

TOPIC: LEGAL MECHANISMS TO ENSURE ACCESS TO JUSTICE IN REGIONS AFFECTED BY SECURITY THREATS AND ECONOMIC INSTABILITY.

CONFERENCE THEME: RESILIENT AFRICA'S ROADMAP FOR SUSTAINABLE DEVELOPMENT: ADDRESSING AND STRENGTHENING ISSUES OF MILITARY, SECURITY AND ECONOMIC STABILITY.

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1. INTRODUCTION

The theme of the 2026 African Bar Association Conference, '*Resilient Africa's Roadmap for Sustainable Development*,' compels a fundamental re-evaluation of the interface between legal order, military efficacy, and economic vitality. In nations like Nigeria, where the fabric of society has been systematically unraveled by non-state armed groups for nearly two decades, the pursuit of sustainable development is impossible without a robust, accessible, and transformative framework for justice. The Boko Haram/ISWAP insurgency has constituted a 'severe and protracted threat to the enjoyment of fundamental human rights in the North-East

states of Borno, Adamawa, and Yobe .¹ This conflict, which escalated following the extrajudicial killing of Mohammed Yusuf in 2009, is characterized by mass killings, abductions, sexual and gender-based violence (SGBV), forced displacement of over 2.2 million people, and the deliberate destruction of economic infrastructure, including farms, markets, and health facilities.²

However, the security challenges confronting Nigeria are not confined to the North-East. The Middle Belt region, particularly Benue State, has experienced a parallel crisis of staggering proportions. Benue State, known as the 'Food Basket of the Nation,' has a predominantly agrarian population, with over 80% relying on farming for their livelihoods.³ The state has been at the epicenter of a protracted farmer-herder conflict driven by climate change, population pressure, weak governance, and the criminalization of rural conflict.⁴ Between March and June 2025, a series of violent attacks by armed groups, primarily identified as herder militias, targeted farming communities across Benue and Plateau States, characterized by deliberate killings, destruction of livelihoods, properties, public infrastructure, and mass internal displacement.⁵

A central paradox defines the current landscape. Despite tactical military gains and a reduction in insurgent territorial control in the North-East, the human rights indicators from 2023 to 2025 reveal a troubling pattern: a decline in the substantive enjoyment of rights.⁶ Similarly, in Benue State, despite the enactment of the Open Grazing Prohibition and Ranches Establishment Law in 2017, violence has continued unabated, with over 615,000 people displaced as of July 2025.⁷ The National Human Rights Commission's (NHRC) Human Rights Observatory data underscores this, with complaints surging from 205,364 in February 2025 to over 406,000 by October 2025, with the North-East and North-Central regions consistently major epicenters of killings, kidnappings, and property destruction.⁸ In April 2025 alone, the Commission received a staggering 261,283 complaints, documenting an alarming increase in

¹ National Human Rights Commission of Nigeria (NHRC), 'Boko Haram/ISWAP Insurgency and Its Human Rights Impact (Borno, Adamawa and Yobe)' (Internal Situation Report, 2025).

² International Committee of the Red Cross (ICRC), 'Nigeria: January to June 2025 Facts and Figures' (2025); see also NHRC (n 1) 2.

³ ReliefWeb, 'Nigeria Displacement Crisis - DREF Operational Update (MDRNG043)' (November 2025).

⁴ Nextier, 'Over 2,000 Killed in Benue, Plateau Since 2021' (February 2026).

⁵ ReliefWeb (n 3).

⁶ NHRC (n 1) 2 ('a mixed pattern of tactical security gains but continuing structural human rights decline').

⁷ ReliefWeb (n 3) 4.

⁸ NHRC (n 1) 3.

human rights abuses, particularly in conflict-ridden states such as Benue, Plateau, Borno, and Yobe.⁹

This paper argues that the paradox of greater military security but worsening human welfare is not an anomaly but a direct consequence of a fundamental failure of the legal mechanism to provide post-conflict redress, economic opportunity, and institutional stability. The central argument is that access to justice in security-threatened regions must be radically redefined. It cannot be limited to the prosecution of terrorists or the mere provision of physical security by security forces. Such a narrow, punitive model ignores the structural drivers of conflict. Instead, access to justice must encompass a transformative agenda: a suite of legal and quasi-legal mechanisms designed to enforce socio-economic rights, provide collective reparations for systemic harm, and rebuild the fragile social contract between the state and its citizens.¹⁰

To build this argument, this paper will proceed as follows. Section Two analyses the conceptual and legal framework for access to justice in Nigeria and Africa, identifying critical constitutional barriers (the non-justiciability of Chapter II), regional institutional weaknesses (the non-binding nature of African Commission decisions and the restrictive access to the African Court), and the predominance of punitive over restorative justice. Section Three examines the direct relationship between economic instability poverty, unemployment, and regional marginalization and the perpetuation of security threats, drawing on evidence from both the North-East and Benue State. Section Four evaluates the pragmatic interventions of the NHRC, including its terrorism trial monitoring, restorative justice programme, IDP camp monitoring, and referral pathways. Section Five examines the SIIP North-East investigation into the Reuters allegations and its recommendations for reparations. Section Six proposes a framework for Transformative Access to Justice, drawing comparative lessons from South Africa and Tunisia. Section Seven concludes with concrete, actionable recommendations for the African Bar Association and member states.

2. THE LEGAL ARCHITECTURE: CONSTITUTIONAL AND REGIONAL BARRIERS

To understand the failure of access to justice in conflict-affected regions, one must first recognize the conceptual and legal barriers that are embedded within the domestic, regional, and international systems binding Nigeria.

2.1 The Constitutional Lacuna: Non-Justiciability of Socio-Economic Rights

The 1999 Constitution of the Federal Republic of Nigeria (As amended) guarantees a range of fundamental rights in Chapter IV, including the right to life, dignity, and fair hearing.

⁹ NHRC, 'NHRC Reports 570 Killings and 278 Kidnappings in April, 2025' (August 2025) 1.

¹⁰ Simeon Gready, 'The Case for Transformative Reparations: In Pursuit of Structural Socio-Economic Reform in Post-Conflict Societies' (2022) 16(2) *Journal of Intervention and Statebuilding* 182, 194.

However, a critical flaw lies in Chapter II, which enshrines the Fundamental Objectives and Directive Principles of State Policy. Section 14(2)(b) explicitly declares that the security and welfare of the people shall be the primary purpose of government. Similarly, Section 16 mandates the state to ensure adequate economic means of livelihood and equal pay for equal work.

Yet, these provisions are rendered legally impotent by Section 6(6)(c) of the Constitution, which provides that the courts have no jurisdiction over matters arising from Chapter II. As one legal analysis notes, this constitutional arrangement renders economic justice not achievable in legal terms, and the state's obligations turn out to be mere political slogans rather than enforceable duties.¹¹ For a farmer in Borno who cannot access his land due to insurgent activity and military restrictions, or a displaced mother whose right to health is violated by a destroyed clinic, these economic and social rights are non-existent in a court of law. This structural barrier is a primary driver of recurring grievances, as citizens have no legal recourse against the state's failure to provide the basic welfare that would otherwise disincentivise radicalization.¹²

The Benue crisis powerfully illustrates this constitutional deficit. Farmers who have lost their land, IDPs who have been denied food and shelter, and communities whose livelihoods have been destroyed have no legal recourse to enforce their rights to livelihood, food, and adequate housing. The NHRC documented 530 cases of denied access to food and shelter in Benue, Taraba and Kano, alongside 195 incidents of gender-based violence and 324 barriers to education threatening children's futures.¹³

2.2 Regional Human Rights Systems: Promise Denied by Protocol and Process

At the regional level, the African Charter on Human and Peoples' Rights (ACHPR) provides a progressive framework, protecting not just civil and political rights but also economic, social and cultural rights, as well as collective people's rights (Arts 2-18, 20-24).¹⁴ The African

¹¹Paul Atagamen Aidonjio and others, 'Economic Justice as a Legal Strategy for Countering Terrorism in Nigeria: A Comparative Analysis with the United Kingdom' (2026) 2(1) *Contrarius* 1, 9.

¹²*ibid* 11.

¹³The Guardian, 'Children account for 82% of 9,290 IDPs in 11 states NHRC' (23 December 2025).

¹⁴ Celestine Nchekwube Ezennia, 'Access to Justice Mechanisms for Individuals and Groups under the African Regional Human Rights System: An Appraisal' (2021) 17 *African Journal of Legal Studies* 115, 119-20.

Commission on Human and Peoples' Rights was established as a quasi-judicial body to oversee state compliance.

However, the effectiveness of the Commission is fatally undermined by the non-binding nature of its decisions. Under Articles 47-54, the Commission can investigate and make recommendations, but it cannot issue binding judgments or impose sanctions. The tragic case of *International Pen & Ors (on behalf of Ken Saro Wiwa & Ors) v Nigeria* illustrates this perfectly. The Commission ordered provisional measures requesting Nigeria to suspend the execution of eight individuals pending a final determination. Nigeria ignored the order and executed the men. No sanction was imposed.¹⁵ As one commentator observes, 'the remedies the Commission may be awarding individuals and groups against African states under this mechanism may become an empty pronouncement.'¹⁶

The African Court on Human and Peoples' Rights (ACtHPR) was established via Protocol to remedy this with binding judgments.¹⁷ Yet, access to this judicial mechanism for individuals and groups is severely restricted. Under Article 5(3), individuals and NGOs can only directly institute cases if the respondent state has deposited a special declaration accepting the Court's competence under Article 34(6). This system, where a violator state can simply refuse to make the declaration and thereby immunize itself from justice, has been justly described as a case of a poacher turned gamekeeper.¹⁸ Cases like *Uko & Ors v Republic of South Africa* and *Mahmoudi v Republic of Tunisia* were struck out for this very reason, leaving victims of state-linked abuses during conflicts without a regional judicial remedy.¹⁹

2.3 The Predominance of Punitive over Restorative Justice in Counter-Terrorism Law

Nigeria's primary legal response to terrorism, the Terrorism (Prevention and Prohibition) Act 2022, reinforces a punitive, security-centric model. While it creates important frameworks for the prosecution of terrorist acts, the financing of terrorism, and the proscription of

¹⁵ *International Pen & Ors (on behalf of Ken Saro Wiwa & Ors) v Nigeria* (1998) Comm No 137/94, 139/94, 154/96, 161/97 (ACHPR); see analysis in Ezennia (n 14) 125-26.

¹⁶ Ezennia (n 14) 126.

¹⁷ Protocol to the African Charter on Human and Peoples' Rights on the Establishment of an African Court on Human and Peoples' Rights (adopted 9 June 1998, entered into force 25 January 2004) art 2.

¹⁸ Ezennia (n 14)

¹⁹ *Uko & Ors v Republic of South Africa* (2016) App No 003/2014 (AfCHPR).

organizations (Sec 1-15), it is fundamentally a law of coercion.²⁰ It grants expansive powers to security agencies but provides minimal enforceable safeguards for the socio-economic rights of affected communities. The law treats terrorism as an ordinary crime, ignoring the ideological, economic, and social drivers of radicalization. As a comparative study notes, the Act sees terrorism as a security concern and thereby pushes economic and social consequences to the background. The loss of income, health problems in the camps for internally displaced persons, and the ongoing closure of health care centers due to fighting remain legally unaddressed.²¹

This punitive focus alienates affected communities, who view the state as a coercive force rather than a protective entity.²² It leaves no legal room for restorative justice mechanisms such as the Gacaca courts of Rwanda or the Mato oput of the Acholi in Uganda which emphasize community healing, truth-telling, and reintegration over pure retribution.²³ The failure to integrate such mechanisms into the legal framework represents a missed opportunity for sustainable peacebuilding.

3. THE NEXUS BETWEEN ECONOMIC INSTABILITY AND SECURITY THREATS

Any credible legal mechanism for access to justice must address the root causes of violence. The provided materials unequivocally establish that terrorism in Nigeria manifests not only as a security threat but as a legally constructed offence governed by a defined statutory framework, and that this framework is failing because it ignores the structural drivers such as poverty, youth unemployment, and regional inequality.²⁴

3.1 The North-East: Grievance-Based Radicalization

The persistence of Boko Haram and ISWAP is directly linked to the state's inability to provide economic justice. High rates of unemployment, particularly among youth (estimated at

²⁰ Aidonojie (n 11) 10; see also Onu Godwin and Kolapo QA, 'Investigating the Legacies of Violence and Conflict in Transitional Justice and Peace' (2022) 10(1) African Journal of Political Science 1, 9.

²¹ Aidonojie (n 11)

²² *ibid* 2.

²³ Nlerum S Okogbule and Cleverline T Brown, 'Appraising the Challenge of Reconstructing "Peace" and "Justice" in Post-conflict African States' (2023) 15 Journal of Conflict and Justice Studies 1, 6.

²⁴ Aidonojie (n 11)

28.8%), make vulnerable populations easy targets for recruitment by armed factions who offer financial incentives or material assistance for survival.²⁵ As the Global Terrorism Index data shows, terrorism-related deaths increased from 385 in 2022 to 565 in 2024, with civilians increasingly targeted.²⁶ This indicates that the military strategy, while costly (N12.6 trillion allocated to security), has not addressed the grievance-based recruitment pipeline.

3.2 The Middle Belt: Resource Competition and Economic Marginalization

The Benue crisis powerfully illustrates the paper's central argument that security threats and economic instability are mutually reinforcing. The violence is rooted in historical land disputes, weak governance, climate pressures, and the growing criminalization of rural conflict. Armed groups now finance operations through kidnapping, cattle rustling, and illicit mining, making the conflict increasingly self-sustaining.²⁷

Agricultural Destruction: Benue's status as Nigeria's food basket has been systematically undermined. The ongoing insecurity particularly in food-producing regions all point to the looming famine and food insecurity in the near future.²⁸ The trillions borrowed to support agriculture risk being wasted due to persistent insecurity and apparent lack of political will to deal with this menace.²⁹

Mass Displacement: The violence has created a displacement crisis of enormous proportions. The NHRC dashboard for mid-2025 revealed that Yobe and Benue recorded the highest numbers of internally displaced persons (IDPs), with Benue recording 1,850 IDPs amid herder attacks, insurgent raids, and destroyed infrastructure.³⁰ The total number of recorded IDPs across 11 states was 9,290, with children comprising 82 per cent of those reached.³¹

Human Rights Violations: Over 1,800 human rights violations emerged as top concerns: 530 cases of denied food and shelter in Benue, Taraba, and Kano; 278 restrictions on freedom of

²⁵ *ibid* 13.

²⁶ *ibid* 7.

²⁷ Nextier (n 4).

²⁸ NHRC, 'Speech by Dr Tony Ojukwu OFR SAN at NHRC June 2025 Dashboard Presentation' (7 July 2025) 2.

²⁹ *ibid*.

³⁰ NHRC, 'Yobe, Benue Record Highest New IDP Numbers' (December 2025).

³¹ The Guardian (n 13).

movement tied to insecurity in Yobe; 195 incidents of gender-based violence; and 324 barriers to education.³²

This reality has profound implications for legal strategy. A legal framework that cannot guarantee a right to work, a right to livelihood, or a right to development is a framework that inadvertently fuels conflict. The comparative evidence from the United Kingdom's contest strategy is instructive. The UK integrates economic justice into its counter-terrorism framework through welfare regulation, financial oversight, and community-based economic inclusion, thereby reducing the socio-economic vulnerabilities associated with violent extremism.³³ Nigeria, by contrast, has no such legal integration. The Terrorism Act's focus on monitoring, incarceration, and punitive actions stands in stark contrast to the preventative, welfare-based legal strategies that have proven effective elsewhere.³⁴ Therefore, any reform of legal mechanisms for access to justice must begin by codifying enforceable socio-economic rights.

4. THE NHRC'S MULTIFACETED INTERVENTIONS: TRIAL MONITORING, RESTORATIVE JUSTICE, IDP MONITORING, AND REFERRAL PATHWAYS

Amidst these systemic failures, the NHRC has emerged as a critical, albeit under-resourced and legally constrained, actor in the struggle for access to justice. Empowered by the NHRC Act to monitor, investigate, and report on human rights violations, the Commission has adapted to the conflict environment by developing innovative, multi-pronged interventions.

4.1 Monitoring of Terrorism Trials

The NHRC's observation of terrorism trials serves as a crucial mechanism for ensuring transparency, fairness, and adherence to international human rights standards in judicial proceedings related to terrorism offences. By monitoring these trials, the NHRC assesses whether due process rights are upheld, including the right to a fair trial, legal representation, and the presumption of innocence.³⁵

The trial observation at Kainji in 2024 revealed several key issues. The trials were only open to selected members of the public, the NHRC, the Nigerian Bar Association, and the United Nations Office against Drugs and Crime (UNODC) raising concerns about openness and transparency.³⁶ Most defendants pleaded guilty, often because they had been detained for too

³² *ibid.*

³³ Aidonojie (n 11)

³⁴ *ibid* 4.

³⁵ NHRC, 'Power Points Presentation on Terrorism Trial Observation at Kainji 2024' (Introduction).

³⁶ *ibid* (Challenges/Lessons Learned - Openness and Transparency').

long and feared that a full trial would further prolong their detention.³⁷ There was an inadequate provision of professional interpreters for various languages spoken by the defendants, undermining the right to a fair hearing.³⁸ Defense counsel were sometimes not adequately seized of the facts of the case, preventing them from adequately advising their clients.³⁹ There were indications of ill health and mental states among defendants.⁴⁰ About 98% of the defendants were charged with professing membership to the Boko Haram sect and concealment, with only a few actually charged with directly participating in attacks.⁴¹ The courts were over-labored, with too many cases handled within a short period.⁴²

Despite these challenges, the NHRC observed good practices: the pleas of the defendants were duly taken and recorded, and the cases were professionally and fairly handled by the courts; the courts were fair and liberal in sentencing; and orders for rehabilitation, de-radicalization, and training of defendants were commendable.⁴³ The NHRC recommended ensuring a wider range of interpreters, establishing additional courts for timely trials, implementing family courts for minors, facilitating pre-trial meetings between defendants and their legal representatives, enhancing care for vulnerable detainees, ensuring timely release and rehabilitation for those discharged, and strengthening coordination between prosecution and defense teams.⁴⁴

4.2 Restorative Justice and Transitional Justice Programme in the North-East

The NHRC, with financial support from the European Union and the United Nations Development Programme (UNDP), has implemented a project titled 'Promoting Reconciliation, Reintegration and Transitional Justice in Borno, Adamawa and Yobe

³⁷ *ibid* ('Challenges/Lessons Learned - Plea of The Defendants').

³⁸ *ibid* ('Challenges/Lessons Learned - Interpretation of Charges').

³⁹ *ibid* ('Challenges/Lessons Learned - Legal Representation').

⁴⁰ *ibid* ('Challenges/Lessons Learned -Mental and Physical Condition of Defendants').

⁴¹ *ibid* ('Challenges/Lessons Learned').

⁴² *ibid*.

⁴³ *ibid* ('Key Issues (Good Practices)')

⁴⁴ *ibid* ('Recommendations')

States.⁴⁵ The project adopts human rights and community-based approaches to transitional justice and reconciliation, working through the leadership of state governments in seven communities and building on existing structures.⁴⁶

The major outcomes expected include reconciliation and reintegration of communities, accountability for human rights violations, healing for victims and communities, empowerment of victims through restorative justice, and development of permanent frameworks for transitional justice.⁴⁷ The project involves community mobilization for reconciliation, capacity building for community approaches to transitional justice, setting up community frameworks for transitional justice anchored on human rights and inclusion, working with state governments to establish legal and institutional frameworks, enabling community-focused participatory restorative justice processes, and providing platforms for community healing, truth-telling, and forgiveness.⁴⁸

During the July to December 2021 reporting period, the NHRC held regional and state dialogues and consultations, established community-led processes and platforms, procured project equipment, engaged in media advocacy, and conducted broad-based consultations with state governments, religious and traditional authorities, and civil society.⁴⁹ The project also involved mapping communities and stakeholders for transitional justice and reconciliation, generating data on the state of human rights, socio-economic conditions, and victim characteristics.⁵⁰ High-level political outreaches were conducted to the Governors of Borno and Adamawa States, securing pledges of support and the establishment of State Project Implementation Committees.⁵¹

However, the project faced challenges: some state governments were skeptical about transitional justice and the political implications of a reconciliation agenda; the upsurge in returnee ex-combatants raised questions about the preparedness of governments and communities to reconcile under a rights regime; and there was a huge mindset on revenge within communities.⁵² Key lessons learned included the need to manage expectations, the

⁴⁵ NHRC, 'Promoting Reconciliation, Reintegration and Transitional Justice in Borno, Adamawa and Yobe States' (Project Report, July–December 2021)

⁴⁶ *ibid.*

⁴⁷ *ibid.*

⁴⁸ *ibid.*

⁴⁹ *ibid.* 2.

⁵⁰ *ibid.* 11.

⁵¹ *ibid.* 12-13.

⁵² *ibid.* 14.

urgent need to engage state governments on the scope and benefits of transitional justice, and the need for strategic capacity building of civil society and media.⁵³

4.3 Monitoring of IDP Camps and Referral Pathways

The NHRC has also been actively involved in monitoring internally displaced persons (IDPs) camps and establishing referral pathways to provide responses to violations affecting vulnerable communities. The Human Rights Observatory data for 2025 indicates that the North-East region recorded 28,417 complaints in April 2025, with Borno and Yobe specifically identified among conflict-affected states.⁵⁴ The NHRC recorded complaints relating to unlawful killings, arbitrary arrest/detention, displacement-related deprivations, denial of access to social services, child rights violations, gender-based violence, and property destruction.⁵⁵

The Observatory data from 2025 demonstrates that human rights violations were severe and sustained, with steadily increasing complaint volumes; Borno and Yobe were explicitly identified as conflict-affected states, including references to insurgent resurgence; observed violation patterns killings, kidnappings, displacement, SGBV, and attacks on livelihoods mirrored established insurgency impacts; and the North-East remained a major hotspot throughout the reporting period.⁵⁶

4.4 The Benue State Crisis: NHRC Responses

The NHRC has responded to the Benue crisis through multiple channels, demonstrating its role as a critical actor in the struggle for access to justice in conflict-affected regions.

Public Statements and Condemnations: On 17 June 2025, the NHRC issued a formal statement expressing deep disturbance over the recent escalation of violent attacks and killings in Benue and Plateau States.⁵⁷ The Commission emphasized that the right to life is a fundamental human right, enshrined in various international and national instruments.⁵⁸ The

⁵³ *ibid* 14-15.

⁵⁴ NHRC (n 1) 3.

⁵⁵ *ibid*.

⁵⁶ *ibid* 4.

⁵⁷ NHRC, 'NHRC Expresses Concern Over the Alarming Killings in Benue, Plateau and Other Parts of the Country' (17 June 2025).

⁵⁸ *ibid*.

Executive Secretary expressed concern that these attacks rooted in herder/farmer clashes are degenerating into ethnic, religious or communal tensions that could exacerbate the situation and lead to further human rights violations.⁵⁹ The Commission specifically highlighted the economic implications, noting that Benue is the food basket of the nation and that the present insecurity if unchecked means that people can no longer go to the farms this farming season.⁶⁰

Call for Investigation and Prosecution: The NHRC has consistently called for thorough investigation and prosecution of perpetrators. In April 2025, the Commission issued an urgent call for an Independent, impartial investigations and prosecution of those responsible for massive reported killings and abuses across the country, where 570 deaths and 278 kidnappings were reported in April 2025 alone.⁶¹ The Executive Secretary stressed the need for strong accountability mechanisms and comprehensive support services for survivors, especially women and children.⁶² The Commission called on the government at all levels to take immediate and concrete steps including the Conduct of thorough investigation into the incidents and prosecuting perpetrators of violence to ensure accountability and justice.⁶³

Human Rights Observatory and Data Collection: The NHRC's Human Rights Observatory has been instrumental in documenting the scale of violations. In April 2025 alone, the Commission received a staggering 261,283 complaints through its Human Rights Observatory, which documented an alarming increase in human rights abuses, particularly in conflict-ridden states such as Benue, Plateau, Borno, and Yobe.⁶⁴ The violence was described as the 'worst human rights situation in almost a year.'⁶⁵ The May 2025 Human Rights Dashboard recorded a sharp rise in killings (+160%) and kidnappings (+240%) notably in Benue, Plateau, and Borno States, along with 'worrying trends in sexual and gender-based violence.'⁶⁶

IDP Monitoring: NHRC field teams resolved 372 cases, referred 1,157 to agencies, conducted 104 detention visits reaching 326 detainees, and held 331 community outreaches for 6,551 people on GBV prevention and rights reporting.⁶⁷

Engagement with State Government: In November 2025, Benue State Governor Hyacinth Alia participated in an event organized by the NHRC in Abuja, where he addressed the killings

⁵⁹ *ibid.*

⁶⁰ *ibid.*

⁶¹ NHRC (n 9).

⁶² *Ibid.*

⁶³ NHRC (n 57).

⁶⁴ NHRC (n 9) 2.

⁶⁵ *ibid.*

⁶⁶ NHRC, 'May 2025 Human Rights Dashboard' (10 June 2025).

⁶⁷ The Guardian (n 13).

and dismissed claims of religious genocide in the state.⁶⁸ This engagement demonstrates the NHRC's role in facilitating dialogue between state authorities and the national human rights framework.

Addressing Root Causes: The NHRC has consistently emphasized the need to address root causes. The NHRC called on all relevant stakeholders to work towards Addressing the root causes of conflict and violence, including poverty, inequality, and social exclusion; as well as, promote dialogue and reconciliation among communities to foster peaceful coexistence.⁶⁹ NHRC urged security agencies to adhere to international human rights standards and principles in their response to the situation, including the use of proportionate force and respect for human dignity.⁷⁰

Call for Reparations: The NHRC explicitly called for efforts must be made by all to hold perpetrators to account including a public investigation, restitution, justice and compensation to victims and their families.⁷¹

5. THE SIIP NORTH-EAST: INVESTIGATING ALLEGATIONS AND RECOMMENDING REPARATIONS

In response to the Reuters reports of December 2022, which alleged serious human rights violations by the Nigerian Armed Forces including illegal and forceful terminations of 10,000 pregnancies, extra-judicial killing of children, and violations of the rights of women, the NHRC established the Special Independent Investigative Panel on Human Rights Violations in Counter-Insurgency Operations in the North-East (SIIP North-East).⁷² The Panel was mandated to conduct an independent and impartial investigation into the alleged violations and proffer recommendations, including possible indictments and compensation.⁷³

The Panel, chaired by a retired Justice of the Supreme Court, conducted extensive investigations, including 199 testimonies and visits to twenty field locations.⁷⁴ It analyzed

⁶⁸ Vanguard, 'Benue 2027 aspirants fault Gov Alia over "no genocide" comment' (21 November 2025).

⁶⁹ NHRC (n 57).

⁷⁰ *ibid.*

⁷¹ *ibid.*

⁷² NHRC, 'Report of the Special Independent Investigative Panel on Human Rights Violations in Counter-Insurgency Operations in the North-East (SIIP North-East)' (Executive Summary, November 2024).

⁷³ *ibid* 1-2.

⁷⁴ *ibid* 3.

documentation and records received from state hospitals and the Nigerian military.⁷⁵ The Panel's findings and recommendations reveal both the complexities of its mandate and the human costs of counter-insurgency operations.

5.1 Key Findings

On the Alleged Abortion Programme: The Panel found no evidence that the Nigerian military conducted a secret, systematic, and illegal abortion programme terminating 10,000 pregnancies.⁷⁶ It found no evidence of illegal or forced abortions by Nigerian soldiers.⁷⁷ The Panel relied on testimonies from military and civilian healthcare workers, community leaders, and state officials who denied the existence of such a programme.⁷⁸ The Panel also found that Oxytocin and Misoprostol, drugs allegedly used for abortions, were stocked and used to handle complications associated with pregnancies, not for illegal abortions.⁷⁹

On the Alleged Killings of Children: The Panel found no evidence that the Nigerian military targeted children because they were Boko Haram off springs.⁸⁰ It found no evidence of systematic operations targeting children, burning, suffocation, or administering of illegal substances to children.⁸¹ However, the Panel found evidence that the Nigerian military attacked the Abisari community on 18 June 2016, leading to the death of 18 people, including women and children.⁸² The Panel recommended compensation to the victims and prosecution of suspected officers and men of the Defunct 8 Task Force Division.⁸³

On the Alleged Attacks on Women: The Panel found no evidence of deliberate attacks targeting women by the Nigerian Armed Forces leading to the termination of pregnancies.⁸⁴ It found no evidence to support the allegation that women and children were deliberately attacked.⁸⁵ The Panel noted that Reuters failed to appear before the Panel to testify to its allegations, raising doubts on the credibility of its sources.⁸⁶

⁷⁵ *ibid*

⁷⁶ *ibid* 7-8.

⁷⁷ *ibid* 8-9.

⁷⁸ *ibid* 7-8

⁷⁹ *ibid* 9-10.

⁸⁰ *ibid* 12.

⁸¹ *ibid* 12-14.

⁸² *ibid* 16-17.

⁸³ *ibid* 21.

⁸⁴ *ibid* 18.

⁸⁵ *ibid*.

⁸⁶ *ibid* 19.

5.2 Recommendations for Reparations and Institutional Reform

The Panel made several recommendations, including:

Compensation: The Federal Government should pay compensation to the victims of the killings in Abisari within 90 days of the receipt of the report.⁸⁷ The NHRC should work out a compensation regime and recommend it to the Federal Government within 30 days.⁸⁸

Prosecution: A Court Martial should be constituted to prosecute suspected officers and men of the Defunct 8 Task Force Division.⁸⁹ The NHRC should refer suspected officers and men for prosecution by the Attorney General of the Federation.⁹⁰

Institutional Reforms: The Nigerian Armed Forces should establish a dedicated human rights unit within military operations and formations, staffed with experts in international human rights law, military ethics, and conflict resolution.⁹¹ The NHRC should cooperate with the Nigerian Military to integrate human rights considerations into their mode of operations and training programs.⁹² The NHRC should develop a Rapid Response Mechanism on Human Rights Violations by the Armed Forces.⁹³

Policy Measures: The Nigerian Military should develop clear and comprehensive policies on human rights into its operations, based on international human rights law and best practices.⁹⁴ It should develop and implement a system of accountability for human rights violations, including mechanisms for identifying, investigating, and prosecuting perpetrators, and providing redress for victims.⁹⁵

Addressing Prolonged Detention: The Panel recommended enhancing processing and prosecutorial capacity for terrorist suspects, strengthening the capacity of the Legal Aid Council, strengthening the mandate of the NHRC to play an oversight role, strengthening judicial capacity through continuous training, enhancing transparency in the prosecutorial process, and establishing a systematic review process for all cases of prolonged detention without trial.⁹⁶

⁸⁷ *ibid* 21.

⁸⁸ *ibid*.

⁸⁹ *ibid*.

⁹⁰ *ibid*.

⁹¹ *ibid* 24.

⁹² *ibid*.

⁹³ *ibid*.

⁹⁴ *ibid* 24-25.

⁹⁵ *ibid*.

⁹⁶ *ibid* 22-23.

6. REGIONAL AND INTERNATIONAL LEGAL MECHANISMS: THE ECOWAS COURT AND BEYOND

6.1 ECOWAS Court Judgments on Benue Killings

The ECOWAS Court of Justice has issued landmark judgments regarding Benue State killings, demonstrating the potential of regional judicial mechanisms to provide access to justice when national mechanisms fail. These judgments represent a crucial legal foundation for demanding accountability and offer important lessons for the broader African human rights system.

The 2016 Agatu Killings: In suit No. ECW/CCJ/APP/11/16, filed by Reverend Father Solomon Mfa and 11 others, the ECOWAS Court ordered the Federal Republic of Nigeria to investigate the 2016 mass killings and destruction of properties in the Agatu Community in Benue State, identify and prosecute the perpetrators, and redress the victims.⁹⁷ The Court held that the Federal Government was in violation of their obligation to protect the human rights of the Agatu Community and prevent its violation.⁹⁸ Justice Dupe Atoki, who delivered the judgment, also ordered the government to provide adequate security by deploying more security personnel to the area to protect the Community and prevent further occurrences of that mayhem.⁹⁹

Relying on Article 1 of the African Charter on Human and Peoples' Rights, the Court held that 'the Respondent is obliged to protect the human rights of its citizens, in the instant case, the Agatu communities as guaranteed under the African Charter and prevent their violations even by private actors.'¹⁰⁰

The 2018 Mass Killings: In suit No. ECW/CCJ/APP/16/18, the ECOWAS Court ordered the Federal Government to investigate and prosecute perpetrators of the January 2018 mass killings and destruction in communities including Adai, Tse Agur, Mbaguene, and Guma Local Government Areas.¹⁰¹ In a unanimous judgment delivered on 10 October 2019, the Court held

⁹⁷ ECOWAS Court of Justice, *Rev. Fr. Solomon Mfa & 11 Ors v Federal Republic of Nigeria & 5 Ors* (Suit No ECW/CCJ/APP/11/16, Judgment No ECW/CCJ/JUD/06/19, 26 February 2019).

⁹⁸ *ibid.*

⁹⁹ *ibid.*

¹⁰⁰ *ibid.*

¹⁰¹ ECOWAS Court of Justice, *Estates of Mbakpenu Zamber & Ors v Federal Republic of Nigeria* (Suit No ECW/CCJ/APP/16/18, 11 October 2019).

that the government was in 'violation of its obligation to protect against known and imminent threat to life in the affected communities from the activities of Fulani herdsmen' and in 'breach of its obligation to investigate the human rights violations that occurred.'¹⁰²The Court ordered the government to redress the victims and provide preventive security arrangements to counter any future insurgence in the affected communities.¹⁰³

6.2 The African Charter Framework

The ECOWAS Court's reliance on the African Charter on Human and Peoples' Rights underscores the relevance of regional human rights instruments. Article 4 guarantees the right to life and integrity of the person; Article 6 guarantees liberty and security of the person; and Article 14 guarantees the right to property. The systematic destruction of Benue communities, including the burning of homes, farms, and schools, constitutes violations of these fundamental rights.

6.3 Amnesty International's Calls

Amnesty International has repeatedly called for investigations into Benue killings. Following the July 2026 attacks, Amnesty demanded a thorough, transparent and impartial investigation into the killing of at least 15 people in Ugboju District, warning that the attacks represent an escalating threat to the right to life.¹⁰⁴ Amnesty stated that the persistent failure of the Nigerian government to proactively prevent the attacks or hold perpetrators accountable has created a dangerous cycle of violence, leaving residents under constant threat of death, displacement and the destruction of their livelihoods.¹⁰⁵

6.4 International Criminal Court

¹⁰² The Sun, 'ECOWAS court orders probe of Benue mass killings by herdsmen' (12 October 2019).

¹⁰³ ThisDay, 'ECOWAS Court Orders FG to Protect Benue Communities from Herdsmen Attacks' (13 October 2019).

¹⁰⁴ Amnesty International, 'Benue South Killings: Amnesty International Demands Probe into Death of 15 Residents' (29 July 2026)

¹⁰⁵ *ibid.*

In June 2025, SERAP called for the Benue mass killings to be referred to the International Criminal Court (ICC), recognizing the gravity of the violations and the failure of domestic accountability mechanisms.¹⁰⁶

6.5 The African Union Transitional Justice Policy

The African Union Transitional Justice Policy, adopted in February 2019, provides a comprehensive framework for holistic and transformational TJ in Africa. It recognizes that transitional justice is meant to assist societies with legacies of violent conflicts and systemic or gross violations of human and people's rights in their effort to achieve transition to the future of justice, equality and dignity.¹⁰⁷ The Policy emphasizes principles including African leadership, national and local ownership, inclusiveness, equity and non-discrimination, context specificity, and due regard to the gender and generational dimensions of violations.¹⁰⁸ It also recognizes the importance of traditional justice mechanisms, stating that they form an important part of the AUTJP conception of TJ and should inform and be used alongside the formal mechanisms to address the justice, healing and reconciliation needs of affected communities.¹⁰⁹

7. TOWARDS A TRANSFORMATIVE ACCESS TO JUSTICE MODEL

The deficiencies outlined above necessitate a paradigm shift. Building on the emerging literatures on transformative reparations and transformative justice. This paper proposes a comprehensive model of 'Transformative Access to Justice' for security-threatened regions. This model reimagines legal mechanisms not as punitive endpoints, but as starting points for structural socio-economic reform, social reconstruction, and the renegotiation of power relations between the state and marginalized communities.

7.1 Pillar One: Enforceable Socio-Economic Rights via Constitutional Reform

The most foundational reform is the amendment of the 1999 Constitution to render Chapter II rights justiciable. A legal claim for the denial of access to water, food, shelter, or livelihood due to conflict must be cognizable in a Nigerian court. This would shift the legal paradigm from a state of political discretion to one of legal obligation. As the comparative analysis of

¹⁰⁶ SERAP, 'Call for ICC Referral of Benue Mass Killings' (June 2025).

¹⁰⁷ African Union, *Transitional Justice Policy* (2019) 4.

¹⁰⁸ *ibid* 5-7.

¹⁰⁹ *ibid* 4

the UK's legal framework shows, embedding economic justice within the counter-terrorism legal framework linking welfare regulation to the *prevention* of extremism is a demonstrably sustainable strategy.¹¹⁰ Nigeria cannot achieve this through military force or punitive laws alone.

The Benue crisis demonstrates the urgent need for this reform. Farmers who have lost their land, IDPs who have been denied food and shelter, and communities whose livelihoods have been destroyed must have legal recourse to enforce their rights to livelihood, food, and adequate housing.

7.2 Pillar Two: Specialized and Mobile Conflict Resolution Courts

Inspired by South Africa's Hawks investigative unit and Kenya's specialized Environment and Land Court,¹¹¹ Nigeria should establish specialized Conflict Resolution Courts for both the North-East and the Middle Belt. These should be mobile or circuit courts, capable of operating under high-security conditions in hard-to-reach areas to hear cases of mass human rights violations. Their mandate must be hybrid, including both retributive justice (prosecution of serious crimes) and restorative and reparative justice (class-action style claims for collective reparations). These courts should be empowered to order 'transformative reparations' defined not as individual one-off payments, but as collective, community-driven development projects (e.g., rebuilding a school, funding a community agricultural scheme, establishing a mental health centre for SGBV survivors). This moves beyond the symbolic, individualized payments of the South African TRC that 'mattered little if they were not accompanied by measures that allow recipients to build a better future.'¹¹²

7.3 Pillar Three: Legal Recognition and Integration of ADR and Traditional Mechanisms

The judiciary should formally recognize and integrate customary dispute resolution mechanisms into the formal justice chain for non-violent conflict-related grievances. This requires a new legislative framework that sets minimum human rights standards for these processes, provides for judicial oversight and the right of appeal to the formal specialized Courts, and grants legal enforceability to agreements reached through supervised customary

¹¹⁰ Aidonojie (n 11)

¹¹¹ Ruwandoruwa and Umar (n 23) 782.

¹¹² Erik Doxtader and Charles Villa-Vicencio (eds), *To Repair the Irreparable: Reparation and Reconstruction in South Africa* (David Philip Publishers 2004) xviii; cited in Gready (n 10) 193.

arbitration. This would decongest the overburdened formal courts, rebuild community trust in justice systems, and provide culturally resonant, low-cost pathways to dispute resolution.¹¹³

7.4 Pillar Four: Collective Reparations through a Dignity Fund

The case of Tunisia's proposed 'Dignity Fund' offers a valuable lesson. The paper advocates for a statutorily established, independently managed, and adequately funded National Dignity Fund for Victims of Conflict in Nigeria. This Fund would be financed by recovered looted assets, a levy on extractive industries, and international donor contributions. It would be responsible for administering the collective reparations ordered by the specialized Conflict Resolution Courts, ensuring that resources reach communities, not just individuals, for sustainable development projects that address the root causes of the conflict poverty, lack of education, and poor healthcare.

The United Nations Guidance Note on Transitional Justice emphasizes that reparations programs seek to redress systemic violations of human rights by providing a range of material and symbolic benefits to victims and that the most successful reparations programs are designed in consultation with affected communities, particularly victims and women groups.¹¹⁴

8. CONCLUSION AND RECOMMENDATIONS

Resilient development is impossible without resilient legal institutions. The security threats and economic instability ravaging regions like North-East Nigeria and the Middle Belt are not merely breakdowns of public order; they are profound failures of legal protection. The current framework a mix of non-justiciable rights, a restrictive regional court, a punitive counter-terrorism law, and a weak, corrupt judiciary has failed the victims of Boko Haram and the victims of the Benue killings alike. It has offered them documentation without remedy, sympathy without sanction, and military force without welfare.

The NHRC's interventions trial monitoring, restorative justice programs, IDP monitoring, referral pathways, and the SIIP North-East investigation have illuminated the path, showing where the violations are most acute and what remedies are possible. However, these efforts are constrained by the NHRC's limited enforcement powers, inadequate resources, and the broader failure of the justice system. The ECOWAS Court judgments provide a crucial legal foundation for demanding accountability, but their implementation has been inadequate.

¹¹³ Godwin and Kolapo (n 20) 8; see also Elias O Opongo, 'Transitional Justice Discourse in Post-Conflict Societies in Africa: Introduction' (2021) 9(s2) *Journal of the British Academy* 1, 4.

¹¹⁴ United Nations, *Guidance Note of the Secretary-General on United Nations Approach to Transitional Justice* (2010) 8.

The roadmap for a resilient Africa demands that we reconceptualize access to justice. It must be affirmative, equitable, and structural. It must include the right to return to a farm, to have a bombed school rebuilt, and to receive collective, dignified reparation. The next step is for the African Bar Association, governments, and civil society to champion the following concrete recommendations.

Recommendations for the Federal Government of Nigeria

1. **Constitutional Amendment:** Commence the process to amend Section 6(6)(c) of the 1999 Constitution to render the Fundamental Objectives in Chapter II justiciable.
2. **Establish specialized Courts:** Enact legislation to establish specialized Conflict Resolution Courts (mobile and permanent) for the North-East and Middle Belt with a mandate for both retributive and transformative reparative justice.
3. **Ratify the ACtHPR Declaration:** Immediately deposit the Article 34(6) Declaration accepting the competence of the African Court to receive direct cases from individuals and NGOs.
4. **Create a Dignity Fund:** Establish an independent National Dignity Fund for Victims of Conflict, financed by recovered assets and international aid, to implement collective reparations.
5. **Implement ECOWAS Court Judgments:** Implement the ECOWAS Court judgments ordering investigation, prosecution, and redress for victims of the 2016 and 2018 Benue killings.
6. **Implement SIIP Recommendations:** Implement the recommendations of the SIIP North-East, including compensation for victims of the Abisari killings in Borno state and prosecution of suspected officers.

Recommendations for the National Human Rights Commission (NHRC)

7. **Empower the NHRC:** Amend the NHRC Act to grant the Commission the power to refer substantiated cases of systematic human rights violations directly to the specialized Conflict Resolution Courts for binding adjudication.
8. **Enhance Legal Aid:** Dedicate a significant portion of the Dignity Fund to a legal aid programme in the BAY States and Benue State, run by the NHRC, to assist victims in navigating the new legal pathways.
9. **Strengthen Oversight:** Develop within six months a Rapid Response Mechanism on Human Rights Violations by the Armed Forces to ensure early reporting and action.
10. **Strengthen IDP Monitoring:** Enhance monitoring of IDP camps in Benue, where 1,850 IDPs have been recorded, and strengthen referral pathways for victims of gender-based violence and other violations.

Recommendations for the African Union and African Bar Association

12. **Advocate for Protocol Reform:** The African Bar Association should launch a campaign for a Protocol to the ACHPR to amend Articles 5(3) and 34(6) to grant automatic *locus standi* to individuals and groups before the African Court, mirroring Article 34 of the European Convention on Human Rights.
13. **Promote Legal Integration:** Develop a Model Law on the Integration of Traditional Dispute Resolution Mechanisms for African states transitioning from conflict, to be adopted by the AU Assembly.
14. **Support the AU Transitional Justice Policy:** Encourage AU Member States to domesticate and implement the African Union Transitional Justice Policy, which provides a comprehensive framework for holistic and transformational TJ in Africa.
15. **Address Root Causes:** As the Nextier report recommends, authorities must move beyond reactive security deployments and instead reform land governance, strengthen rural policing, disrupt illicit funding networks, and establish inclusive peace committees. Without these structural reforms, 'the Middle Belt's violence will continue to threaten livelihoods, food security, and Nigeria's broader stability.

Only by adopting this transformative, holistic, and legally rigorous approach can the law fulfil its promise as the bedrock of sustainable peace, moving African states from a reality of fragile stabilization to one of durable, rights-based recovery and shared prosperity.