

BACKGROUND GUIDE

United Nations Human Rights Council (UNHRC)



Property of Lagos Model United Nations

Background Guide: United Nations Human Rights Council (UNHRC)

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LMUN 2022: The Seventh Session

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Letter from USC

Dear Delegates,

It is an honour to welcome you to the 7th session of the Lagos Model United Nations (LMUN) conference, 2022. For years, LMUN has established a platform for youths to lend their voices to contemporary global problems by inciting discussions and deliberations that seek to funnel a drive towards innovative and sustainable solutions. This conference offers you the opportunity to harness your abilities and equip yourselves with unique skills like diplomacy, teamwork, research, public speaking, networking, and leadership. The conference guarantees a phenomenal experience and the opportunity to contribute your quota towards global development and sustainability. I hope that you get to learn, have fun, participate actively, and have the most fantastic experience.

The staff for the United Nations Human Rights Council (UNHRC) are - **Rahmat Suenu** (Under-Secretary-General); **Oyindamola Owolabi** (Chair); **Amina Yusuf** (Vice-Chair); **Oliyide Dolapo**(Researcher); **Amode Ayotola**(Researcher).

Rahmat is a 400-level law student at the University of Lagos. Her interest in MUNs is driven by her passion for human rights and sustainability. She has participated in several MUN conferences both as a delegate, and in official capacities. She has also bagged several awards for her participation, including the Best Delegate Award at the Ghana International MUN in 2020, the Exemplary Journalist Award at the Youth International Summit MUN in 2020, and an Honorable mention award at LMUN 2019. **Oyindamola** is a 400-level law student at the University of Lagos. She started her MUN journey in 2019 and has participated in 4 MUNs as a delegate with awards (special mention and verbal mention) accredited to her, as an official ambassador for IMUN conference and as a Chair of the UNHRC committee for YISMUN conference 2021. **Ayotola** is a 300-level student of the Faculty of Law, University of Lagos who began her LMUN journey in 2019 as an observer in the UNICEF committee and contributed to the winning working paper. She moved on to participate in the LMUN 2020 conference as a delegate in the General Assembly Committee where she was awarded the Honorable Mention Award. She also has a keen interest in international law, diplomacy, and gender equality. **Amina** is 300 level law student at the University of Lagos with a keen interest in international law and diplomacy. Her keen interests are in tandem with her love for MUNs. In 2019, She was a delegate at Lagos model united nations where she represented the kingdom of Morocco in UNICEF. In 2020 she was also a delegate at LMUN under the security council committee where she won the distinguished delegate award. She was also a delegate at the International Model United Nations where she won the verbal commendation award. In 2021 She served as a researcher and rapporteur at the Lagos Model United Nations under Unicef. She has also served as an ambassador at the Babcock International Model United Nations 2022. **Dolapo** is a 400-level student of the Faculty of Law, University of Lagos. She had her first MUN experience in 2020 as a delegate of the United Arab Emirates (UAE) in the United Nations Educational, Scientific and Cultural Organization (UNESCO). She also has a keen interest in product design and sustainable development.

The UNHRC deals with issues pertaining to human rights, humanitarian affairs and other social matters. The topics to be discussed by the Committee are:

- I. Addressing the Issue of the Use of Force by Police on Civilians in Civil Demonstrations
- II. Human Trafficking and Child Labour in Africa

The background guide is to serve as a stepping stone to begin research on the topics to be discussed and not as a replacement for individual research. As such, delegates are encouraged to conduct their research beyond the background guides and make use of the Further Research, Annotated bibliography and Bibliography to aid in extensive research. Also, the Delegate Prep Guide and the Rules of Procedure will acquaint you with the conference's required conduct and procedural rules. These documents can be accessed on the LMUN website- www.lmun.ng.

In preparation for the conference, each delegate is expected to submit a position paper on a date to be communicated after registration and country and committee assignment. The guidelines in the LMUN Position Paper Guide will direct delegates on this process. To communicate any questions or concerns during your preparation for the conference, please contact me at usgpeacesecurityhr@lmun.ng.

We look forward to seeing you at the LMUN 2022 Conference!

Rahmat Suenu

USG Peace, Security and Human Rights, LMUN 2022.

Abbreviations

AVES	Avenir Enfance Sahel centre
BPUFF	Basic Principles on the Use of Force And Firearms by Law Enforcement Officials
CEDAW	Convention on the Elimination of all Forms of Discrimination against Women
CHR	Commission on Human Rights
CRC	Convention on the Rights of the Child
ECHR	European Convention on Human Right
GA	General Assembly
GIFT	UN Global Initiative to Fight Human Trafficking
HRC	Human Rights Council
ICCPR	International Covenant on Civil and Political Rights
ICESCR	International Covenant on Economic, Social and Cultural Rights
IOM	International Organization for Migration
IPEC	International Programme on the Elimination of Child Labour
ODIHR	Office for Democratic Institutions and Human Rights
OHCHR	Office of the High Commissioner for Human Rights
OSCE	Organization for Security and Co-operation in Europe
UDHR	Universal Declaration of Human Rights
UN	United Nations
UNCAT	United Nations Convention Against Torture
UNODC	United Nations Office on Drugs and Crimes
UNVTF	UN Voluntary Trust Fund for Victims of Trafficking in Persons
UPR	Universal Periodic Review

Committee Overview

Introduction

The Human Rights Council (HRC) is an intergovernmental body under the United Nations (UN) saddled with the responsibility of protecting and promoting human rights across the world.¹ The HRC addresses human rights violations and proffers recommendations for them. This council also works to prevent violations of these human rights, provides humanitarian assistance, response to emergencies, and serves as a forum for discussing the issues affiliated with human rights inter alia.²

Human Rights are universal rights for everyone regardless of nationality, sex, ethnicity, religion amongst many other things³. All human rights are indivisible and interdependent; meaning that one cannot be enjoyed fully without the other.⁴ The United Nations has continuously advocated and supported human rights in conjunction with the United Nations Human Rights Committee. This is evident in the UN's founding Charter (where the word "human rights" is mentioned seven times) provisions of the Universal Declaration of Human Rights (UDHR), the International Covenant on Civil and Political Rights (ICCPR) and many more treaties. The United Nations Human Rights Council is responsible for addressing the situations of violation of human rights and has been working tirelessly on ensuring that human rights are protected and respected.⁵

After the creation of the UN, specialized bodies were formed in order to respond urgently to human rights violations. One of the many bodies included the Commission on Human Rights (CHR) which was established in 1946 to address issues of human rights violations.⁶ This

¹ OHCHR, "Welcome To The Human Rights Council"

² OHCHR, "Welcome To The Human Rights Council"

³ OHCHR "What are Human Rights"

⁴ OHCHR "What are Human Rights"

⁵ OHCHR, "Welcome To The Human Rights Council"

⁶ OHCHR, "Who we are: Brief History"

body was however criticized by the international community for many reasons. Some of which include, giving shelter to human right abusers and also being “too politicized” on human rights issues which stemmed from the elected voting members of the commission casting votes on human right issues based on national interest rather than the intrinsic advantages of dealing with these human right issues in totality⁷. These criticisms eventually then led to the creation of the HRC in 2006.⁸ The establishment of the HRC in replacement of CHR was adopted as *Resolution 60/251*(2006) in Geneva.⁹ It has the same responsibilities as CHR but is much wider in scope and power.

The UNHRC introduced an innovative feature called the Universal Periodic Review, which highlights human rights records of all the 193 member states once every 4 years.¹⁰ This periodic review is designed to ensure universality and equal treatment of citizens in every member state across the globe. UNHRC is also actively working towards the right to development which is the core of the Sustainable Development Goals¹¹.

Governance, Structure and Membership

The HRC is an inter-governmental body within the UN system made up of forty seven States, and responsible for the promotion and protection of human rights.¹² It has the responsibility to discuss, promote, and protect all thematic human rights issues that require its attention

⁷UN Department of Public Information, General Assembly establishes New Human Rights Council by Vote of 170 in favor to 4 against, with 3 abstentions (GA/10449)

⁸ M. Spohr, “United Nations Human Rights Council: Between Institution - Building Phase and of status”, Max Planck Yearbook of United Nations Law 4:169-218”

⁹ General Assembly, “Human Rights Council” Sixtieth session A/RES/60/251”

¹⁰ OHCHR, “Universal Periodic Review”

¹¹ OHCHR “OHCHR and the 2030 Agenda for Sustainable Development”

¹² OHCHR, “Welcome to the Human Rights Council”

throughout the year.¹³ These Member states hold a meeting three times a year in March, June, and September at the UN Office in Geneva and they are elected by the majority of members of the General Assembly(GA) of the UN through direct and secret ballot.¹⁴ The GA considers the contribution of the candidate States to the promotion and protection of human rights, as well as their voluntary pledges and commitments before they are elected.

The HRC membership is distributed based on equitable geographical analysis in the model of: African States - 13 seats; Asia-Pacific States - 13 seats; Latin American and Caribbean States - 8 seats; Western European and other States - 7 seats; Eastern European States - 6 seats. Member States are to serve for a period of three years and are not eligible for immediate re-election after serving two consecutive terms. This is an agreement insisted on by the States themselves when they adopted *Resolution 60/251* in March 2006 upon the creation of the HRC.¹⁵ The HRC has a Bureau which consists of five people - one President and four Vice-presidents - that represent the five regional groups and can serve for a year, in accordance with the Council's annual cycle.¹⁶

Mandates, Functions and Powers

The United Nations Human Right Council (UNHRC) mandate is outlined in *Resolution A/RES/60/251 of 2006* and guided by the principles of “universality, impartiality, objectivity and non-selectivity, constructive international dialogue and cooperation.”¹⁷ The General Assembly mandates the HRC to “promote universal respect for the advancement of all human rights and fundamental freedom for all, without distinction of any kind and in a fair and equal

¹³ OHCHR, “HRC Home”

¹⁴ OHCHR, “HRC Home”

¹⁵ OHCHR, “Membership of the Human Rights Council”

¹⁶ OHCHR, “Membership of the Human Rights Council”

¹⁷ General Assembly, “Human Rights Council” (2006) Sixtieth session A/RES/60//251.

manner.”¹⁸ The UNHRC also has the responsibility of investigating and making recommendations in cases of human right violations, particularly grave and systematic violations. In addition, the HRC works to ensure effective coordination and mainstreaming of human rights within the United Nations System.

The *Universal Declaration of Human Rights* (UDHR), the *International Covenant on Economic, Social and Cultural Rights* (ICESCR) (1966), and the *International Covenant on Civil and Political Rights* (ICCPR) (1966) with its two Optional Protocols all play a role in informing the HRC’s mandates and functions.¹⁹ These documents serve as pillars for the HRC’s recommendations, laying out Member States core obligations and commitments under international human rights law.²⁰ In addition, the 2030 Agenda for Sustainable Development (2015) and the 17 Sustainable Development Goals (SDGs) guide the work of the HRC.²¹

In 2007, the council adopted *Resolution 5/1* on “institution-building” which outlines the procedures, techniques and structures that form the basis of its work.²² Among those mechanisms were the new Universal Periodic Review mechanism, the Advisory Committee and the Complaint Procedure - all of which directly report to the Council. The Special Procedures are made up of special rapporteurs, special representatives and working groups appointed to monitor, advise and publicly report on issues of human rights violations in specific countries. The special procedures may be individual experts or working groups. They can send communications to the Council outlining allegations of human rights violations

¹⁸ UNHRC, “Mandates of the Human Rights Council”

¹⁹ OHCHR, Fact Sheet No.2(Rev.1), The International Bill of Human Rights(1996).

²⁰ OHCHR, “Human Rights: A Basic Handbook for UN Staff”.

²¹ General Assembly, “Transforming our world: the 2030 Agenda for Sustainable Development” (2015) Seventieth session A/RES/70/1.

²² Universal Rights Group, “Institution-building package”.

which are reviewed by the Working Group on Communications also known as the Working Group on Situations. The Working Group on Situations offers recommendations to the Council based on reports of consistent patterns of gross violations, participates in advocacy initiatives and offers technical assistance where appropriate.²³

The Universal Periodic Review (UPR) is a mechanism which involves a review of the human rights records of all UN Member States.²⁴ Member States are subjected to a periodic evaluation by the HRC, which analyzes their compliance with their human rights obligations. The UPR assessment process takes around four and a half years to complete and comprises several steps. The UPR is a state-led procedure overseen by the HRC that allows each country to report what steps it has made to improve human rights conditions and fulfill its human rights obligations. At the preparation stage, information is gathered that will form the basis of the review including national reports from the state under review, stakeholder submissions and information prepared by the Office of the High Commissioner for Human Rights (OHCHR). During the review stage, documents are provided to the Working Group on the UPR, which is made up of all forty seven HRC Member States. During the adoption and consideration stages, Member States are permitted to submit comments and the state being assessed is permitted to make reservations on specific issues.

Finally, each state under review must demonstrate how well it has implemented the recommendations received during the follow up stage. The UPR is currently under its third cycle (2017- 2022) and will proceed with reviewing national reports for 42 Member States this year. As one of the main features of the Council, the UPR is designed to ensure that all countries when their human rights situations are assessed. The ultimate goal of this mechanism is to improve human rights conditions in all countries and to address human rights violations wherever they occur. The Council also has a Complaint Procedure in place

²³ IJRC, "UN Human Rights Council, Functions".

²⁴ OHCHR, "Universal Periodic Review".

that allows individuals and groups to anonymously report human rights violations.²⁵ The goal is to encourage objective and efficient conversation and cooperation among the accused States, Council members and the complainant(s). A communications working group and a situations working group assess the complaints and bring them to the Council's attention.

Recent Sessions and Current Priorities

The most recent session of the HRC is the 50th regular session which took place on the 13th of June - the 8th of July 2022. This session highlighted the issues of violence against people, human trafficking and forced labour.²⁶

In this session, there were a list of reports addressed by the committee with some of these reports highlighting the issue of human trafficking, child labour and the use of force on civilians by the police.

Report 50/33(A/HRC/50/33)²⁷ from this session dealt with trafficking in persons in the agricultural sector: human rights due diligence and sustainable development. The council discussed the issue of trafficking in persons and also recommended solutions on how this can be tackled.

Report 50/42(A/HRC/50/42)²⁸ bordered on the protection of human rights in the context of peaceful protests during a crisis. The council discussed this issue and proffered exemplary solutions on how member states can protect the rights of their citizens during protests in the long run.

The 49th regular session, which was the previous session, was held from 28th February 2022 to 1st April 2022.²⁹ This session highlighted the priorities of the HRC which include: countering

²⁵ Universal Rights Group, "Complaint Procedure".

²⁶ OHCHR, "50th regular session of the Human Rights Council (13 June – 8 July 2022)".

²⁷ OHCHR, "50th Regular session of the Human Rights Council: Reports".

²⁸ OHCHR, "50th Regular session of the Human Rights Council: Reports"

²⁹ OHCHR, "49th regular session of the Human Rights Council (28 February – 1 April 2022)".

terrorism, addressing sexual exploitation of women and girls, providing humanitarian assistance to different groups of people like the people with disabilities, women and young girls, the youth, migrants, people in Afghanistan, Nicaragua amongst many others.³⁰

The HRC in this session discussed the issue of torture and degrading human treatment of people and also demanded the Special Rapporteur to report on all of his findings, observations, conclusions and probable recommendations to the Council pursuant to *Report 49/50(A/HRC/49/50)*.³¹ The council also discussed the issue of sexual exploitation and human trafficking as it affects women and girls in the world, the rights of a child, child prostitution and more, which is pursuant to *Report 49/51(A/HRC/49/51)* on the Sale and sexual exploitation of children.³²

The council's priorities currently border on tackling these issues stated in the 49th and 50th session and exploring ways in which both the council and member states of the HRC can provide immediate responses to these issues amidst the global pandemic.³³

Conclusion

The Human Rights Council aims at protecting and promoting the rights of people globally which is a prevailing continuum.³⁴ The sessions held by the council always seek to address humanitarian issues and provide exemplary solutions to them.³⁵ The council partners with other like-minded organizations which include UNPOL, Amnesty International, UNODC,

³⁰ OHCHR, "49th regular session of the Human Rights Council: Reports".

³¹ OHCHR, "49th regular session of the Human Rights Council: Reports."

³² OHCHR, "49th regular session of the Human Rights Council: Reports."

³³ OHCHR, "HRC Sessions."

³⁴ OHCHR, "Who we are: an overview."

³⁵ OHCHR, "HRC Sessions."

amongst many others, in order to provide these solutions and also calls on member states to act so as to attain a sustainable and developed future by 2030.³⁶

Annotated bibliography

OHCHR, “About HRC” available at <https://www.ohchr.org/en/hr-bodies/hrc/about-council> (accessed 13 May, 2022).

This is a direct link to the United Nations Human Rights Council which gives a full insight on what the council is about and would assist the delegates in having a solid foundation to start their position paper writing. This site also has the necessary information from the history of the human rights council, down to the current events in the society coupled with its relation to global events.

OHCHR, “HRC Sessions”, available at <https://www.ohchr.org/en/hr-bodies/hrc/sessions> (accessed 13 May, 2022).

This article highlights the current priorities and recent sessions of the HRC as at present. This will help the delegates know the stance of HRC on the topics given and what they are currently doing to tackle the issues of human trafficking, child labor and use of force by the police on civilians.

OHCHR, “NGO Participation in the Human Rights Council” available at <https://www.ohchr.org/g/hr-bodies/hrc/ngo-participation> (accessed 13 May, 2022).

³⁶ OHCHR, “NGO Participation in the Human Rights Council.”

This document outlines how various international organizations and NGOs have helped tackle humanitarian issues like human trafficking, use of police force on civilians, child labor, amongst many others.

UNHRC, “Promoting better human rights standard” available at www.ohchr.org (accessed 18 May, 2022)

This article addresses the importance of enhancing and maintaining the standard of human rights. It explains the benefit of maintaining human rights to individuals and society at large.

Universal Rights Group, “A Rough Guide to the Human Rights Council, Institution-building package and complaint procedure” available at <https://www.universal-rights.org/human-rights-rough-guides/a-rough-guide-to-the-human-rights-council/> (accessed 15 May , 2022) .

The Institution-building package (Resolution 5/1) is one of the HRC’s most important resolutions which outlines procedures, mechanisms and structures that will serve as the basis for its future work. This comprises the HRC’s agenda, work plan and procedural rules. The resolution also modified the Council’s expert advisory system and the Complaint Procedure established by the former Commission of Human Rights. This document is essential for delegates to grasp the HRC’s operations.

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OHCHR, “50th regular session of the Human Rights Council (13 June – 8 July 2022)” available at <https://www.ohchr.org/en/hr-bodies/hrc/regular-sessions/session50/regular-session> (accessed 1 June 2022).

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OHCHR, “Who we are: Brief History” available at https://germun.de/wp-content/uploads/2018/01/BGG_HRC_GerMUN2018-1.pdf (accessed 13 May 2022).

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UN Department of Public Information, General Assembly establishes New Human Rights Council by Vote of 170 in favor to 4 against, with 3 abstentions (GA/10449) available at [https://books.google.com.ng/books?id=xG94AgAAQBAJ&pg=PA173&lpg=PA173&dq=UN+Department+of+Public+Information,+General+Assembly+establishes+New+Human+Rights+Council+by+Vote+of+170+in+favor+to+4+against,+with+3+abstentions+\(GA/10449\)+available+at&source=bl&ots=YJZrGq2RHi&sig=ACfU3U29S1SVU5DbumzDONG8yVzpmAd2iA&hl=en&sa=X&ved=2ahUKEwi9xff92e73AhXOiVwKHQFUB60Q6AF6BAqCEAM](https://books.google.com.ng/books?id=xG94AgAAQBAJ&pg=PA173&lpg=PA173&dq=UN+Department+of+Public+Information,+General+Assembly+establishes+New+Human+Rights+Council+by+Vote+of+170+in+favor+to+4+against,+with+3+abstentions+(GA/10449)+available+at&source=bl&ots=YJZrGq2RHi&sig=ACfU3U29S1SVU5DbumzDONG8yVzpmAd2iA&hl=en&sa=X&ved=2ahUKEwi9xff92e73AhXOiVwKHQFUB60Q6AF6BAqCEAM) (accessed 13 May 2022).

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Universal Rights Group, “Institution-building package” available at <https://www.universal-rights.org/human-rights-rough-guides/a-rough-guide-to-the-human-rights-council/> (accessed 15 May 2022)

Addressing the Issue of the Use of Force by Police on Civilians in Civil Demonstrations

"There is no book to figure out how not to become a victim of police brutality"

- Mike Colter, American Actor.

Introduction

Obianuju Catherine Udeh, also known as DJ Switch is a 36-year-old Nigerian DJ who took to the streets with fellow patriots to protest against police brutality in Nigeria on the 20th of October 2020, during the EndSars Protests. What was a peaceful protest took a drastic turn into a state-sponsored massacre. DJ Switch, through a live video on Instagram, showed how the police and soldiers injured and killed unarmed, helpless and defenseless protesters, without provocation or justification.³⁷ In her story, she mentioned that they were all peacefully protesting, holding on to Nigerian flags, then she saw soldiers followed by policemen arriving and opening fire at the protesters.³⁸ She instinctively pulled out her phone and started livestreaming the unfolding events via Instagram. At this point, she believed they would all die and thought to put it online, to let people see what's happening, and let them see where the protesters died.³⁹ Luckily, DJ Switch along with other protesters was able to find refuge from the attacks of the policemen and soldiers in a nearby hospital and then a church. Although in the rush to leave the scene, she sustained facial injuries, she insists it was "nothing compared to the people who were shot by the police and then died during the peaceful protest."⁴⁰ Just like DJ Switch, many still live with the fear, many still grieve over their loved ones who were killed during peaceful protests and quite unfortunately, many could not live to tell their story.

³⁷ Time "She live streamed the shooting of peaceful protesters in Lagos".

³⁸ The Southern Examiner "Now in exile, DJ Switch is still fighting for the future of Nigeria".

³⁹ Time "She live streamed the shooting of peaceful protesters in Lagos".

⁴⁰ Time "She live streamed the shooting of peaceful protesters in Lagos".

Civil demonstrations have often inspired positive social change and protection of human rights, and they continue to help define and protect civic spaces all over the world. These protests encourage the development of an engaged and informed citizenry and strengthen representative democracy through direct participation in public affairs. They enable individuals and labor groups to express their grievances, share their views and opinions, expose flaws in governance and publicly demand that the authorities and other powerful entities rectify problems and are accountable for their actions.⁴¹

For instance, a historic protest took place in Washington DC. USA, on the 28th of August 1963⁴² was aimed at putting pressure on the administration of John F Kennedy to initiate a strong federal civil rights bill in Congress. It was during this protest that Martin Luther King delivered his memorable 'I have a dream' speech. The positive result of this demonstration birthed the *Civil Rights Act of 1964* and *Voting Rights Act of 1965*.⁴³

Most recently we had the Black Lives Matter movement, a protest against racial discrimination that led to the reform of government policies at state and local levels in the United States of America. Some of these reforms include one made in Philadelphia, a city in the United States. The Mayor of this city established a commission called "Pathways to Reform, Transformation, and Reconciliation" to advance public safety and racial equity. It represents a formal commitment to enact a long lasting reform agenda.⁴⁴ The reform package included a ban on the use of tear gas at demonstrations and a prohibition against kneeling on a person's neck, face, or head." Also, the "Justice in Policing Act of 2020" was introduced in the United States House of Representatives to combat police misconduct, excessive force, and racial bias in policing. This Act also eliminates unannounced police raids and it makes it easier to prosecute police for misconducts. It also seeks to prohibit federal,

⁴¹ Article 19 "The Right to Protest: Principles on the protection of human rights in protests".

⁴² Stanford University "March on Washington for Jobs and Freedom".

⁴³ Stanford University "March on Washington for Jobs and Freedom".

⁴⁴ The New Yorker "Did Last Summers Black Lives Matter Protest Change Anything?".

state, and local law enforcement from racial, religious, and discriminatory profiling by mandating the law enforcement to provide training on profiling and racial bias.⁴⁵ Besides government policies, companies and organizations have also made efforts to end systematic racism. A major one was the step taken by Etsy, an American e-commerce company, that made a donation of \$1million to two non-profit organizations working tirelessly for criminal justice reform and to assist Black-led institutions.⁴⁶ Deloitte also launched a black action plan that addresses diversity and inclusion. After the breakout of the black lives matter movement, they hosted a series of listening sessions for their staff across all parts of the firm with a focus on hearing and understanding the experience of their black colleagues. The black action plan is to improve every aspect of their employee experience as well as how they work with clients and wider society.⁴⁷

Another recent protest has been the Anti-Extradition law Amendment bill protest taking place in Hong Kong.⁴⁸ The bill sets out to fix the legal loopholes that enable criminals to safely stay in the city. However, it poses a threat to citizens of Hong Kong and those passing through the city vulnerable to possible trial (unfair) in front of the courts.⁴⁹ The proposal of the bill amendment directly threatens to violate basic human rights, since, if enacted, the bill enables the Chinese authorities to target critics, human rights activists, journalists, NGO

⁴⁵ CBC: Facts Sheet: JUSTICE IN POLICING ACT OF 2020".

⁴⁶ Etsy News "Etsy to donate \$1 million towards justice reform and black-led institutions".

⁴⁷ Deloitte "Black Plan Action".

⁴⁸ Czech Center for Human Rights and Democracy "The Impact of Hong Kong's Amended Extradition Bill on Fundamental Rights".

⁴⁹ Czech Center for Human Rights and Democracy "The Impact of Hong Kong's Amended Extradition Bill on Fundamental Rights".

workers.⁵⁰ The protest in response to this anti-extradition law amendment bill yielded a positive outcome as the bill was successfully suspended and withdrawn.⁵¹

In view of the above, protests encourage the development of an engaged and informed citizenry and strengthen representative democracy by enabling direct participation in public affairs. Protests are among many strategies people use to engage in activism and organizing with the goal of enacting change. It is also an attempt to influence public opinions or government policy. Citizens have the ability to hold their government accountable and to demand proper governance. Civil demonstration has become a common way for citizens around the globe to express the urgent need to change policy or fight injustice and over the years non-violent protests have been a force behind positive societal change. In particular, the resilience of protests around the globe was evident in the year 2020, this was despite the greatest public health challenge in over a century—the COVID-19 Pandemic, the resultant lockdowns, and the increasingly repressive environment it triggered.

Protests remain an integral part of the global political landscape.⁵² The Black Lives Matter protests in the United States,⁵³ the End SARS protests in Nigeria⁵⁴, the extradition bill protest in Hong Kong⁵⁵ and the police security bill protests in France⁵⁶, are all examples of protests to end police abuse and systemic discrimination amongst other remarkable protests that have occurred.

⁵⁰ Czech Center for Human Rights and Democracy “The Impact of Hong Kong’s Amended Extradition Bill on Fundamental Rights”.

⁵¹ BC News “Hong Kong formally scraps extradition bill that sparked protests”.

⁵² Benjamin P and Thomas C “Worldwide protest in 2020:A year in review”.

⁵³ BLM “Blacks Lives Matter”.

⁵⁴ Amnesty International “#EndSars movement: From Twitter to Nigerian Streets”.

⁵⁵ Aljazeera “Mapping major protests around the world”.

⁵⁶ BBC News “France police security bill: Protests turn violent again”.

Freedom of expression is a standard right in democratic societies. Democracy itself gives power to the people and this is why most democratic countries have made freedom of expression a fundamental right. During civil demonstrations, people employ this right, and the Police Force is saddled with the responsibility of respecting and allowing freedom of peaceful assembly, expression and protecting public security.⁵⁷ However, numerous cases of police brutality show that this is not often the reality. Police brutality is a conscious and deliberate action that many police officers have undertaken towards harmless protesters and suspects.⁵⁸ Police Officers around the world have used various aggressive means in attacking protesters. A significant example occurred in Hong Kong, during the anti extradition bill peaceful protest, where the Hong Kong police force reportedly fired teargas and pepper sprays and aimed fire arms at demonstrators who were calling for policy reform.⁵⁹ Another one is the case of police brutality that occurred during the Venezuelan anti-government demonstrations where the security forces used teargas, arrested and detained demonstrators.⁶⁰ Also, the Israeli police are committed to using unlawful force against peaceful protesters.

Police brutality has harmful effects on victims that go beyond physical injuries, affecting them psychologically as well. The result of a study held at University at Buffalo on police brutality victims indicate that the majority of those unfairly treated by police suffer from issues like suicidal thoughts, depression, and low self-confidence.⁶¹ Furthermore, Police brutality can be a cause of death and injury to people who experience it, and therefore has broader effects on public health. There's growing evidence that the mental health and well-being of individuals and communities are affected after a high profile incident of police

⁵⁷ BC Campus "Policing Public Demonstrations and Crowd Control" .

⁵⁸ Cliffs Notes "Police Brutality" .

⁵⁹ The Guardian "Hong Kong protests: man shot by police and burns victim in critical condition" .

⁶⁰ Human Rights Watch "Venezuela: Arrests, killings in Anti-Government Protests".

⁶¹ Study Finds "Police brutality leaves a long-lasting detrimental effect on victims".

violence.⁶² Police brutality impacts mental health above and beyond the actual incident, it doesn't stop when the incident happens. In fact there is the constant anticipation in people that it might happen to them or someone they know.⁶³ This interminable uncertainty of the looming threat of police brutality can take severe psychological tolls on the people who are most vulnerable to it. Most importantly, police brutality makes effective police work more difficult, and the communities they serve less safe, resulting in more threats.⁶⁴ This is as a result of the trust people have lost in the police. In the international space, various international laws, conventions and treaties provide that police officers should only use lethal force as a last resort.⁶⁵ This means that such force should be used only when necessary, in proportion to the immediate threat, and only when other de-escalation alternatives have failed.⁶⁶ Many killings of peaceful protesters by the police around the world clearly do not regard this criterion.

According to World Population Review 2022, the top ten countries with the most police killings in no particular order are Venezuela, El Salvador, Philippines, Palestine, Brazil, Syria, United States of America, Nigeria, Pakistan, and Afghanistan.⁶⁷ The use of force against citizens during civic demonstrations is a heinous conduct and it violates international rules and standards. Thus, it is important to review the provisions of international law on violations of civilians' right to assemble, the impact of police brutality against civilians, and the provision of legal support to victims of police brutality.

⁶² Carolyn L.T "Why Police Brutality is a Public Health Issue".

⁶³ Carolyn L.T "Why Police Brutality is a Public Health Issue".

⁶⁴ Carolyn L.T "Why Police Brutality is a Public Health Issue".

⁶⁵ Amnesty International "Police Violence".

⁶⁶ Amnesty International "Police Violence".

⁶⁷ World Population Review "Police Killings by Country 2022".

International and Regional Framework

*The United Nations Charter 1945*⁶⁸ provides for the "inherent dignity" and the equal and inalienable rights of all humans. Upholding these human rights principles as "the foundation of freedom, justice, and peace in the world" is fundamental to every undertaking of the United Nations.⁶⁹ This portrays the support of the United Nations and other international organizations for human rights for every person. This support definitely does not exclude the right to freedom of assembly and expression and it is evident in the numerous provisions laid down which are binding on member states who are signatories.

A prominent provision of the United Nations is the *Universal Declaration of Human Rights (UDHR)*.⁷⁰ *Article 3* provides that everyone has the right to life, liberty and security of person, violation of which amounts to violations of international law. This provision should be read along with *Article 5* which provides that no one shall be subject to "torture or cruel, inhuman or degrading treatment or punishment," and *Article 9*, which provides that no one shall be the subject to "arbitrary arrest, detention or exile". This provision guarantees the right to life of every human and the right for such life not to be arbitrarily collected. This provision is the backbone on which other international instruments are built.

Article 21 of the *International Covenant on Civil and Political Rights (ICCPR)*⁷¹ guarantees the right to peaceful assembly. It further states that no restrictions may be placed on the exercise of this right other than those imposed in conformity with the law and which are necessary in a democratic society in the interests of national security or public safety, public order (*ordre public*), the protection of public health or morals or the protection of the rights and freedoms of others.

⁶⁸ UN "United Nations Charter 1945".

⁶⁹ UN "Universal Declaration of Human Rights".

⁷⁰ UN "Universal Declaration of Human Rights".

⁷¹ OHRC "International Covenant on Civil and Political Rights".

Additionally, *Articles 12,13 and 14 of the Basic Principles on the Use of Force and Firearms by Law Enforcement Officials No.9 (BPUFF)*⁷² provides that everyone is allowed to participate in lawful and peaceful assemblies, in accordance with the principles embodied in the *Universal Declaration of Human Rights* and the *International Covenant on Civil and Political Rights*, Governments and law enforcement agencies and officials shall recognize that force and firearms may be used only in accordance with *Principles 13 and 14*. *Articles 13 and 14* further provide that:

"In the dispersal of assemblies that are unlawful but non-violent, law enforcement officials shall avoid the use of force or, where that is not practicable, shall restrict such force to the minimum extent necessary. In the dispersal of violent assemblies, law enforcement officials may use firearms only when less dangerous means are not practicable and only to the minimum extent necessary. Law enforcement officials shall not use firearms in such cases, except under the conditions stipulated in Principle 9 of BPUFF."

Furthermore, the *United Nations Code of Conduct for Law Enforcement* adopted by the *General Assembly Resolution 34/169 of 1979* provides guidelines for use of force by police.⁷³ It particularly provides under *Article 2* that in the performance of their duty, law enforcement officials shall respect and protect human dignity and maintain and uphold the human rights of all persons.

The Human Rights Council's (HRC) resolution on peaceful protest (A/HRC/RES/25/38) of March 2014 also guarantees protection of human rights during protests.⁷⁴ This provision urges member states to incorporate in their domestic law that force should not be used during protests, thereby affirming that nothing justifies the use of lethal-force against crowds during

⁷²UN "Basic Principles on the Use of Force and Firearms by Law Enforcement Officials No.9(BPUFF)".

⁷³ UN, "Code of Conduct for Law Enforcement Officials, adopted by the United Nations General Assembly Resolution 36/169".

⁷⁴ United Nations Human Rights Council "The Promotion and Protection Human Rights Context of Peace Protest".

civil demonstrations. Its provision is all-encompassing as it urges Member States to ensure accountability for any human rights violation.⁷⁵ It further draws the attention of member states towards proper training of its law enforcement officers.

Certain regional frameworks also guarantee the protection of human rights at all times. An important one is the *European Convention on Human Rights (ECHR)*.⁷⁶ Article 11 provides that “Everyone has the right to freedom of peaceful assembly and to freedom of association with others, including the right to form and to join trade unions for the protection of his interests”. It further provides that:

“No restrictions shall be placed on the exercise of these rights other than such as are prescribed by law and are necessary in a democratic society in the interests of national security or public safety, for the prevention of disorder or crime, for the protection of health or morals or for the protection of the rights and freedoms of others.”⁷⁷

This Article does not prevent the imposition of lawful restrictions on the exercise of these rights by members of the armed forces, of the police or of the administration of the State. Another regional framework is the *2010 Guidelines on Freedom of Peaceful Assembly* issued by the *Organization for Security and Co-operation in Europe (OSCE)* which exclusively provides for the right to freedom of assembly and police responsibilities.⁷⁸

The *United Nations Sustainable Development Goals 16* promotes peaceful and inclusive societies for sustainable development, provides access to justice for all and builds effective, accountable and inclusive institutions at all levels⁷⁹. The United Nations defined 12 targets and

⁷⁵ United Nations Human Rights Council “The Promotion and Protection Human Rights Context of Peace Protest”.

⁷⁶ ECHR “European Convention on Human Right”.

⁷⁷ ECHR “European Convention on Human Right”.

⁷⁸ European Commission for Democracy “Guidelines on freedom of peaceful Assembly”.

⁷⁹ United Nations Sustainable Development Goals “Goal 16: Promote just, peaceful and inclusive societies”.

23 indicators for *SDG 16*.⁸⁰ These targets specify the goals and the indicators represent the metric by which the world aims to track whether these targets are achieved. Some of these targets that particularly relate to police brutality include target 16.1 that relates to reducing violence everywhere. The United Nations definition of sustainable development goal 16 is to significantly reduce all forms of violence and related deaths globally.⁸¹ This is to significantly reduce all forms of violence and related death rates across all countries by 2030. Another target is that of number 16.3 which seeks to promote the rule of law and equal access to justice across all countries by 2030.⁸² Lastly, target 16.10 has to do with ensuring public access to information and protecting fundamental freedom provisions.⁸³ All of these are sustainable development provisions that are crucial to addressing police brutality and victims of police violence.⁸⁴

Indeed, International and regional frameworks are put in place to address global issues. Member states ratify them to express their continuous support towards addressing these issues as it affects their country and sometimes their allies. The *Universal Declaration of Human Rights (UDHR)* to the *International Covenant on Civil and Political Rights (ICCPR)*⁸⁵ and many more regional frameworks all work for the aim of addressing global issues. Despite the provisions, global issues continue to expand as the world evolves and this is why continuous review and collaboration amongst member states is important for our policies to fit our evolving society.

⁸⁰ SDG Tracker "Sustainable development goal 16".

⁸¹ SDG Tracker "Sustainable development goal 16".

⁸² SDG Tracker "Sustainable development goal 16".

⁸³ SDG Tracker "Sustainable development goal 16".

⁸⁴ OECD, "Tracking Support to SDGs-the case of peace and security".

⁸⁵ OHRC "International Covenant on Civil and Political Rights".

Role of the International System

The stance of the international system is quite clear on the subject matter. The legal provisions, actions and publicly made statements by international bodies and government representatives clearly frown upon the use of violence on civilians during civil demonstrations.

This is evident in the action taken by the United Nations in adopting the Universal Declaration of Human Rights, the International Covenant on Civil and Political Rights, the General Assembly resolutions, and all other treaties adopted to help mitigate the violation of human rights across the globe. The United Nations Human Rights Council has also been actively involved in putting an end to human rights violations. In fact, the committee gets periodical reports of human rights violation cases every 4 years in all of the 193 member states, this aids the council in making more informed decisions in human rights violation matters.⁸⁶

Indeed international participation and accountability is important to ensuring the commitment of the international systems in ensuring the human rights provision. For example, the United Nations Human Rights High Commissioner, Michelle Bachelet during the Blacks Lives Matter protest, stacked up reports detailing violation of human rights. Building on the momentum of the report, she presented her reports and agenda for transformative change to the UN Human Rights Council and she stated that there was “an urgent need to confront the legacies of enslavement of the trans atlantic slave trade colonialism, successive radically discriminatory policies and systems and to seek reparatory justice.”⁸⁷ This action represents a form of accountability and participation on the part of the key body saddled with the responsibility to address any case of human rights violation.

A more recent action taken by the United Nations Human Rights Council is the adoption of resolution *A/HRC/43/L.50 of 2020* at the 47th session of the committee. This resolution aims to

⁸⁶ United Nations “Peace, dignity and equality on a healthy planet”.

⁸⁷ OHCHR “High Commissioner: Acknowledging and confronting historical legacies crucial fo racial justice”.

promote and protect the human rights of Africans against the excessive use of force by police officers. This resolution may be used to investigate possible human rights violations by the government against peaceful and anti-racism protests.⁸⁸

Furthermore, following the violation of human rights that happened in Sri Lanka where the citizens were protesting against the current government, OHCHR reminded the Sri Lankan authorities that measures that relate to states of emergency must comply with international human rights law. The UN human rights office assured the world of a closely watched development and the top UN official in the country has also called for restraint from all sides and for the escalation of tensions away from violent confrontation.⁸⁹

Also, *United Nations Police (UNPOL)* contributes across the entire peace and security continuum, advancing the political, development and humanitarian objectives of the United Nations, including Action for Peacekeeping and the 2030 Agenda for Sustainable Development.⁹⁰

Recently, the United Nation Secretary General condemned the violent escalation which occurred on the 20th of October in Lagos and resulted in multiple deaths and injuries. He expressed his condolences to the bereaved families and wished a speedy recovery to those injured. He called on the Nigerian authorities to investigate these incidents and hold the perpetrators accountable.⁹¹

It is also worthy to take note of the action which the Human Rights Council took on the 19th of June 2020. The Council adopted 14 resolutions in which, among other actions, requested the High Commissioner for Human Rights, with the assistance of relevant Special Mandate Holders, to prepare a report on systemic racism and violations of international human rights law against Africans and people of African descent by law enforcement agencies, especially

⁸⁸ Conectas Human Rights “UN announces creation of international mechanism against racism and police violence”.

⁸⁹ United Nations “Sri Lanka: Mishandling of economic crisis triggers alarm over rights violation”.

⁹⁰ United Nations Peacekeeping “United Nations Police”.

⁹¹ Vanguard “EndSars Lekki Toll Gate Massacre: What did the UN say?”.

those incidents that resulted in the death of George Floyd and other Africans and people of African descent.⁹² The Council further requested the High Commissioner to examine government responses to anti-racism protests, including the alleged use of excessive force against protesters, bystanders and journalists.⁹³

The civil societies also play very crucial roles in ensuring that police officers are not violating the rights of common men. They support people who speak out peacefully for themselves and for others – whether a journalist reporting on violence by security forces or a trade unionist exposing poor working conditions or an indigenous leader defending their land rights against big businesses. They have affirmed severally that they would defend the right of those who support the positions of big business, the security forces and employers to express their views peacefully.⁹⁴ They also consider anyone put in prison solely for exercising their right to free speech peacefully to be a prisoner of conscience and always demand for their immediate and unconditional release.⁹⁵ Some of these civil societies include Communities United Against Police Brutality, Social-Economic Rights and Accountability Project (SERAP), UN Watch, Global Rights, Human Rights Watch. Also, Civil societies file cases against governments of certain countries for grave violation of people's rights. For example, the Social-Economic Rights and Accountability Project (SERAP) filed a lawsuit asking the court to compel the president of Nigeria to arrest soldiers and police officers responsible for assault and killing of peaceful protesters in 2020.⁹⁶

⁹² NHRC Office of the High Commissioner `` Human Rights Council adopts 14 resolutions, including on excessive use of force by law enforcement officers against Africans and people of African descent”.

⁹³ UNHRC Office of the High Commissioner `` Human Rights Council adopts 14 resolutions, including on excessive use of force by law enforcement officers against Africans and people of African descent”.

⁹⁴ Amnesty International “Freedom of Expression”.

⁹⁵ Amnesty International “Freedom of Expression”.

⁹⁶ Sahara Reporters “ENDSARS Report: Serap and 116 others sue Buhari , Seek court order compelling Arrest of Suspects”.

The role of International organizations such as Amnesty International, Civil Rights Defenders, Human Rights Without Frontiers International, Global Rights, International Federation for Human Rights, Human Rights foundation, Front line defenders, Human Rights House Foundation, Social-Economic Rights and Accountability Project (SERAP), International service for human rights, The Advocates for Human Rights, International Society for Human Rights⁹⁷, as well as regional organizations such as the African Union, European Union and Council of Europe, not excluding the civil societies, cannot be overemphasized. Over the years, these international organizations have been committed to advising domestic police services, increasing compliance with international human rights standards, and restoring and promoting public safety and the rule of law.

Asides international organizations, companies and organizations have also made efforts to end systematic racism. A major one was the step taken by Etsy, an American e-commerce company, that made a donation of \$1million to two non-profit organizations working tirelessly for criminal justice reform and to assist Black-led institutions.⁹⁸ Deloitte also launched a black action plan that addresses diversity and inclusion. After the breakout of the black lives matter movement, they hosted a series of listening sessions for their staff across all parts of the firm with a focus on hearing and understanding the experience of their black colleagues. The black action plan is to improve every aspect of their employee experience as well as how they work with clients and wider society.⁹⁹

⁹⁷ Human Rights Careers “25 International Human Rights Organizations”.

⁹⁸ Etsy News “Etsy to donate \$1 million towards justice reform and black-led institutions”.

⁹⁹ Deloitte “Black Plan Action”.

Comparative Analysis between the International Global Standard of Rights to Protest and Current Realities

The international standard for the right to protest has been set and this is evident in the provisions of several international and regional frameworks. The *Universal Declaration of Human Rights*, article 20(1)¹⁰⁰, provides that everyone has the right to freedom of peaceful assembly and association and no one should be compelled to exercise these rights. The *International Covenant on Civil and Political Rights*: articles 21 and 22¹⁰¹, also recognises the right to peaceful assembly. Article 21 and Article 22 states that no restriction shall be placed on the exercise of this right other than those prescribed by the law in democratic societies. The *General Assembly Resolution A/RES/53/144*, of 1998 summarily adopts the declaration on the rights and responsibility of individuals, groups or organs of society to promote and protect universally recognized human rights. It can be deduced from the above that the right to peaceful assembly and association are legal rights that are guaranteed by international systems. Thus, the Hong Kong protest and other peaceful protests that have occurred around the world are legal assemblies according to international standard.

Despite Member states being signatories to these provisions and having them in their national laws, the current reality in some states still does not reflect the existence of these provisions. The disparity between the contents of the international provisions above and the current reality is not proportional to the legal provisions, especially in practice.

As stated in the introduction, police brutality is a frequent occurrence in civil demonstrations. Protesters get injured or sometimes killed on protest grounds by the police, as seen with the #EndSars protests that took place in Nigeria. In situations like this, the State does nothing to address this issue. In Nigeria, the President was silent regarding the issue and when he finally addressed the nation, he claimed that “he was avoiding getting into any debate until facts

¹⁰⁰ OHCHR, “Universal Declaration of Human Rights”.

¹⁰¹ OHCHR “International Covenant on Civil and Political Rights”.

were established” despite live videos of the shooting that had been released. In the US, on June 4, 2020 about 300 people marched peacefully through New York City to protest against police violence and racism.¹⁰² Curfew was announced for 8pm that day and just about 10 minutes after it went into effect, police officers attacked the protesters with riot gear, shields, and batons. They used their bikes to form a wall and prevented the protesters from moving forward, while other officers pushed from behind (a style known as “kettling”). The protesters were trapped, with no way to escape and this resulted in casualties.¹⁰³ Recently in February 2022, security forces in Sudan attacked peaceful protesters using excessive, unnecessary force.¹⁰⁴ This in particular negates the provision of *International Covenant on Civil and Political Rights: articles 21 and 22* which recognizes and protects the right to protest¹⁰⁵ On January 17, 2022, doctors’ groups recorded seven killings of protesters by live ammunition, three of which Human Rights Watch documented.¹⁰⁶ This has been going on for quite a while in various member states with feeble responses from the international community.

According to the International Rules and Standard for policing, law enforcement officials are to fulfill the obligations of maintaining public order, preventing and detecting crimes and providing aid and assistance in situations of emergencies.¹⁰⁷ Specific powers are given to them to perform these obligations such as the powers to use force and firearms, to arrest and detain and to carry out searches and seizures. However, they must respect human rights when exercising those powers, which means observing four fundamental principles that should govern all State actions with a possible impact on human right. They include; the principle of legality which provides that all actions should be based on law, the principle of

¹⁰² Human Rights Watch “Kettling Protesters in the Bronx”.

¹⁰³ Human Rights Watch “Kettling Protesters in the Bronx”.

¹⁰⁴ Human Rights Watch “Sudan:Ongoing Clampdown on Peaceful Protesters”.

¹⁰⁵ OHCHR “International Covenant on Civil and Political Rights”.

¹⁰⁶ Human Rights Watch “Sudan:Ongoing Clampdown on Peaceful Protesters”.

¹⁰⁷ ICRC, “International Rules and Standards for Policing, Law Enforcement Functions and responsibilities”

necessity which provides that all actions should not restrict or affect human rights more than necessary, the principle of proportionality which states that actions of law enforcement officials should not affect human rights in a way that is disproportionate and lastly the principle of accountability which provides that law officials carrying out the action should be fully accountable to all levels (the judiciary, public, government and internal chain of command).¹⁰⁸

This is the current reality having conducted the comparative analysis between the provisions of conventions, treaties and resolutions that guarantee the right to freedom of assembly and the international global standard of the right to protest. It is worrisome that the actions of the police force of many countries negate these provisions and it is despicable that the police force are not accountable to international provisions.

Examining the United Nations' standard for police training and the established best practices for carrying out law enforcement operations.

Member States have the responsibility to maintain peace and security within their territory with the help of law enforcement agencies. States make laws and law enforcement officers enforce them. These officers are trained and expected to carry out their responsibilities accordingly, i.e. maintain public order, prevent and detect crime and provide aid and assistance in all kinds of emergencies. They are given specific powers to enable them to carry out their tasks, which includes the power to use force and firearms, to arrest, detain, and carry out searches or seizure. However, during the course of performing their duty, they are mandated to respect human rights. This mandate is guaranteed by international policies such as the international code of conduct for public officials (*GA/SHC/3372*) that provides that a law enforcement agency must be accountable to the community. The mandate upon police officers to respect human rights is also acknowledged in the constitution of many

¹⁰⁸ ICRC, "International Rules and Standards for Policing, Law Enforcement Functions and Responsibilities".

democratic states. For example, the Federal Democratic Republic of Ethiopia recognizes in *article 55 (7)* of its constitution, that the police force would be held accountable if any of their actions violate human rights.¹⁰⁹ Likewise, the Venezuelan Constitution of 1999 in *article 55* and *68* provides that the use of toxic weapons by the police force shall be limited by principles of necessity, convenience, proportionality and in accordance with the law.¹¹⁰ Article 68 further buttresses that the use of firearms and toxic substances to control peaceful demonstration is prohibited¹¹¹. Thus, all of their actions must be based on the provision of law, when they are required to use force it must be necessary and proportionate and when an error occurs they must be accountable for their mistakes.

International organizations have a standard for training the police, as seen in the provisions of International Rules and Standards for Policing by the International Committee of Red Cross¹¹² where law enforcement accountability, law enforcement duties, powers and strategies on how they should operate were examined in detail. This was not done without considering the provisions of international conventions, resolutions and treaties. The standard also laid emphasis on the preservation of human rights during the course of carrying out their duties. While these standards exist on paper, many of them have not been adhered to by Member States, because Member States have the power to train their law enforcement officers according to their municipal laws. Thus, the international standard for training and recruitment of police officers are not adhered to. Some countries also have a very poor system of recruiting police officers which eventually results in poor discharge of their duties. This system sometimes allows for a lack of proper channels in which these recruited officers are

¹⁰⁹ Refworld "Constitution of the Federal Democratic Republic of Ethiopia".

¹¹⁰ Refworld "Constitution of the Federal Democratic Republic of Ethiopia".

¹¹¹ Constitute "Venezuela (Bolivarian Republic of)s Constitution of 1999 with amendments through 2009".

¹¹² ICRC "International Rules And Standards for Policing".

taught the law and how to enforce them.¹¹³ Which results in a complete neglect of respect for human rights on the part of the officers, that is evident during civil demonstrations.

For example, the international standards and rules for policing set by the International committee of red cross provides that the maintenance of public order is a core responsibility of law enforcement that constantly calls for careful balancing of rights and interests of all sections of the population.¹¹⁴ This is a standard that has not been properly adhered to by member states' police forces as seen in various reports of police attacks during protests across the world. United Nations Peacekeeping Operations are frequently mandated to assist in the reforming, restructuring and rebuilding of host country police services.¹¹⁵ In past conflicts, police often have been directly involved in hostilities and associated with human rights violations.

Thus, not only do the police need to accept external civilian oversight but the community needs to perceive that they are effectively held to account for their operations, actions, and misconduct.

The Role of the Police Force in Civil Demonstrations.

A civil protest will usually take the form of an organized demonstration of disapproval or display of disagreement with an idea or course of action taken by the government. Non-violent protests occur due to the belief that country residents have the right to choose how they are governed and demonstrate that right. The right to protest has long been guaranteed by international systems and this is a testament to the fact that the society, its laws, and attendant institutions are creations of the human mind, designed for the betterment of man and not to make a slave of him. Once they no longer guarantee human security, and well-being, nor add value to their existence, they are due for a change.

¹¹³ ICRC "International Rules And Standards for Policing".

¹¹⁴ ICRC "International Rules And Standards for Policing".

¹¹⁵ UN Peacekeeping "UN Police".

During the Blacklives matter protests, the United Nations Human Rights Chief, Michelle Bachelet spearheaded efforts to address systemic racism against people of African descent by law enforcement agencies.¹¹⁶ During the *EndSars* protests, she called on the Nigerian authorities to take urgent steps to deal decisively with the underlying problem of persistent violations committed by security forces, and make a far stronger effort to bring police and army personnel guilty of crimes against civilians to justice.¹¹⁷

Police reaction to public demonstrations often results in criticisms of the police for either being too lax in enforcement- resulting in riotous situations, or too restrictive, resulting in the infringement on the rights enshrined under the Charter.¹¹⁸ Due to the potential volatility of protest groups, the police use intelligence to regulate protests.

It is the role of the police to moderate peaceful protests. If tensions arise, they have a duty to de-escalate them. Also, if some protestors engage in violent actions, this shouldn't turn the otherwise peaceful protest into a non-peaceful assembly. The Police should ensure that those who remain peaceful can continue protesting. Acts of violence by a small minority do not justify indiscriminate use of force. If the use of force is unavoidable to secure the safety of others, police must use the minimum force necessary.¹¹⁹ The decision to disperse a protest must be a last resort – when all other less restrictive means have proven to be unsuccessful. Tear gas or water cannons to disperse a protest should only be used if people can leave the scene.¹²⁰ They may only be used in response to widespread violence and where less harmful means have failed to contain the violence. Lastly, Firearms should never be used to disperse a crowd.

¹¹⁶ United Nations “Human Rights Council calls on top UN rights officials to take action on racist violence”.

¹¹⁷ UN News “UN Chief calls for end to reported police brutality in Nigeria”.

¹¹⁸ BC CAMPUS “Ethics in law enforcement”.

¹¹⁹ Amnesty International “Police Violence”.

¹²⁰ Amnesty International “Police Violence”.

International human rights law provides the overarching framework for the international law governing law enforcement. Many of the detailed rules regulating police use of force are found in a combination of customary law and general principles of law. As the United Nations Special Rapporteur on extrajudicial, summary, and arbitrary executions stated in 2016, "states must adopt a clear legislative framework for the use of force by law enforcement or other individuals that complies with international standards, including the principles of necessity and proportionality." (*UN Special Rapporteur on Summary Executions, 2016, para. 75*).¹²¹ The rules were first articulated in two sets of United Nations standards and norms on crime prevention and criminal justice: the *1979 Code of Conduct for Law Enforcement officials* (GA Resolution 34/169) and the *Basic Principle on the Use of Force and Firearms by Law Enforcement Officials* (GA Resolution 45/166).

The Physical and Psychological Effects of Police Brutality on Civilians.

The term "police brutality" is sometimes used to refer to various human rights violations by police. This could involve batterings, racial abuse, unlawful killings, torture, and the indiscriminate deployment of riot control agents at protests.¹²² In the worst-case scenario, police officers' unlawful use of force might result in people being deprived of their right to life. If police force is used in an unjustified or excessive manner, it may amount to torture or other ill-treatment. The right to be free from discrimination, the right to liberty and security, the right to equal protection under the law can all be violated by police using unlawful force.¹²³ Police brutality directly affects the mental health and well being of individuals who experience it. Police brutality is viewed by stress experts as a "stressor" that has an impact on the mental health of persons who have had unfavorable interactions with the police.¹²⁴ People

¹²¹ OHCHR "Special Rapporteur on extrajudicial, summary or arbitrary executions".

¹²² Amnesty International, "What is police brutality".

¹²³ Amnesty International, "Why is police brutality a human rights issue?".

¹²⁴ MedicalNewsToday "Police violence: Physical and mental health impacts on blacks Americans".

who had bad experiences with the police were found to be connected with depressed moods and anxiety.

According to data from a survey of urban residents' health, the fear of becoming a victim of police brutality was also linked to depression and anxiety.¹²⁵ If unfavorable police contacts are stressors, persons who are exposed to them will have worse mental health outcomes. According to the research, negative police action is linked to a higher prevalence of delusional mood, paranoia, hallucinations, psychological distress, depression, anxiety, and other mental illnesses.¹²⁶ Individuals and communities are affected emotionally and psychologically by each instance of police violence. Witnessing or experiencing harassment, routine unwarranted searches and deaths that go unpunished send a message to people that their bodies are police property, disposable and undeserving of dignity and justice. Defending the reputation of loved ones who have been killed by police can be so excruciating, prompting even more negative emotions like anger, grief and hopelessness. Although justified, these emotions may be harmful to individual mental health and might increase distress at the population level.¹²⁷

Experiencing or witnessing police brutality, hearing accounts from friends who have been victims of police brutality and fear of being a victim are all stressors. When the body is confronted with a threat, it creates hormones and other signals that activate the systems required for short term survival. Accelerated heart rate and higher respiratory rate are two of these alterations. However, when the stress is repeated and continuous, as it is with police brutality, the survival process becomes perilous causing rapid wear and tear on body organs as well as an increase in allostatic stress. Increased allostatic stress damages organs and

¹²⁵ Sage Journals, "Police Encounters as Stressors: Associations with Depression and Anxiety across Race".

¹²⁶ Sage Journals, "Police Encounters as Stressors: Associations with Depression and Anxiety across Race".

¹²⁷ American Journal of Public Health, Police Brutality and Black Health: Setting the Agenda for Public Health Scholars "Psychological Stress".

systems which can lead to diabetes, stroke, ulcers, cognitive impairment, autoimmune illnesses, accelerated aging and death.¹²⁸

Physical violence between law enforcement officers and the public is a critical determinant of health considering physical injuries, assaults and even death that cause families to fall apart due to the loss of a loved one. For some victims of police violence, death is not immediate but results from repeated physical injury and maltreatment while in police custody.¹²⁹ Police brutality also affects the economic productivity of individuals because loved ones will have to take time away from paid work to grieve, prepare, and attend funerals. Financial stress and poverty have an impact on an individual's health by limiting access to healthy foods, exposing families to environmental hazards and poor living conditions, and making health services more difficult to obtain.¹³⁰ Police brutality makes it more difficult for officers to do their jobs effectively and makes the communities they serve less safe, putting a greater strain on public health.¹³¹ The perception of lack of justice in situations of police brutality can lead to a reduced faith in law enforcement agencies which might limit access to appropriate and necessary law enforcement services such as protection from violent crime and timely intervention during emergencies and disasters.¹³² For instance, when police are accused of inappropriate conduct, particular cases where this conduct is either not thoroughly investigated or is dismissed in court, it causes people to question whether the police are acting in the best interest of their

¹²⁸ American Journal of Public Health, Police Brutality and Black Health: Setting the Agenda for Public Health Scholars "Psychological Stress".

¹²⁹ American Journal of Public Health, Police Brutality and Black Health: Setting the Agenda for Public Health Scholars "Physical Injuries and Death".

¹³⁰ American Journal of Public Health, Police Brutality and Black Health: Setting the Agenda for Public Health Scholars "Economic and Financial Strain".

¹³¹ The Movement Lawyering Clinic, "A Growing Dilemma: How Police Brutality Affects Mental Health in Black Communities".

¹³² American Journal of Public Health "Black Communities' Systematic Disempowerment".

community. This, in turn, makes people hesitate to go to the police when they do need help thereby increasing crime rate because they will take matters into their own hands or even pay off the police.

Consequently, this shows the police need to have their privileges specifically outlined and strictly enforced so that shooting incidents and reports of brutality are thoroughly investigated and those found responsible are brought to justice otherwise citizens start developing the idea that police are not for them and that the justice system is actually working against them. What this results into is a high level of insecurity within and outside the territory of countries. Law enforcement officers found responsible for using violence on civilians should be brought to justice in fair trials. The power of the police to resort to the use of force and firearms must be adequately regulated by law and the use of lethal force on people in detention to ensure their rights are protected.¹³³

Lastly, the experience of police violence puts all in danger and at higher risk of distinct mental health problems, in addition to risk of death at the hands of police. Law enforcement agencies should use early intervention systems to identify officers who may be at the risk of misconduct, public complaints or other negative outcomes. Such intervention systems are intended to be preventive rather than punitive, reducing the chances of an adverse event by providing identified officers with supervisory support and services, such as structured supervisor-officer conversations, therapy sessions and training.¹³⁴

¹³³ Amnesty International, "Police Violence, Solutions".

¹³⁴ CCJ, "Task Force on Policing".

Provision Of More Responsive Legal Assistance To Victims Of Police Brutality

People who have experienced police violence have few options to claim redress because they report incidents to the same police department that originally harmed them. Numerous complaints of police misconduct never get to the investigation stage for the officer involved, especially in developing countries with weak institutions. Only a few are exceptions like Chauvin's conviction of murder and manslaughter for Floyd's death, a man that died in the hands of a police officer in the United States Of America in May 2020.¹³⁵

It is important to note that legal aid is a key element to access justice. It guarantees the provisions of human rights. It helps people navigate the justice system seamlessly through their representatives and it is crucial in protecting individual human rights. It also ensures that state enforcement emergency measures respect international human rights standards. The important role of legal aid was recognized by the United Nations Principles and Guidelines on Access to Legal Aid in Criminal Justice Systems, adopted by the General Assembly in 2012¹³⁶, that made it an obligation for member states to put in place accessible, effective, sustainable and credible legal aid systems, with specialized services for groups, particularly children and women.

For the essence of police brutality, it is important to note that countries, particularly the ones with high levels of police violence have some provisions in place for the access of legal assistance. For example, the United States of America¹³⁷ and more recently Nigeria¹³⁸ which has set up a judicial panel of inquiry across the states within the federation. These judicial panels inquire into any alleged case of police brutality against anyone with the sole aim of attaining justice on behalf of the victim.

¹³⁵ New York Times "Derek Chauvin Trial: Chauvin found guilty for murdering George Floyd".

¹³⁶ UNODC "United Nations Principles and Guidelines on Access to Legal Aid in Criminal Justice Systems.

¹³⁷ US Attorneys.com "Find the best police brutality lawyers and law firms".

¹³⁸ VanguardVanguard "ENDSARS: UN, US welcomes reports of Lagos Judicial Panel of Inquiry".

Despite the setting up of a panel of inquiry, justice still seems unattainable in some areas. For example, in Nigeria, The Lagos Judicial Panel of Inquiry investigating the shooting of #EndSARS protesters by military officers at the Lekki Toll Gate in Lagos already held its final hearing but the recommendations from the panel have no force of law except that they are adopted by the Lagos State Governor, after which they can be enforced as a judgment of the State High Court.¹³⁹ Courts cannot automatically assume jurisdiction over police and military officers. Charges can only be brought against them after internal disciplinary processes lead to their being fired. Unfortunately, Military officers who were at the scene during the Lekki Toll Gate shooting on October 20, 2020, have refused to appear before the panel.¹⁴⁰ The military had initially denied claims that officers shot at protesters. Contrarily, Human Rights Watch found that at least 15 people lost consciousness and appeared dead after the shootings at the Lekki Toll Gate; 10 of these bodies were then taken away from the scene by military officers¹⁴¹.

This portrays the ineffectiveness of some of the Legal assistance provisions already in place and a call for a more effective strategy that would help protect the fundamental human rights of people. Thus, for a more effective provision of legal assistance to victims of police brutality it is recommended that governments of countries across the world should make policies to this effect. Also, local legal centers can be created for easy access to legal aid. With this, legal assistance would be more accessible even to people living in rural communities. All of these centers may also be mandated to submit reports to a central body that would deliver them to the government. Witnesses of police brutality should be encouraged by government officials to always report every documented scene of police violence without fear, this would help facilitate the process of attaining justice. A local dial line may also be provided to access

¹³⁹ Human Rights Watch "Nigeria Events of 2021".

¹⁴⁰ Human Rights Watch "Nigeria Events of 2021".

¹⁴¹ Human Rights Watch "Nigeria Events of 2021".

police brutality lawyers promptly, it will be more encouraging if these lawyers are accessed for free. With all of these in place, the government would be able to track the progress for their goal of providing legal aid to victims of police brutality in their country.

Conclusion

Police officers have a responsibility to protect civilians against crime and acts of injustice. Yet, many times, it is the officers themselves who violate the law. When the police behave in a manner that is excessively violent, harass potential suspects, terrorize peaceful protesters or fatally wound an individual who was unarmed and did not display intention to harm another, they have violated human rights.

Stakeholders such as international organizations, regional organizations, member states and other civil societies have taken tremendous actions in ensuring that human rights are upheld globally. Some of these actions include the provision of international law and policies that seek to enforce human rights, the debates and constant request for accountability by some civil societies and so on.

However, violation of rights to protest is still in existence. Thus, Strategies such as more effective provision of legal assistance, proper recruitment of police officers, reform of the police force, better advocacy on human rights, setting up of reports committees and so many more needs to be put in place to attain a high level of protection and adherence to human rights globally.

Further research.

Having examined the treaties and conventions of the United Nations as regards right to protest and standard training for the police force, what are the challenges of member states in enforcing all of these provisions? What more can the international systems do to fight police brutality? How does the human rights violation during a civil demonstration affect the police force and the security of individual states? Employing the sustainable development goal 16 and 17: How far can this help mitigate the subject matter? What is the importance of employing partnership in eradicating police violation of human rights? How can governments employ more responsive legal assistance in place for victims of police brutality?

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<https://www.ohchr.org/en/news/2020/06/human-rights-council-adopts-14-resolutions-including-excessive-use-force-law> (accessed 14 April 2022)

“This addresses the 14 resolutions adopted by the Human Rights Council, which include a resolution that addresses the use of excessive force by law enforcement officers on African”

Human Trafficking and Child Labour in Africa

*“Every year thousands of people, mainly women and children, are exploited by criminals who use them for forced labour or the sex trade. No country is immune. Almost all play a part, either as a source of trafficked people, transit point or destination. Abduction, coercion, trafficking across national and international borders, forcing women and children into sexual exploitation and servitude – this must not be accepted in today’s world.”¹⁴² - **Ban Ki Moon, former Secretary-General of the United Nations.***

Introduction

Every year, vulnerable people are made victims of human trafficking and forced labour, especially from the African continent.¹⁴³ According to the United Nations Office on Drugs and Crimes (UNODC), people trafficked for forced labour in Africa sum up to 80% of the total number of people trafficked in the world.¹⁴⁴ South Africa is considered one of the major transit points for human trafficking to Europe and North America.¹⁴⁵ Evidently, human trafficking and forced labour is a pertinent problem in Africa.¹⁴⁶

This trend has its roots in history. The earliest form of human trafficking began with slave trade. Human trafficking is also referred to as modern day slavery and both terms, “human trafficking” and “slavery” can as well be used interchangeably. In the 16th century, people from Portugal invaded Africa in order to capture Africans and make them slaves back in Portugal. Other European countries followed suit and up until the 16th century, slavery was a

¹⁴² United Nations, “UN launches global action plan to combat scourge of human trafficking” (2010).

¹⁴³ Blue Campaign, “What is Human Trafficking?”.

¹⁴⁴ UNODC, “Human trafficking in West Africa: three out of four victims are children says UNODC report”.

¹⁴⁵ The Borgen Project, “10 FACTS ABOUT HUMAN TRAFFICKING IN AFRICA”.

¹⁴⁶ Cambridge University Press, “Human Trafficking in Africa”.

legal practice in Africa and was prevalent for hundreds of years.¹⁴⁷ During the transatlantic slave trade period(1500-1866), 12.5 million enslaved Africans were shipped to other parts of the world such as America, the Carribean, amongst many others.¹⁴⁸By the early 1900s, forced child labour and human trafficking was commonplace, until civil rights and civil wars broke out, phasing out the practice of legally using people from Africa as slaves.

However, despite the creation of the League of Nations and subsequently, the United Nations, and 20th century organisations like Amnesty International, Save the children and many others, that champion human rights and fight against slavery/human trafficking, slavery still exists. It may no longer be legal, but it remains a pressing issue in Africa.¹⁴⁹

Human trafficking also occurs in gendered lines. According to the International Labour Office, 99% of people who are victims of human trafficking are both women and girls while 21% of these victims are children under the age of 18 years.¹⁵⁰Though it may be difficult to obtain accurate statistics due to conflicts like war in the African region, particularly Libya and Somalia¹⁵¹these statistics still confirm that women and children in different parts of Africa are the core targets of human right infringements and are therefore at a risk of greater violence and discrimination.¹⁵²

The United Nations Human Rights Council places its focus on the need to tackle the issue of human trafficking and forced labour. It also places focuses on the role of Member States and

¹⁴⁷ The Exodus Road, "The history of Human Trafficking".

¹⁴⁸ The Exodus Road, "The history of Human Trafficking".

¹⁴⁹ The Exodus Road, "The history of Human Trafficking".

¹⁵⁰ The Borgen Project, "10 FACTS ABOUT HUMAN TRAFFICKING IN AFRICA".

¹⁵¹ The Borgen Project, "10 FACTS ABOUT HUMAN TRAFFICKING IN AFRICA".

¹⁵² UNODC, "Human trafficking in West Africa: three out of four victims are children says UNODC report".

the international community at large in providing humanitarian assistance to victims of human trafficking and forced labour in Africa.¹⁵³

International And Regional Framework

A number of legal frameworks have been adopted and established in the fight against human trafficking and child labour, both internationally and regionally which strongly support the plight of the affected regions. The *Universal Declaration of Human Rights (UDHR) of 1948*¹⁵⁴ which is one of the most comprehensive international frameworks on human rights. *Article 4 of the UDHR*, provides for the primary objectives of the Declaration to include the protection of human rights against being trafficked and forced into slavery.¹⁵⁵ This article takes a stance against human trafficking and child labour by providing that no one shall be held in slavery or servitude, that slavery and the slave trade shall be prohibited in all of their forms.¹⁵⁶ *Resolution A/HRC/RES/11/3* recognizes the dangers of human trafficking to the victims, especially women and the girls, and reaffirms the need for international assessment and multilateral cooperation among countries of origin, transit and destination for the eradication of human trafficking.¹⁵⁷ *Article 1 of the UDHR* also stands as the overarching principle of the declaration by stating that human beings are born free and equal in dignity and rights all in the spirit of brotherhood.¹⁵⁸

The *International Covenant on Economic, Social and Cultural Rights (ICESCR)* was adopted on 16th December, 1966 after the *UDHR*, and backs the stance of the *UDHR* against human trafficking and child labour, recognizable under *Articles 10.3; 13; and 2.2. Article 10.3* enlists the

¹⁵³ United Nations, "Prevention, Prosecution and Protection - Human Trafficking".

¹⁵⁴ UN, "Universal Declaration of Human Rights".

¹⁵⁵ UN, "Universal Declaration of Human Rights".

¹⁵⁶ UN, "Universal Declaration of Human Rights".

¹⁵⁷ UN, "Human Rights Council Eleventh Session Resolution 11/3: Trafficking in Persons, especially Women and Children".

¹⁵⁸ UN, "Universal Declaration of Human Rights".

help of the family as the fundamental unit of society and requires them to take special measures to protect and assist children from economic or social exploitation, like barring children from dangerous and harmful occupations.¹⁵⁹ *Article 13* recognizes that everyone has the right to free education which has been established for the primary level while it is being introduced progressively for the secondary and higher levels¹⁶⁰ and to this effect, many African governments have implemented free public education such as Nigeria, Angola, South Africa. While *Article 2.2* reaffirms the exercise of the rights contained in the covenant which will be guaranteed without any form of discrimination as to race, colour, sex, language, religion, political, birth or other status.¹⁶¹

Furthermore, *Article 8* of the *International Covenant on Civil and Political Rights (ICCPR)* reiterates the stance against human trafficking and child labour; prohibiting slavery, enforced servitude, and forced labour with exceptions to criminal punishment, military service and civil obligations.¹⁶² Acknowledging that the major victims of human trafficking and child labour to be women and children, the *Convention on the Elimination of all Forms of Discrimination against Women (CEDAW)* was adopted in 1979 by the United Nations General Assembly and by virtue of *Article 10*, which recognizes that states should ensure equal rights is being balanced between women and men in education such as equal access to schools, vocational trainings, curricula, and educational resources; also states should eliminate the stereotypes of the roles of women and men through revised school materials and improved teaching methods.¹⁶³ *Article 11 of the Convention* also reaffirms that women should have the same opportunities as men in employment, training, promotion, safe working conditions, social

¹⁵⁹ OHCHR, “International Covenant on Economic, Social and Cultural Rights”.

¹⁶⁰ UN Treaties, “International Covenant on Economic, Social and Cultural Rights”.

¹⁶¹ UN Treaties, “International Covenant on Economic, Social and Cultural Rights”.

¹⁶² OHCHR, “International Covenant on Civil and Political Rights”.

¹⁶³ OHCHR, “Convention on the Elimination of all Forms of Discrimination against Women”.

security and equal remuneration. The Convention also protects women in employment with respect to pregnancy, maternity and marital status.¹⁶⁴

As regards children who are the easiest victims of human trafficking and child labour, the United Nations *Convention on the Rights of the Child (CRC)* was adopted in 1989 and contains a range of international rights for children, especially *Article 32* which addresses child labour and has two Optional Protocols that were adopted in 2000; one concerns the involvement of children in armed conflict while the second concerns the sale of children, child prostitution and child pornography.¹⁶⁵ *Article 28 of the Convention* recognizes the right of a child to education on the basis of equal opportunity; primary education shall be made compulsory and free to all; the development, availability and accessibility of different forms of secondary education shall be encouraged and appropriate measures shall be taken to introduce free education to all; and higher education is made accessible to all by every appropriate means with a view of reducing drop-out rates.¹⁶⁶ *Article 29 of the Convention* also reaffirms that the education of a child be directed to the development of the child's personality, talents, mental and physical abilities to their fullest potentials; the development of respect for human rights, fundamental freedoms and the principles enshrined in the Charter of the United Nations; the development of respect for the child's parents, his or her own cultural identity and values; for the national values of the country in which the child is living, the country from which the child may originate; for the preparation of the child for responsible life in a free society in the spirit of understanding, peace, tolerance, equality of sexes and friendship among all peoples, ethnic, national and religious groups and persons of indigenous origin and the development of respect for the natural environment.¹⁶⁷ Furthermore, *Article 32 of the CRC* recognizes the right of a child to be protected from

¹⁶⁴ OHCHR, "Convention on the Elimination of all Forms of Discrimination against Women".

¹⁶⁵ ILO, "Child Labour in Africa (IPEC)".

¹⁶⁶ OHCHR, "Convention on the Rights of the Child".

¹⁶⁷ OHCHR, "Convention on the Rights of the Child".

economic exploitation and from performing any work that will be likely hazardous, interfere with the child's education or be harmful to the child's health or physical, mental, spiritual, moral or social development. It also enlists the help of States Parties to take legislative, administrative, social and educational measures to ensure the implementation of the present article.¹⁶⁸

The International Labour Organization's Convention No. 182 (1999) on the Worst Forms of Child Labour is the first international labour standard to ever achieve universal ratification. This achievement reflects a global consensus that the worst forms of child labour are unacceptable and an affront to our common values.¹⁶⁹ Consequently, *Article 1 of the Convention* affirms that immediate and effective measures should be taken to ensure the prohibition and elimination of the worst forms of child labour with urgency, by each member States who has ratified the convention.¹⁷⁰

The United Nations, its Member states and all stakeholders, acting in collaborative partnership, have implemented a universal agenda as a plan of action for people, planet and prosperity which will strengthen universal peace and greater freedom. The 17 Sustainable Development Goals was birthed by virtue of *Resolution A/RES/70/1*¹⁷¹ which sought to build on the Millenium Development Goals for the year 2015 and complete what they could not achieve. These goals are integrated, indivisible and balance the three dimensions of sustainable development: the economic, social and environmental. Some of these goals stand tall in the fight against human trafficking and child labour, their targets is to stimulate action over the next fifteen years in areas of critical importance for humanity and the planet.¹⁷²

¹⁶⁸ OHCHR, "Convention on the Rights of the Child."

¹⁶⁹ UN, "Protecting Africa's Children from Child Labour; Africa Renewal".

¹⁷⁰ ILO, "Conventions on Child Labour".

¹⁷¹ UN, "Transforming our world: the 2030 Agenda for Sustainable Development".

¹⁷² UN SDGs, "The 17 Goals".

Commencing with *Goal 4* which represents inclusive and equitable quality education while promoting lifelong learning opportunities for all.¹⁷³ This is also intertwined with *Goal 5* which aims to achieve gender equality and empower all women and girls worldwide.¹⁷⁴ *Goal 8* presents the opportunity to promote a sustained, inclusive and sustainable economic growth with full and productive employment and decent work for all.¹⁷⁵ Also, *Goal 10* seeks to reduce inequality within and among countries¹⁷⁶ with the aid of *Goal 11*, seeking to make cities and settlements inclusive, safe, resilient and sustainable to help mitigate the rate of victims of human trafficking and child labour.¹⁷⁷ Furthermore, *Goal 16* seeks to promote peaceful and inclusive societies for sustainable development, provide access to justice for all and build effective, accountable and inclusive institutions at all levels to help ensure that the right institutions are in place to tackle the menace.¹⁷⁸

Regionally, *Article 15 of the African Charter on the Rights and Welfare of the Child* establishes a stance to support the protection of every child from all forms of economic exploitation and also protect them from performing any work that is hazardous or likely to interfere with the child's physical, mental, spiritual, moral or social development.¹⁷⁹ *Article 11 of the Charter* also affirms that every child shall have the right to education.¹⁸⁰

Article 5 of the African (Banjul) Charter on Human and Peoples' Rights (ACHPR) recognizes that every individual has the right to the respect of the dignity inherent in a human being and to the recognition of his legal status. It also reiterates the prohibition of every form of exploitation and degradation of man which includes; slavery, slave trade, torture, cruel,

¹⁷³ UN SDGs, "Goal 4: Department of Economic and Social Affairs".

¹⁷⁴ UN SDGs, "Goal 5: Department of Economic and Social Affairs".

¹⁷⁵ UN SDGs, "Goal 8: Department of Economic and Social Affairs".

¹⁷⁶ UN SDGs, "Goal 10: Department of Economic and Social Affairs" .

¹⁷⁷ UN SDGs, "Goal 11: Department of Economic and Social Affairs".

¹⁷⁸ UN SDGs, "Goal 16: Department of Economic and Social Affairs".

¹⁷⁹ AU, "African Charter on the Rights and Welfare of the Child" .

¹⁸⁰ AU, "African Charter on the Rights and Welfare of the Child".

inhuman or degrading punishment and treatment.¹⁸¹ *Article 3.2 of the African Charter on Human and Peoples' Rights (ACHPR)* also reaffirms the equal protection of the law which is an entitlement of every individual.¹⁸²

The *New Partnership for Africa's Development (NEPAD)* was adopted in 2001 and ratified in 2002 by the *African Union (AU)* to address Africa's development problems within a new paradigm in order to reduce poverty, put Africa on a sustainable path, halt the marginalization of Africa and empower women.¹⁸³ *NEPAD* addresses critical challenges facing the continent which includes; poverty, development and Africa's marginalization internationally and provides unique opportunities for African countries to take full control of their development agenda, work more closely together and cooperate more effectively with international partners.

The *African Commission on Human and Peoples' Rights (ACHPR)* was established by the *African Charter* and has been officially charged with three major functions; promoting human and peoples' rights, protecting human and peoples' rights and interpreting the *African Charter*.¹⁸⁴ The *ACHPR* also enlists the help of the *African Court on Human and Peoples' Rights (AfCHPR)* as a continental court to help African countries in ensuring the protection of human and peoples' rights in each member state. Consequently, it reinforces and complements the functions of the *ACHPR* which in turn, helps to establish a stronghold in the eradication of human trafficking and child labour in Africa.¹⁸⁵

Role Of The International System

The United Nations has always been particular about human trafficking especially in Africa. In 2010, it established the United Nations Voluntary Trust Fund for Victims of Trafficking in

¹⁸¹ ACHPR, "African (Banjul) Charter on Human and Peoples' Rights".

¹⁸² ACHPR, "African (Banjul) Charter on Human and Peoples' Rights".

¹⁸³ AU, "New Partnership For Africa's Development".

¹⁸⁴ ACHPR, "African Commission on Human and Peoples' Rights".

¹⁸⁵ AfCHPR, "African Court on Human and Peoples' Rights".

Persons, Especially Women and Children (UNVTF) with the objective of tackling the issue of human trafficking in the world especially in Africa.¹⁸⁶ The UNVTF is the first legal and binding instrument to combat human trafficking and also protect the victims of human trafficking and their rights.¹⁸⁷ With the impact of the pandemic on human trafficking and child labour victims, the UNVTF has shown interest in supporting 10 new NGOs that provide humanitarian assistance to trafficked victims with its focus on West Africa, East Africa, North Africa and other regions.¹⁸⁸

In 2013, the UN General Assembly established the 30th of July as the World Day Against Trafficking in Persons. This has been designated to raise awareness about the plight of trafficked victims and advocate the promotion and preservation of their rights. In 2021, the theme was “Victims’ Voices lead the way”¹⁸⁹ emphasizing the necessity of responding to and learning from survivors of human trafficking.

The UNODC is another body under the United Nations which helps in preventing human trafficking, child labour, migrant smuggling amongst many others.¹⁹⁰ The UNTVF is managed by UNODC and it has also assisted member states in the implementation of the Protocol to Prevent, Suppress and Punish Trafficking in Persons (trafficking in persons protocol).¹⁹¹ Also, the UN Global Initiative to Fight Human Trafficking (GIFT)¹⁹² was also developed to mobilize member states in the global tackling of human trafficking especially in sub-saharan Africa.¹⁹³

¹⁸⁶ UNODC, “AN INTEGRAL COMPONENT OF A GLOBAL EFFORT TO ADDRESS TRAFFICKING IN PERSONS”.

¹⁸⁷ UNODC, “AN INTEGRAL COMPONENT OF A GLOBAL EFFORT TO ADDRESS TRAFFICKING IN PERSONS”.

¹⁸⁸ UNODC, “UN Trust Fund for Victims of Human Trafficking, managed by UNODC, responds to COVID-19 through support to 10 NGOs”.

¹⁸⁹ IOM, “World Day Against Trafficking in Persons 30 July”.

¹⁹⁰ UNODC, “What we do”.

¹⁹¹ UNODC, “World Day Against Trafficking in Persons”.

¹⁹² UNODC, “UN.GIFT - United Nations Global Initiative to Fight Human Trafficking”.

¹⁹³ The Borgen Project, “The issue of Human Trafficking in Sub-Saharan Africa”.

This initiative supports the victims of human trafficking and also ensures that the perpetrators of human trafficking are duly prosecuted.¹⁹⁴ The UN.GIFT.HUB, an online knowledge hub, was later launched in order to collect and gather information on trafficking. Users can share their experiences and knowledge on trafficking and also connect with other users in the process.¹⁹⁵

In 2017, UNICEF launched the Hajati's Cash Assistance programme in order to provide monetary assistance to families who cannot afford to take their children to schools.¹⁹⁶ These children from such homes become victims of human trafficking and forced child labour since their parents cannot give them a proper life, background and education due to financial restraints. UNICEF, through this programme, has provided humanitarian assistance to 14,000 families which enabled children from these homes to go to school and acquire good education and skills.¹⁹⁷ These and many more actions have been taken by the United Nations to curb the menace.

Africa as a Base for Human Trafficking and Child Labour

Human trafficking is an agelong, border-less crime of global proportion. Its current form and dimensions have enormous negativity on the human race, and pose enormous threats to peace and security on the African continent. Several policy measures have been introduced to curb the spread, however, it has exacerbated rather than diminished, which has led to internal displacements of people¹⁹⁸ and has become endemic in Africa, especially when

¹⁹⁴ UN.GIFT.HUB, "About us".

¹⁹⁵ Business and Human Rights Resource Centre, "UN.GIFT - Global Initiative To Fight Human Trafficking".

¹⁹⁶ United Nations, "UNICEF cash transfer programme helps the most vulnerable children access education".

¹⁹⁷ United Nations, "UNICEF cash transfer programme helps the most vulnerable children access education".

¹⁹⁸ IntechOpen, "The Conundrum of Human Trafficking in Africa".

coupled with Africa's other numerous crises.¹⁹⁹ This alarming scale of human trafficking in Africa was raised by activists, civil societies and Non-Governmental Organizations²⁰⁰ like Amnesty International, Human Rights Watch, Women Trafficking and Child Labour Eradication Foundation (WOTCLEF), Network for Women's Right in Ghana (NETRIGHT) and many alike who come together and work hand-in-hand in fighting human rights violations, offering direct assistance to those whose rights have been violated, helping to develop the substance of human right laws and promoting the knowledge of human rights among the population through effective and influential actions like lobbying, information accumulation, campaigning, and awareness. Child labour is an alarming issue that is being raised alongside human trafficking as this two are globally interwoven issues that affects people from every part of the world and has become endemic in Africa. Africa has been bedeviled with a number of crises, including high levels of unemployment, poverty, hunger, corruption, political and economic instabilities and it has been hard to prove the statistics to the extent of human trafficking and child labour crime but anecdotal report suggest that it is increasing.²⁰¹ In a bid to define human trafficking, it has been described as a 'slipping concept' that is very difficult to pin down as it has a lot of controversies revolving around the array of activities involved in it.²⁰² It is relatively contentious and the controversy between traditional practices and modernization, sometimes blur the understanding and definition of the concept.²⁰³ The concept of human trafficking varies from scholar to scholar, and country to country with a lot

¹⁹⁹ IntechOpen, "The Conundrum of Human Trafficking in Africa"; Nwadike F, Ekeanyanwu N. "Building sustainable peace in Africa: Nigeria in perspective." African Media and Democracy Journal.

²⁰⁰ Adepoju A., Review of Research and Data on Human Trafficking in sub-Saharan Africa, International Migration. 2005;43(½): 75-98 .

²⁰¹ UNODC, " Global Report on Trafficking in Persons. New York; UNODC; 2016".

²⁰² Gould C, " Cheap lives —Countering human trafficking: Considerations and constraints. South African Crime Quarterly. 2006;16:19-25 ".

²⁰³ Gould C, "Cheap lives —Countering human trafficking: Considerations and constraints. South African Crime Quarterly. 2006;16:19-25 ".

of debates rooted in divergent worldview, historical background and findings from studies conducted by scholars. ²⁰⁴ it simplifies that there is no universal definition for human trafficking.

The *United States Department of Homeland Security* defines human trafficking as involving the use of force, fraud or coercion to obtain some type of labour or commercial sex act which includes men, women and children who are growing into millions annually. The United Nations also defines human trafficking as the recruitment, transportation, transfer, harbouring or receipt of persons by improper means for an improper purpose including forced labour or sexual exploitation. However, the use of 'recruitment' in defining human trafficking is demeaning to the true meaning of human trafficking which should be seen as a crime and not a recruitment, this was heavily argued against by the African Union. They argue that human trafficking is a crime that reduces a person to a commodity to be bought, sold, exploited and abused. ²⁰⁵ While child labour is defined by the international community as the work that can harm the education, health, safety, dignity, physical and mental development of a child. ²⁰⁶ It is also defined as any economic or non-economic activity performed by a child that is hazardous and can hinder the physical condition, schooling and healthy development of a child. Any work that deprives children of the ability to get involved in activities that bring positive impact to children is known to be child labour. It is established that child labour is an endemic and its elimination requires economic and social reform coupled with the active cooperation of all government workers,'employers' organizations, enterprises, international organizations the civil society at large. Based on the current report of the fifth edition of the ILO's quadrennial report series on global estimates of child labour, analysis have been drawn to show how much has been accomplished and how much more

²⁰⁴ Bello PO, Olutola AA., " The enforcement of anti-trafficking law in South Africa: A case of an aircraft without a pilot. Police Practice and Research:An International Journal. 2018;18(5):1-14. DOI: 10.1080/15614263.2017.1387783".

²⁰⁵ (PDF)Trends, Manifestations and Challenges of Human Trafficking in Africa.

²⁰⁶ Tackling Child Labour In Ghana: Challenges Faced By Government Ministries .

remains to be done to honor the commitment in ending child labour. The report and the global estimation exercise forms part of a broader inter-agency effort to measure and monitor progress towards target 8.7 of the SDGs. Also, studies show the rampant nature of child labour in developing countries in Africa which is due to poverty and child labour accounts for 32% of the workforce.²⁰⁷

According to the United Nations International Children's Emergency Fund (UNICEF) 2017 report, children are the dominant victims of detected trafficking in the world and from this report, 64% are from sub-Saharan Africa.²⁰⁸ Generally, Africa has the largest number of child labourers with 72.1 million children estimated to be in child labour while 31.5 million children are in hazardous work which, according to the global estimates of child labour,²⁰⁹ indicates that one-fifth of all African children are victims of child labour which is twice as high as any other region. Of all the economic sectors in Africa, the agriculture sector accounts for the largest share of child labour with 61.4 million children tricked and deceived into labour and 85% children are in absolute terms. Child labour in agriculture relates primarily to subsistence and commercial farming and livestock herding which is hazardous in nature and most of these children are unpaid while most are in an employment relationship with a third party employer. Among these young children in child labour, 59% are in the 5-11 years age range, 26% are aged 12-14 years and 15% are aged 15-17 years while this profile is much "younger" elsewhere, in Africa, children in this age bracket are the largest group involved in child labour. It is worth noting that these children are facing conditions which endanger their health, safety, and moral development and which is of special concern.²¹⁰

Children are employed in both formal and informal sectors like construction work, domestic work and small-scale industries. Incidentally, agriculture is not only the oldest but also the

²⁰⁷ Tackling Child Labour in Ghana: Challenges Faced by Government Ministries.

²⁰⁸ IntechOpen, "The Conundrum of Human Trafficking in Africa".

²⁰⁹ ILO, "Global Estimates of Child Labour: Results and Trends, 2012-2016".

²¹⁰ ILO, "Child Labour in Africa".

most common child occupation worldwide, although there are other industries that depend on child labour for the progress of their companies such as bead-making, power looms and manufacturing processes. With the knowledge of the outcome of child labour, it further establishes the dangers lying in wait for these children as the aforementioned industries use toxic metals and substances such as lead, mercury, manganese, chromium, cadmium, benzene, pesticides and asbestos in the manufacturing process which is why wholehearted efforts to eliminate this menace should be in order.²¹¹

The United Nations reveals that traffickers are flourishing across Africa through the exploitation of hundreds of thousands of victims, offering them promises of a better life overseas where, unfortunately, they are sold into forced labour, domestic servitude or sexual slavery. Trafficking in Africa is complex, yet organized with routes in West African countries like Nigeria, Ghana, Cameroon and Senegal that serve as source, transit, and destination countries for trafficked women and children.²¹² In South Africa, countries like Mozambique, Zambia and Lesotho are source, transit and destination countries for human trafficking.²¹³ In East Africa, countries like Uganda and Kenya are notorious for women trafficking;²¹⁴ and in North Africa, virtually all countries are source, transit and destination countries for human trafficking.²¹⁵ Hence, with an organized routine and schedule as the above, traffickers have the opportunity to flourish across countries in Africa.

The drivers of this business are quite predictable in nature. Human trafficking creates income for both the victims and the perpetrators who run the trafficking business. This is all due to economic factors like poverty, lack of opportunity, armed conflict and instability, traditional

²¹¹ NCBI, "Child Labour Issues and Challenges".

²¹² UNODC, "Global Report on Trafficking in Persons. New York: UNODC; 2016".

²¹³ HSRC. "Tsireledzani: Understanding the dimensions of human trafficking in South Africa. 2010".

²¹⁴ United States Department of States, "Trafficking in Persons report. 2018".

²¹⁵ Adepoju A, "Review of Research and Data on Human Trafficking in sub-Saharan Africa. International Migration. 2005;43(½):75-98".

practices and inadequate anti-trafficking laws in Africa. It is argued that poverty, natural disasters and the search for better life are the major causes of human trafficking as these traffickers tend to search for people who look susceptible to coercion into the human trafficking industry.²¹⁶ The victims can be migrants who are fleeing their homes due to economic hardship, natural disasters, conflict and political instability. This vulnerability is being exploited and manipulated by traffickers who lure and ensnare people into forced labour and sex trafficking.

Another cause of human trafficking can be linked to inadequate law enforcement. Many governments lack officials with training and the ability to cooperate with neighboring countries to prevent such crimes from happening. The lack of concrete policies to ensure the eradication of instigators of human trafficking, such as the “recruitment” of victims, transportation and delivery of victims overseas through deception, force or coercion of the victims for sexual and labour exploitation for economic gain plays a huge factor as well. These are variables that revolve around human trafficking and child labour issues, and it will be erroneous to describe human trafficking as an economic cum security issue whereas, it is a combination of both issues which is a contributing factor to human trafficking and child labour as a challenge in Africa.²¹⁷

Challenges faced in Eradicating Human Trafficking and Child Labour in Africa

Many African countries find human trafficking challenging to combat due to disconcerting factors that have made the fight against human trafficking and its connection with child labour insurmountable. The Africa region is most affected by situations of state fragility and political crisis which heighten the risk of child labour.²¹⁸ In Africa, human trafficking has evolved into a multi-billion dollar business for various syndicates that cuts across different

²¹⁶ (PDF) Trends, “Manifestations and Challenges of Human Trafficking in Africa”.

²¹⁷ (PDF) Trends, “Manifestations and Challenges of Human Trafficking in Africa”.

²¹⁸ ILO, “Child Labour in Africa”.

sectors in the economy such as agriculture, construction and manufacturing sectors²¹⁹ and are majorly involved in luring victims who are forced into labour unwillingly.²²⁰ The increase in cases of human trafficking is as a result of the following shortcomings of the government which are: lack of necessary resources, technical expertise, political will and effective legislation. Africa is vulnerable to human trafficking masked as economic opportunities, and encouraged by the lack of coordination in law enforcement agencies to cooperate with neighbouring countries to prevent and interrupt this crime.²²¹ The knowledge of these issues has led to the collation of some major challenges to combatting human trafficking which includes ineffective policies, poor legislation capacity, lack of political will, political and institutional corruption, and a range of underlying perennial socio-economic problems.²²² These challenges will be examined further below.

To make matters worse, the inefficiency of the legislation to provide enough human resources in combatting human trafficking has also contributed to the government's inability to execute already laid-out policies effectively, thereby putting the victims at more risk and scared of reaching out to the appropriate authorities for help. There is a lack of political will by government officials to put in more effort in ensuring that the necessary measures are in place to stand against human trafficking and child labour in Africa. Corruption is another contributing factor to the challenges faced in combatting human trafficking in Africa, as it stands to be the root cause of vital problems faced by its people and the human trafficking case is not safe from this menace with the law enforcement officers being instrumental in furthering the progress of this problem such as maintaining a close relationship with these traffickers and receiving bribes from these people in exchange for their turning a blind eye to

²¹⁹ Dressemer: "What Industries are at Risk for Forced Labour?".

²²⁰ (PDF) Trends, "Manifestations and Challenges in Human trafficking in Africa".

²²¹ (PDF) Trends, Manifestations and Challenges in Human trafficking in Africa.

²²² IntechOpen, The Conundrum of Human Trafficking in Africa .

their operations, it still remains a challenge to combat human trafficking and child labour in Africa.²²³

Furthermore, the United Nations has assembled stories of women and children being forced into prostitution and slavery in countries overseas due to the deception and coercion used to trick them into being trafficked.²²⁴ These victims sadly divulge that the saddening situation of their countries, under the guise of poverty, is the root cause of their vulnerability which makes the traffickers easy to exploit these victims. Despite the efforts of African governments stepping up to combat trafficking through public education and awareness campaigns, training police and border control agents to detect and prevent trafficking and strengthening cross-border and international cooperation, the government is still struck by other heavy blows on their actions against human trafficking and child labour, some of which include lack of human and financial resources for anti-trafficking activities combined with weak laws which falls under ineffective policies, porous borders and a seemingly endless supply of people desperate to escape grinding troubles at home, otherwise poverty. These challenges combined have hamstrung efforts by African countries to prevent their citizens from falling into the hands of the trafficking gangs.

Most experts believe that until the demand for cheap, coerced labor is reduced and governments treat trafficked persons as victims of crime instead of lawbreakers themselves, traffickers will always find ways to supply the market.²²⁵ All these challenges determine that in the eradication of human trafficking and child labour, everyone is involved and everyone should be involved. Coincidentally 96% of the child workers between the ages of 5 and 14, are in the developing countries of Africa, Asia and South America with 32% from Africa which also

²²³ Contributing Factors to Human Trafficking: A South African perspective .

²²⁴ UN, Africa Renewal, Africa fights the 'people trade'.

²²⁵ UN, Africa Renewal, Africa fights the 'people trade' .

has the highest prevalence of child labour (40%) which further hammers the point of involving every citizen in Africa, in order to stand against this issue.²²⁶

In light of evolution and civilization, there are some cultural norms that have contributed to the hindrance of the eradication of human trafficking and child labour in Africa which starts majorly from the home with the parents inculcating in their children, the importance of hardwork and participating in occupational and domestic activities in order to grow into responsible adults, meanwhile these children should be left to attend school and participate in childhood activities that contribute positively to their growth. Furthermore, these children are manipulated psychologically by their parents to participate in hazardous work which undermines their health, education, safety, and wellbeing, all due to the parent's inability to cater for their children, thereby contributing to the rising spate of human trafficking and child labour.²²⁷

Despite the length of these challenges being in place, it is unfortunate to state that not much has been done to eradicate this challenges, even in the present civilization time, the challenges and issues of human trafficking still remains dormant.

Effects of the COVID-19 Pandemic on Human Trafficking and Child Labour

The economic hardship in Africa has taken a toll on millions of families living in the continent, and has affected the safety of their children, too. At the beginning of 2020, roughly 160 million children were subjected to human trafficking and child labour, with 9 million additional children at risk due to the impact of COVID-19.²²⁸ Normally, children may be driven into work for various reasons such as family financial challenges, sudden illness of a guardian or the job loss of a primary wage earner, and such effects may be staggering. Child labour could result

²²⁶ NCBI, Child Labour Issues and Challenges.

²²⁷ Tackling Child Labour In Ghana: Challenges Faced By Government Ministries .

²²⁸ UNICEF, Child Labour .

in extreme bodily and mental harm, death, slavery and sexual or economic exploitation and victims tend to get cut off from societal activities such as schooling, healthcare, social activities like sports and community involvement.²²⁹

One-third of children living in developing countries are fail to complete four years of education²³⁰ and the invasion of the pandemic seem to have contributed to the exacerbation of this incessant crisis.²³¹ It is worth noting that the mental wellbeing of these victims is less frequently researched on, for instance, a retrospective cohort study was carried out in Morocco with 200 children working in the handicraft sector were randomly examined and the following diseases were found in these children, a high prevalence of respiratory, digestive and skin conditions, mental health presentations such as migraines, insomnia, irritability, enuresis and asthenia.²³²

In Addis Ababa, Ethiopia, a cross-sectional study needed to assess the prevalence of mental disorders in child labourers, street workers, child domestic and private enterprise workers was used in carrying out diagnostic interviews where the prevalence of mental disorders is noted, as high as 20.1%²³³ compared to regular disorders found in children where the same diagnostic interview was carried, and was concluded to be at a rate of 9.5% which suggests that victims of child labour are subject to greater risk.²³⁴

Unfortunately, the COVID-19 crisis has increased economic insecurity, disrupted supply chains, and seriously slowed down manufacturing and with roughly 85% of employment in Africa in the informal economy, leading to an increase in cases of child labour due to the closure of schools, the significant loss of income of parents during the pandemic, the absence

²²⁹ UNICEF, Child Labour.

²³⁰ International Labour Organization, Combatting Child Labour Through Education 2003 Geneva, Switzerland ILO .

²³¹ World | ReliefWeb, Trafficking In Persons and the Responses to the Challenges .

²³² Child Labor in the artisan sector of Morocco: Determinants and health effects.

²³³ The prevalence of mental health problems in Ethiopian child laborers.

²³⁴ Prevalence of Child Mental Health Problems in sub-Saharan Africa: A Systematic Review .

of basic social protection and increasing poverty.²³⁵ The COVID-19 pandemic has affected countries and people globally; it has also exacerbated existing disadvantages, poverty and vulnerabilities, and the initial measures to contain the health crisis have not always considered those victims who are most vulnerable and affected by violence and exploitation from human trafficking and child labour.²³⁶ Since the invasion of the COVID-19 pandemic, trafficking in persons has gone further underground, making any reliable estimates of the scale of trafficking in persons difficult to ascertain. However, in some regions and countries domestic trafficking has reportedly increased, especially local recruitment and exploitation, all due to the loss of livelihoods and restrictions on movement have led to traffickers recruiting victims in their local areas.

Due to the worsened economic situation created by the pandemic, there have been larger pools of vulnerable persons who are exploited for labour or sexual exploitation in their local area. A survey has revealed that women and children were particularly vulnerable to deception and exploitation during the pandemic.²³⁷ Traffickers utilized the social media platforms to lure new victims by capitalizing on people's loss of livelihoods during the pandemic and the increasing amount of time adults and children spent on the internet which signifies that traffickers moved their deceit and luring of victims online during the pandemic.²³⁸ Women and children have been increasingly targeted by traffickers for sexual purposes, forced marriage, forced begging and forced criminality, especially those in private apartments due to the closure of bars, clubs and massage parlors. There is also an increased demand for child sexual exploitation materials (CSEM), which has exacerbated the exploitation of children around the world.²³⁹

²³⁵ Protecting Africa's Children from Child Labour.

²³⁶ World | ReliefWeb, Trafficking In Persons and the Responses to the Challenges .

²³⁷ World | ReliefWeb, Trafficking in Persons and the Responses to the Challenges.

²³⁸ World | ReliefWeb, Trafficking in Persons and the Responses to the Challenges .

²³⁹ World | ReliefWeb, Trafficking in Persons and the Responses to the Challenges.

In some countries, traffickers also capitalized on social distancing measures to transport victims across national borders, knowing that law enforcement would be unable to carefully inspect vehicles. Moreso, trafficking victims faced the heightened risk of exposure to COVID-19, due to their working and living conditions and they also faced challenges in remaining socially distant from other victims. There was also the case of victims being abandoned by traffickers during the commencement of the pandemic lockdown due to reduced demand for labour and lost profits.²⁴⁰

Human Trafficking and Child Labour: Effects on Migrants and Refugees

The smuggling and exploitation of migrants and refugees and its adverse effects on the victims remains a huge issue in the world as of today. Due to the instability migrants face with housing and safety, it's generally easier to be taken advantage of by local traffickers. Research shows that Mali is a key transit nation for refugees and migrants trying to reach northern Africa and Europe.²⁴¹ In Mali, two out of every three children between ages 5 to 17 work.²⁴² Most of these children do not go to school, 40 percent of these children perform dangerous tasks like gold mining and washing activities,²⁴³ some are sexually abused in the process and are also subjected to long and tiring working hours with little or no food to eat. South Africa is also a transit point for human trafficking in Europe and North America.²⁴⁴ Unfortunately, due to the scarcity of accessible data, it is impossible to verify the authenticity of various assertions about the frequency of human trafficking in the nation.²⁴⁵ According to

²⁴⁰ World | ReliefWeb, Trafficking in Persons and the Responses to the Challenges .

²⁴¹ UNHCR, "Child-trafficking in Mali increasing because of conflict and COVID-19".

²⁴² ILO, "Fixing the future of Mali's child workers".

²⁴³ ILO, "Fixing the future of Mali's child workers".

²⁴⁴ The Borgen Project, "10 FACTS ABOUT HUMAN TRAFFICKING IN AFRICA".

²⁴⁵ Sage Journals, "Effective Response to Human Trafficking in South Africa: Law as a Toothless Bulldog".

NGOs, 10 to 15 victims of labour trafficking arrive in Cape Town each month.²⁴⁶ Research shows that 351,840 smuggled migrants were deported from South Africa in 2012-2016.²⁴⁷

Efforts have been made by the UN to prevent this from occurring. The ILO launched the Avenir Enfance Sahel center (AVES) program to support the children and also provide assistance and proper funding to victims faced with trafficking and child labour in these African countries. Through this program, other centers have been developed and equipped with school materials to aid free and adequate teaching of victims of child labour in Mali.²⁴⁸ Till date, Human Trafficking and child labour poses to be a huge problem in Africa and its effects on the victims who are migrants and refugees are vile. Trafficked victims and child labourers tend to face emotional, mental and psychological trauma. They also face physical pain and damage due to the strenuous workload they are put through. The United Nations in tackling this issue has provided humanitarian assistance to these victims with initiatives and programs like UN Global Initiative to Fight Human Trafficking (GIFT) and UNTV amongst many others.

Gender-based violence against Victims of Human Trafficking and Child Labour amidst the pandemic

Human Trafficking and child labour are forms of gender based violence. Most victims of child labour and human trafficking are women and girls. A global report by the UNODC has confirmed the assertion of sexual exploitation and violence being the most predominant form of human trafficking.²⁴⁹ It also confirmed women and girls as the core target of these crimes. Research also shows that in Africa, sexual exploitation accounts for more than half of all human trafficking exploitation and some victims claimed being exploited for up to 16

²⁴⁶ Sage Journals, "Effective Response to Human Trafficking in South Africa: Law as a Toothless Bulldog".

²⁴⁷ UNODC, "Southern Africa: A regional response to smuggling of migrants".

²⁴⁸ ILO, "Fixing the future of Mali's child workers".

²⁴⁹ UNODC, "UNODC report on human trafficking exposes modern form of slavery".

years.²⁵⁰ Women and girls trafficked for sex labour and exploitation in Africa are prone to sexual and physical violence, death, bad living conditions, unsafe sexual practices amongst many others.

The *Convention on the Elimination of All Forms of Discrimination (CEDAW)* in its *General Recommendation 38* acknowledges the issue of sexual exploitation and violence against trafficked women and girls and it calls for Member states to tackle the issue.²⁵¹ Article 6 of CEDAW also states that Member states should “take all appropriate measures, including legislation, to suppress all forms of traffic in women and exploitation of prostitution of women.”²⁵²

The *Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children*²⁵³ is an instrument which criminalizes human trafficking, supports and protects the victims of human trafficking, especially sexual exploitation in Africa. The protocol also encourages and calls for all member states to be a party to it and adopt other similar measures.²⁵⁴

UNICEF works closely with partners to initiatives like Together for girls, Save The Children, Global Alliance to End Child Sexual Exploitation Online, amongst many others, in order to protect and support trafficked children and victims of sexual exploitation.²⁵⁵

²⁵⁰ The Borgen Project, “VIOLENCE AGAINST WOMEN IN AFRICA”.

²⁵¹ Relief Web, “General recommendation No. 38 (2020) on trafficking in women and girls in the context of global migration (CEDAW/C/GC/38)”.

²⁵² Women’s Resource Center, “Trafficking and Prostitution - Article 6, CEDAW”.

²⁵³ United Nations, “Prevention, Prosecution and Prevention- Human Trafficking”.

²⁵⁴ European Commission, “United Nations Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children”.

²⁵⁵ UNICEF, “Sexual violence against children”.

Proffering Humanitarian Responses to the issue of Human Trafficking and Child Labour

The pandemic, the worsening global economy and other issues have heightened the increase in human trafficking incidents and child labor. People in search for greener pastures tend to fall victim to human trafficking, and parents who cannot afford basic human necessities may sell off their children for child labour.²⁵⁶ These are some of the few causes of human trafficking and child labour in Africa as of today. Nonetheless, human trafficking and child labour remain crimes globally and must be combatted as its consequences are nothing but vile on the victims.

In combating these crimes, the UN, Non governmental Organizations, different programmes and initiatives have helped in proffering solutions to the issue and providing humanitarian assistance to the victims of human trafficking and child labour. The UN established the UNTVF which supports NGOs across the world with funds in assisting victims of trafficking and child labour. UNICEF also launched the Hajati's Cash Assistance²⁵⁷ which provides financial assistance to children who cannot afford school or adequate learning. The program is free and accessible to all irrespective of nationality or sex. The worsened economic situations in some homes have led most parents to push their children into the hands of traffickers and labourers just to get money to fend for themselves but this program has prevented children from quitting school due to economic restraints in their homes.

Conclusion

It is obvious and certain that Human trafficking and child labour still plagues the walls of Africa even till today and this is why all Member states should come together and proffer exemplary solutions to these vile issues perpetrated against humans. The United Nations, member states and other international systems have helped in combating these issues yet

²⁵⁶ ILO, "Causes".

²⁵⁷ UNICEF, "Hajati cash assistance effective at keeping vulnerable children in school".

the issue still persists. More actions and proper funding need to take place in order to tackle the issues of human trafficking and child labour in Africa.

Further Research

Having evaluated the procedures in mitigating human trafficking and child labour in Africa, are there other legal instruments available in combating human trafficking and child labour in Africa? What are the differences between human trafficking and migrant smuggling?, if any, examine the procedures undertaken in its eradication. Examine the roles of technology in combating human trafficking and child labour in Africa. Having reviewed the concept of child labour in its entirety, is there any relation to child slavery?

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Paul O. Bello and Adewale A. Olutola "The Conundrum of Human Trafficking in Africa" available at <https://www.intechopen.com/chapters/70938> (accessed 4 March 2022)

This article provides in-depth details on the nature and extent of human trafficking in Africa which would serve as a solid foundation to assist the delegates in their position paper writing such as the meaning and forms of human trafficking, the nexus between human trafficking and its effects in countries, major victims of this plague and how they easily affect its victims. Also contained in this article, is the necessary statistics with accurate information on different tactics being used to lure victims by these traffickers, in countries across Africa and discusses the possible solutions in the eradication of human trafficking.

Save the Children, “The Fight Against Human Trafficking” available at <https://www.savethechildren.org/us/charity-stories/child-trafficking-awareness> (accessed 13 May 2022).

This document discusses the humanitarian work “save the children” has done in combatting the issue of human trafficking and forced child labor in different continents, especially in Africa. This will help the delegates in sourcing information on what this NGO has done and also what they plan on doing in the near future.

United Nations International Children’s Emergency Fund “Child Labour” available at <https://www.unicef.org/protection/child-labour> (accessed 12 March 2022)

The issue of child labour is expressly examined in this article by the United Nations with an extensive discussion on what child labour looks like in Africa, factors that contributes to this alarming menace and the effects it exudes onto the child victims. This article also identifies the role of UNICEF in its goal to eradicate this problem which will serve as a strong pillar for delegates when making their research.

United Nations, “UNICEF cash transfer programme helps the most vulnerable children access education” available at <https://jordan.un.org/en/134078-unicef-cash-transfer-programme-helps-most-vulnerable-children-access-education> (accessed 13 May 2022).

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