fostering safer environments and meaningful opportunities for children in conflict-affected settings.