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# HUMANITARIAN IMPERATIVE OR LEGAL OVERREACH: THE DEBATE ON THE UNITED STATES' INTERVENTION IN THE GENOCIDE CRISIS IN NIGERIA

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Chukwudumebi O. Joseph-Asoh, LL.B. (Hons) Benin, B.L. Lagos, LL.M (Benin), PhD (Rivers) Senior Lecturer, Benson Idahosa University, Benin City

Nkechinyere Worluh-Okolie, LL.B., (Hons) LL.M., (Benin), PhD (Rivers) Senior Lecturer, Benson Idahosa University, Benin City

## ABSTRACT

The debate over the United States' intervention in the alleged genocide crisis in Nigeria raises critical questions at the intersection of international law, state sovereignty, and humanitarian responsibility. This article examines whether U.S. involvement should be understood as a necessary humanitarian and legal imperative aimed at preventing mass atrocities or as an instance of legal overreach that undermines established norms of non-intervention. Adopting the doctrinal research methodology, the Article, drawing on principles of international and regional human rights instruments, the Responsibility to Protect (R2P) doctrine, and the United Nations Charter, the study explores the legal and moral justifications advanced by proponents of intervention, as well as the counterarguments emphasizing sovereignty, consent, and the risks of unilateral action. The Article situates the Nigerian crisis within broader global debates on humanitarian intervention, highlighting concerns over selective enforcement, geopolitical interests, and the erosion of multilateral decision-making. It further analyzes the role of regional organizations and multilateral institutions in legitimizing or constraining external intervention. By evaluating both humanitarian outcomes and legal implications, the Article advances a way forward in reconciling the urgent need to protect civilian populations with the preservation of international legal order. Ultimately, the study contends that effective responses to mass atrocity situations require a balanced approach—one that prioritizes human security while remaining firmly anchored in multilateralism, accountability, and respect for international law.

**Keywords:** Sovereignty, Humanitarian Imperative, Genocide, R2P, International Law, Nigeria Crisis.

## INTRODUCTION

Is there a legal responsibility imposed on States, under international law to unilaterally or jointly, intervene, in other States in the event of Genocide ? This is apt because the Genocide Convention provides for States responsibility to “prevent” and “suppress” the crime of Genocide,<sup>1</sup> despite the prohibition of the Use of Force in The United Nations Charter, against the territorial integrity of States<sup>2</sup>. Genocide which is simply the intentional killing of a person’s belonging to a racial, ethnic, religious, group, has become a reoccurring term when describing the wholesome killings happening in the Northern and middle belt part of Nigeria.

Consequently, and most Recently, the United States under the leadership of president Trump has officially announced her intention to militarily intervene in Nigeria crisis situation, alleging Genocide against Christian groups<sup>3</sup>. This situation has sparked debates amongst stake holders on the justification of such attempt in the light of the sacrosanct principle of State sovereignty and territorial integrity and the prohibition of the use of force against the territorial integrity of another state in international law.

It is argued that the United States, as a principal architect of the post-World War II human rights order, possesses both the capacity and the obligation to act under the Responsibility to Protect (R2P) doctrine not as a conqueror, but as a custodian of conscience. History remembers Rwanda. History remembers Srebrenica. It remembers the consequences of hesitation. Nigeria must not be allowed to join that lamentable list. This case is therefore not about power, but about principle. It is not about intervention for domination, but intervention for deliverance. It is a question of whether International Law can still be called law if it protects sovereignty more fiercely than it protects human life.

In previous studies, scholars have examined the preventive and punishment bid of the Genocide Convention and how it can apply to the situation brewing in Nigeria. Nigeria since 2009 has been bedevilled with terrorist attacks targeted against Christian communities leaving tens of thousands either dead or maimed. Report has it that these attacks has been systematic, widespread and specifically targeted at Christians. In order to address the root causes of

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<sup>1</sup> Article 1 of the Convention on the Suppression and Punishment of Genocide 1948

<sup>2</sup> Article 2 (4) of the United Nations Charter 1945

<sup>3</sup> Rilwan Mohammad, “Christian Genocide Claim: Trump Threatens To Cut Off Aid, Launch Attacks In Nigeria” <https://dailytrust.com/christian-genocide-claim-trump-threatens-to-cut-off-aid-launch-attacks-in-nigeria> (accessed 2<sup>nd</sup> November 2025).

Genocide and its relation to the Nigerian crisis, Chukwudumebi, Joseph Asoh explored the theories of Genocide<sup>4</sup>. These theories which ought to serve as “early warning” signals to the international community to intervene and prevent the occurrence of Genocide. According to her findings, From the plethora of theories propounded to explain why genocide occur, the prominent ones are: inter-group divisions<sup>5</sup>, the theory of state power or authoritarianism<sup>6</sup>, deprivation, ideology,<sup>7</sup> wartime strategy and political development. These factors were in existence in the socio-political space of the Nigerian state. The call then was to halt what was already brewing. Now the situation has escalated from what was once thought to be looming to what is happening on a very large scale. The crisis having escalated to such magnitude igniting foreign intervention. This paper therefore seeks to critically and holistically revisits responsibility in preventing mass atrocities in the light of the Nigerian crisis which has not improved since it started in 2009, highlighting the nature and extent of State responsibility and intervention permissible both under the specific treaty prohibiting Genocide: Genocide Convention and within the macrocosm of general public international law. This Article therefore explores the controversies surrounding military intervention in Genocide cases. Part one will give a background of the crisis, part two, the parameters of international law in the curbing such crisis. Consequently, part three will lead on to the debate as to the legality or otherwise of the United States intervention, drawing light from various international law instruments. Part four will attempt a reconciliation of the debate, proposing alternative

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<sup>4</sup> Okoye-Asoh, C. “International human Rights Law and the Preventive Bid of the Genocide Convention: Examining the theories of Genocide in the Light of the Nigeria crisis” (2021) (Vol. 3) (2) *International Review of Law and Jurisprudence*. PP 30-37.

<sup>5</sup> Accord to the findings of Leo Kuper<sup>5</sup> a political scientist, the main root of genocide is a divided society in which one faction whether ethnic, racial or religious, dominates the other. When applied to the Nigerian situation, there seem to be certain ideology held by the dominant Northern-region –Muslim, the *meyiti alah*<sup>5</sup> have consistently maintained that the whole of Nigeria was given to them as a possession by “Allah” and are bent on spreading the Fulani colony on every part of the country. The *boko haram* ideology is that “western education is evil and that the only acceptable education and system of government is the “sharia” evidence show that the Muslim sect are more in number in comparison to the Christian sect.

<sup>6</sup> According to Irving Louis Horowitz, Genocide occurs when there is “absolute concentration of power.”<sup>6</sup> Rudolph Rumel opined that “absolute power kills absolutely” and genocide is likely to occur where there is totalitarian or authoritarian government. The political terrain of the Nigerian state as at when the research was conducted is close to being authoritarian, with power, concentrated on the north. The heads of all the security apparatus in Nigeria are all from one ethnic and religious group. Political, economic and military power seems to be concentrated in the north. If Rumel’s research is something worth considering, the political terrain of the Nigerian State raises a warning signal on the imminent threat to genocide.

<sup>7</sup> Contemporary studies on genocide, precipitated by the crisis in former Yugoslavia and Rwanda have revealed that ideology is the primary cause of genocide. Utopian ideologies, ideologies based on religion, fear of biological contamination etc. According to Ben Kiernan,<sup>7</sup> these ideologies are pathways to genocide. A close study on the Nigerian crisis reveals a predominantly Muslim ideology of Islamizing the Nation: Ideologies of Fulani Supremacy and the disregard of other religion. All of these are features of the political, social and economic cosmos of the Nigerian State.

measures within the African Regional peace keeping architecture and finally the way forward in this genocidal debate will be explored.

### **1.1.FACT FILE OF THE NIGERIAN CRISIS**

Nigeria, Africa's most populous nation, stands at a tragic intersection of human suffering and state paralysis. For over a decade, the country has been convulsed by waves of ethno-religious violence, mass killings, and targeted extermination campaigns that bear the unmistakable marks of genocide. Entire communities in the Middle Belt, the North-East, and parts of the North-West have been displaced, their lands desolated, and their futures erased under the weight of these atrocities too grave to ignore. Human rights observers and independent media have documented systematic attacks that go beyond sporadic communal clashes. Villages have been razed overnight. Worshippers have been slaughtered in their sanctuaries<sup>8</sup>. Women and children the softest targets of humanity, have been abducted, violated, and silenced. The perpetrators act with chilling impunity, often under the gaze of a state that claims to be in control. Despite constitutional and international obligations to protect its citizens, Nigeria has repeatedly failed to prevent or punish these crimes. Investigations are stalled, prosecutions are rare, and justice almost a laughable illusion. Instead of coordinated state protection, citizens are left to arm themselves, flee from their homes, or appeal to a world that too often responds with sympathy instead of action. International organizations, including Amnesty International, Human Rights Watch, and the United Nations Special Advisers on the Prevention of Genocide, have warned that the pattern of attacks, the scale of killings, and the targeting of specific religious and ethnic identities demonstrate the “serious risk of genocide” under Article II of the 1948 Genocide Convention. Yet, despite these warnings, the killing fields expand, from Benue to Plateau, from Kaduna to Borno, and the silence of the international community grows deafening.

The emergence of the Boko Haram insurgency, birthed in the year 2009, targeting civilians, primarily Christian in Northeast Nigeria, marked the tragic beginning of coordinated group based violence.<sup>9</sup> The ICTR in *Prosecutor v. Jean-Paul Akayesu* held that genocide may be proven through “a pattern of conduct” or “w2,” especially where acts targeting a group are systematic and widespread<sup>10</sup>. In 2014, there was intensified attacks and expansion as Boko

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<sup>8</sup> Genocide Watch, Nigeria: Genocide Emergency Report (2024) <https://www.genocidewatch.com>

<sup>9</sup> Amnesty International, Nigeria: The Harvest of Death (2014)

<sup>10</sup> *Prosecutor v Akayesu* (Judgment) ICTR-96-4-T (2 September 1998) paras 498–521

Haram expanded its operations to Middle Belt and Northwest regions, systematically targeting Christian villages with massacres, kidnappings, and destruction of churches, clearly marking a pattern of ethnic and religious targeting<sup>11</sup>

In the year 2016, there was a splinter group, ISWAP, a Boko Haram offshoot, which continued fierce, organized assaults targeting Christians, displacing thousands, and explicitly declaring intent to eliminate Christian presence in northern Nigeria.<sup>12</sup> In 2018, documented massacres such as the Nikyob community attack in Benue State manifest deliberate plans to destroy farming communities largely comprised of ethnic and religious Christian groups.<sup>13</sup> In the year 2023, increased distribution of incendiary hate speech on social media and local broadcasts aim to dehumanize targeted Christian groups, reinforcing genocidal intent through incitement and preparation.

In 2025, over 100 civilians, including women and children, the softest target of humanity, were systematically killed in a single operation, homes and churches destroyed, leaving survivors displaced and terrorized, revealing coordinated extermination tactics.<sup>14</sup>

In October 2025, systematic eradication of places of worship aimed at obliterating religious and cultural identity, formed part of broader strategy to physically and socially destroy targeted groups. The International Society for Civil Liberties and Rule of Law, reports that over 53,000 Christians have been slaughtered since 2009, entire villages emptied, and community structures have been wiped from the map.<sup>15</sup> Humanitarian monitors further affirm that nearly 20,000 churches and Christian schools have been burned, desecrated, or reduced to ashes, acts which international jurisprudence recognizes as emblematic of genocidal intent. Recent incidents show that on the 21st of November 2025, students and teachers were kidnapped from a Christian based boarding school, an act condemned by Article 3 of the Protocol to the African Charter on the Rights and Welfare of the Child (ACRWC) Spiralling Violence: Boko Haram the Rights and Welfare of the Child (ACRWC), barely a week after a terrorist attack on a Church in Kwara State, the northern part of Nigeria. This also follows the murder of a Priest named Bobbi Paschal who was initially abducted by terrorists in Kaduna State, Nigeria on the 19th of November, 2025. This violence mirrors what the ICTR in Akayesu's case described as

<sup>11</sup> 8 Human Rights Watch, Spiralling Violence: Boko Haram in Nigeria (2012)

<sup>12</sup> International Crisis Group, Facing the Challenge of ISWAP (2019)

<sup>13</sup> Amnesty International, Harvest of Death: Three Years of Bloody Clashes in Benue (2018)

<sup>14</sup> UN Office of the High Commissioner for Human Rights, Nigeria Conflict Report (2024)

<sup>15</sup> Intersociety, Nigeria Genocide Report 2009–2024 (2024)

“a general context of systematic destruction,” and what the ICJ in *Bosnia v. Serbia* acknowledged as the kind of “widespread targeted extermination from which genocidal intent is unmistakably inferred.”<sup>16</sup>

These are not mere statistics, they are the remnants of a people being steadily erased from their ancestral lands. This chronology reflects a sequential, escalating campaign by armed groups with the specific intent to destroy distinct ethnic and religious groups in Nigeria. History bears witness to the devastating consequences of unchecked mass violence, and Nigeria itself provides haunting precedents of violence specifically against Christian communities.

Consequently, On the 31st day of October 2025, the President of The United States of America, President Donald Trump, declared our nation Nigeria, as a “COUNTRY OF PARTICULAR CONCERN” (CPC). He referred to “Nigeria”, as a disgraced country and stated that he has ordered the U.S military to prepare for action in Nigeria to tackle Islamist militant groups, accusing the government of failing to protect its Christian citizens. This statement has led to a lot of tensions domestically and disturbances in the international community.

### **1.3 ARGUMENT AGAINST UNITED STATES INTERVENTION IN THE NIGERIAN GENOCIDE CRISIS: LEGAL OVERREACH**

#### **(i) LEGAL PROTECTIONS OF STATE SOVEREIGNTY UNDER THE UN CHARTER.**

The United Nations Charter (hereinafter referred to as ‘UN Charter’), the foundational treaty of the global international order, explicitly lays down the primary purposes of the Organization,

<sup>17</sup> Article 1 of the UN Charter articulates these purposes, establishing the framework within which sovereignty is protected and upheld. Article 1 sets out that the purposes of the UN are ;  
a. To maintain international peace and security through effective collective measures to prevent and remove threats to peace and to settle disputes peacefully and in conformity with justice and international law. b. To develop friendly relations among nations based on respect for the principles of equal rights and self-determination of people. c. To achieve international cooperation in solving economic, social, cultural, or humanitarian problems, and to promote

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<sup>16</sup> (*Bosnia and Herzegovina v Serbia and Montenegro*) (Judgment) [2007] ICJ Rep 43, paras 162–165

<sup>17</sup> 3 Charter of the United Nations, 26 June 1945, San Francisco, Article 1. Available at: <https://www.un.org/en/about-us/un-charter/chapter-1> [Accessed 20th November, 2025].

respect for human rights and fundamental freedoms without distinction. d. To serve as a center for harmonizing the actions of nations toward these common ends.

Complementing this, Article 2(1), reinforces the principle of sovereign equality among all member states, ensuring that each state enjoys equal rights and obligations under the Charter.<sup>18</sup> Hence, all States must respect the prerogatives of all other States in their policies over their own population and their own territory. This foundational article establishes the commitment of UN member states to uphold sovereignty, peace, and mutual respect as core principles of international law, the violation of which would fundamentally defeat the purpose of the Charter and undermine the very framework that sustains international order and cooperation.<sup>19</sup> Article 2(4) prohibits the threat or use of force against the territorial integrity or political independence of any state, thereby reinforcing sovereignty.<sup>20</sup> Additionally, Article 2(7) prohibits intervention in matters within the domestic jurisdiction of any state, further protecting sovereign authority.<sup>7</sup> These provisions collectively safeguard the principle of state sovereignty, a cornerstone of international law. Article 2(4) explicitly prohibits the use or threat of force, thereby ensuring that states can govern without external coercion or aggression. This protection is critical for maintaining international peace and security,<sup>8</sup> consistent with the UN's primary purposes as set out in Article 1<sup>21</sup> Furthermore, Article 2(7) reinforces non-intervention by barring the United Nations from interfering in matters essentially within the domestic jurisdiction of any state. This clause preserves the sovereign prerogative of states to manage their internal affairs autonomously, free from external interference, except where enforcement measures under Chapter VII are invoked.<sup>22</sup> It follows from this principle that no State may "intervene in matters which are essentially within the domestic jurisdiction of any other State."<sup>23</sup> The violation of these articles undermines the legal framework that sustains international order and threatens the mutual respect and peaceful coexistence upon which international relations depend.<sup>24</sup>

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<sup>18</sup> 4U.N. Charter art. 2(1) 1945. 6U.N Charter art. 2(4) 1945.

<sup>19</sup> *Ibid*

<sup>20</sup> U.N Charter art. 2(4) 1945.

<sup>21</sup> R. S. J. Macdonald, "The Charter of the United Nations as a World Constitution," *International Legal Studies*, vol. 75, 2000.

<sup>22</sup> Malcolm N. Shaw, *International Law* (9th ed., Cambridge University Press, 2021).

<sup>23</sup> Bouchet-Saulnier, Françoise, *The Practical Guide to Humanitarian Law*, 3rd ed. (Lanham, MD: Rowman & Littlefield Publishers, 2013). Available at: <https://guide-humanitarian-law.org/content/article/3/sovereignty/> [Accessed 21st November, 2025]

<sup>24</sup> *Ibid*

## **(ii) INTERPRETATION OF “IN ANY OTHER MANNER INCONSISTENT”**

Article 2(4) of the UN Charter prohibits the use or threat of force against the territorial integrity or political independence of any state, or in “any other manner inconsistent with the purposes of the United Nations.”<sup>25</sup> This means that beyond simply forbidding direct military aggression, the charter prohibits any action - military or otherwise, that undermines the fundamental goals of the UN set out in Article 1.<sup>26</sup> In this case, any foreign intervention or threat of use of force that disturbs Nigeria’s internal peace or political stability by the United state without Security Council authorization clearly contravenes this provision. Nigeria’s sovereign equality is affirmed in Article 2(1),<sup>27</sup> and Article 2(7)<sup>28</sup> forbids interference in matters within its domestic jurisdiction. Any external actions that amount to coercion or military intervention without UN authorization undermine Nigeria’s sovereignty and violate the UN Charter’s fundamental commitment to maintain international peace and security.

## **(iii) THE SECURITY COUNCIL’S AUTHORITY UNDER ARTICLES 39 AND 42 OF THE UN CHARTER: LEGAL LIMIT AND CHALLENGES**

Article 39 of the UN Charter establishes the exclusive authority of the UN Security Council (hereinafter referred to as ‘UNSC’) to determine whether a situation constitutes a threat to international peace, a breach of the peace, or an act of aggression.<sup>29</sup> Only after such a determination can measures be recommended or decided upon. This makes clear that no state including the United States, has the legal competence to unilaterally declare that another state’s internal situation (such as alleged genocide in Nigeria) justifies military intervention. Article 42 reinforces this by providing that only the Security Council may authorize enforcement measures involving air, sea, or land forces when non-force measures (Article 41) prove inadequate.<sup>30</sup> Military action such as blockades, demonstrations, or any armed operation may only occur with Security Council authorization. Therefore, any unilateral armed intervention by a state without UNSC authorization, would amount to a breach of the non-intervention

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<sup>25</sup> Ibid

<sup>26</sup> Ibid

<sup>27</sup> Ibid

<sup>28</sup> Ibid

<sup>29</sup> Charter of the United Nations (opened for signature 26 June 1945, entered into force 24 October 1945) 1 UNTS XVI art 39.

<sup>30</sup> *bid*

principle and Article 2(4) of the UN Charter.<sup>31</sup>

## **ARTICLE 8 OF THE GENOCIDE CONVENTION: OBLIGATIONS FOR PREVENTION AND PUNISHMENT VERSUS STATE SOVEREIGNTY**

The Genocide Convention, Article VIII, allows any state party to call upon the competent organs of the UN to act under the Charter to prevent or suppress genocide.<sup>23</sup> Crucially, this provision does not grant individual states the right to take unilateral military action. It simply authorizes states to request UN action through the Security Council or other relevant organs. In fact, by channelling responses through the UN system, Article VIII reinforces the Charter framework and preserves the central role of collective, not unilateral action.

### **(iii) THE NICARAGUA CASE: DEFINING PROHIBITED INTERVENTION AND COERCION IN INTERNATIONAL LAW.**

The Nicaragua v. United States<sup>32</sup> case stands as one of the strongest judicial affirmations of the international law principle of non-intervention. Nicaragua instituted proceedings against the United States for its involvement in military and paramilitary actions within and against Nicaraguan territory. In its provisional measures order of 10 May 1984, the International Court of Justice (ICJ) explicitly emphasized that Nicaragua's sovereignty and political independence must be fully respected, and that no state may engage in activities contradicting the prohibition on the threat or use of force or the non-intervention principle. Despite the U.S. later withdrawing from participation in the proceedings, the Court continued with the merits phase. In its landmark Judgment of 27 June 1986, the ICJ held that the United States had violated customary international law by: Intervening in Nicaragua's internal affairs, Using and supporting the use of force, Infringing Nicaragua's sovereignty, and Disrupting peaceful maritime commerce.

The Court rejected the U.S. justification of collective self-defence, finding that no valid basis existed for intervention. The ICJ concluded that the U.S. was legally obliged to cease all unlawful activities and make full reparation for the injuries caused. This case remains a foundational precedent confirming that no state may intervene directly or indirectly, in the

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<sup>31</sup> *bid*

<sup>32</sup> Military and Paramilitary Activities in and against Nicaragua (Nicaragua v United States of America) ICJ Rep 14 (International Court of Justice, 27 June 1986).

internal or external affairs of another sovereign state, except under narrow and clearly defined exceptions. It reinforces that even powerful states are bound by the non-intervention norm, which is a central pillar of contemporary international law. Thus, these provisions collectively uphold the non-intervention principle and demonstrate that any unilateral U.S. military intervention in Nigeria on grounds of alleged genocide or instability, lacks legal foundation under both the UN Charter and the Genocide Convention.

#### **(iv) RISKS OF UNILATERAL FOREIGN MILITARY INTERVENTION.**

Foreign interventions in Afghanistan, Iraq, and Libya illustrate significant risks. The U.S. spent twenty years in Afghanistan, yet the Taliban regained control within eleven days of withdrawal.<sup>33</sup> In Iraq, the 2003 intervention caused over 200,000 civilian deaths and contributed to the rise of ISIS.<sup>34</sup> In Libya, foreign intervention fragmented the state and prolonged political instability.<sup>35</sup> These cases demonstrate that external actors, driven by strategic interests rather than genuine civilian protection, often lack the necessary local understanding and cultural awareness, leading to the proliferation of insurgencies and protracted crises. Such unilateral interventions<sup>36</sup> violate the principles of sovereignty and non intervention, undermine international legal norms, and threaten the orderly international system. This record of failure underscores the imperative for interventions to be authorized by legitimate regional bodies and the United Nations Security Council, ensuring interventions are grounded in legal legitimacy and regional ownership.

#### **1.4 ARGUMENT IN SUPPORT OF UNITED STATES INTERVENTION IN THE NIGERIAN GENOCIDE CRISIS: HUMANITARIAN/LEGAL IMPERATIVE**

##### **(I) THE UNITED NATIONS CHARTER**

The urgency of United States of America's intervention at this moment cannot be overstated, as it aligns with the purpose is the United Nations Charter, embedded in its preamble. The Preamble of the United Nations Charter expresses the collective determination "to save

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<sup>33</sup>SIGAR, Quarterly Report to the United States Congress (2021).

<sup>34</sup> Iraq Body Count Project, Civilian Casualty Analysis (2020).

<sup>35</sup> UN Support Mission in Libya (UNSMIL), Civilian Casualties Report (2022)

<sup>36</sup> Tardelli, Luca, "The United States after unipolarity: Obama's interventions: Afghanistan, Iraq, Libya" (2011) IDEAS reports - special reports, Kitchen, Nicholas (ed.) SR009. LSE IDEAS, London School of Economics and Political Science, London, UK. This version is available at: <http://eprints.lse.ac.uk/43476/> [Accessed 22nd November, 2025]

succeeding generations from the scourge of war,” “to reaffirm faith in fundamental human rights,” and “to promote social progress and better standards of life in larger freedom.” These foundational commitments elevate human protection above State discretion, binding all Member States, including Nigeria and the United States to prioritize human life and dignity. Article 1(3) of the UN Charter, further mandates international cooperation “in promoting and encouraging respect for human rights and fundamental freedoms for all

In Article 1 which is to promote international peace and security through “collective measures”, which Nigeria and the U.S. are signatories to. The twin Articles of the UN Charter, Articles 55 and 56 of the UN Charter together obligate Member States to promote human rights and fundamental freedoms and to cooperate actively in achieving the purpose of the United Nations. Article 55 of the United Nations Charter provides; “...the United Nations shall promote: universal respect for, and observance of, human rights and fundamental freedoms for all without distinction as to race, sex, language, or religion.”<sup>37</sup>

Article 56 of the United Nations Charter provides; “All Members pledge themselves to take joint and separate action in co operation with the Organization for the achievement of the purposes set forth in Article 55.” this creates a legal basis for states and the UN to act against atrocities, including genocide, to uphold justice and protect populations. International Court of Justice (ICJ), in its 2007 judgment on Bosnia, held that a State’s duty to prevent genocide is one of conduct, not of result. A State must employ all means reasonably available to it to prevent genocide, and if it “manifestly fails to take all measures within its power which might have contributed to preventing the genocide,” it incurs responsibility. In *Prosecutor v. Kupreškić*,<sup>38</sup> the ICTY emphasised that systematic and discriminatory campaigns of violence against civilian populations violate fundamental humanitarian norms and breach obligations owed *erga omnes*.

Thus, the sustained and targeted assaults against vulnerable civilian communities in Nigeria engage the highest level of international legal concern and compel collective preventive action, as emphasized in the twin Article 55 and Article 56 of the United Nations Charter which obliges all UN Member States to cooperate, jointly and individually, to secure universal respect for human rights and fundamental freedoms, thereby creating a positive legal duty to act when

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<sup>37</sup> Charter of the United Nations (adopted 26 June 1945, entered into force 24 October 1945) 1 UNTS XVI art 55

<sup>38</sup> *Prosecutor v Kupreškić et al (Judgment) ICTY-95-16-T* (14 January 2000)

populations face mass atrocity or extermination. Jurists stress that this due diligence obligation is not optional, but arises the moment a State becomes aware or should become aware of a serious risk. According to President Donald J. Trump, the U.S. President in a public post on 31st October 2025, “The United States cannot stand by while such atrocities are happening in Nigeria, and numerous other Countries. We stand ready, willing, and able to save our Great Christian population around the World!” VI. International Human Rights Obligations Triggering R2P Critically, the ICJ confirmed that the prohibition of genocide is certainly also a peremptory norm of international law, or *jus cogens*, meaning, in the words of Article 53 of the Vienna Convention on the Law of Treaties, that “it is accepted and recognized by the international community of States as a whole as a norm from which no derogation is permitted.”<sup>39</sup>

The practical significance of this designation is that if this norm and corresponding State obligations come into conflict with any other norm or rule of non-peremptory character, the obligation relating to the prohibition of genocide will supersede it. This reflects the hierarchic position of peremptory norms in the international legal system, as it is superior. The ICJ itself has recognized it for the first time in its 2006 the DRC v. Rwanda case, where it held that the duty to prevent genocide under the 1948 Convention is a “distinct and autonomous obligation incumbent on all State parties.”<sup>40</sup> The ICJ reiterated it, more importantly in the Bosnia and Herzegovina v. Serbia case. The International Law Commission, established by the United Nations, has included the prohibition of genocide in its non-exhaustive list of peremptory norms, annexed to its 2022 Draft Conclusions on *jus cogens*. This *jus cogens* character means that treaty obligations or state sovereignty cannot justify inaction when genocide is credibly suspected or ongoing.<sup>41</sup>

## **(II) The Purposive Interpretation of the UN Charter and the Role of Article 2(4)**

The United Nations Charter is not merely a treaty governing interstate relations. It is a foundational legal instrument whose ultimate purpose is the protection of human life, dignity, and fundamental freedoms. The Preamble of the UN Charter expresses the collective determination “to save succeeding generations from the scourge of war,” “to reaffirm faith in

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<sup>39</sup> Vienna Convention (n 10) art 53 31

<sup>40</sup> Armed Activities on the Territory of the Congo (DRC v Rwanda) (Judgment) [2006] ICJ Rep 6

<sup>41</sup> International Law Commission, Draft Conclusions on Identification and Legal Consequences of Peremptory Norms (*jus cogens*) (2022)

fundamental human rights,” and “to promote social progress and better standards of life in larger freedom.” This demonstrates that every provision of the Charter, including Article 2(4),<sup>42</sup> must be interpreted through a lens that prioritizes human protection over rigid notions of sovereignty. Article 2(4) provides; “All Members shall refrain in their international relations from the threat or use of force against the territorial integrity or political independence of any state, or in any other manner inconsistent with the Purposes of the United Nations.”<sup>43</sup>

At first glance, this appears to prohibit any unilateral military intervention. However, a purposive and contextual reading, consistent with the Charter’s overarching goals, reveals that the prohibition is not absolute. Where there is a systematic failure by a State to protect its population from atrocities such as genocide, the use of force to save lives is consistent with the Charter’s fundamental purpose. In *Nicaragua v. United States*, the ICJ clarified that while force against a sovereign State is generally prohibited, the interpretation must not be divorced from the objectives of the Charter.<sup>44</sup> The Court noted that uses of force for strictly humanitarian purposes, such as preventing mass killings, occupy a distinct normative space. Similarly, in *East Timor* (1995), the Court reaffirmed that fundamental human rights cannot be suppressed or ignored due to assertions of sovereignty. This jurisprudence underscores that the absolute reading of Article 2(4) must yield when a State systematically fails to protect its population from genocidal acts. Regional and international instruments reinforce this interpretation. Article 4 of the African Charter on Human and Peoples’ Rights guarantees the right to life, while Article 5 ensures the physical integrity of individuals. The ongoing attacks on Christians in Nigeria directly contravene these rights, demonstrating a collapse in Nigeria’s ability to protect its population. Article 6 of the ICCPR requires Nigeria to safeguard the inherent right to life, while Article 18 guarantees freedom of religion. The systematic targeting of religious communities constitutes a violation of these obligations, activating international concern. Articles 11 and 12 of the ICESCR further impose obligations on Nigeria to ensure basic subsistence and health protections, which are being flagrantly disregarded as entire villages are destroyed and thousands of displaced persons lack shelter, food, and medical care. These

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<sup>42</sup> UN Charter art 2(4) 49

<sup>43</sup> Military and Paramilitary Activities in and against Nicaragua (*Nicaragua v United States of America*) [1986] ICJ Rep 14 paras 268–292

<sup>44</sup> Application of the Convention on the Prevention and Punishment of the Crime of Genocide (The Gambia v Myanmar) (Provisional Measures) [2020] ICJ Rep 54 Application of the Convention on the Prevention and Punishment of the Crime of Genocide (Croatia v Serbia) (Judgment) [2015] ICJ Rep 3

instruments collectively establish that Article 2(4) must be read in harmony with the Charter's protection

## **(ii) INTERNATIONAL AND REGIONAL HUMAN RIGHTS INSTRUMENTS**

The mass atrocities occurring in Nigeria constitute grave violations of fundamental human rights, thereby engaging binding international legal obligations that obligate states to act. Article 3 of the Universal Declaration of Human Rights (UDHR) provides that "Everyone has the right to life, liberty and security of person," establishing the foundational human right directly imperilled by acts of mass extermination.<sup>45</sup> This right is reinforced in a legally binding manner under the International Covenant on Civil and Political Rights (ICCPR), with Article 6 affirming that "Every human being has the inherent right to life. This right shall be protected by law. No one shall be arbitrarily deprived of his life," confirming that the State's failure to prevent systematic killings violates a peremptory norm of international law.<sup>46</sup>

Furthermore, Article 7 of the ICCPR prohibits "torture or to cruel, inhuman or degrading treatment or punishment,"<sup>47</sup> directly implicating the acts of severe physical and psychological harm perpetrated against targeted groups. In addition, Article 26 of the ICCPR guarantees that all persons are equal before the law and are entitled without any discrimination to the equal protection of the law,<sup>48</sup> highlighting the discriminatory intent essential to the legal definition of genocide under Article 2 of the Genocide Convention (1948). The violations of economic, social, and cultural rights are similarly profound. Article 12 of the International Covenant on Economic, Social and Cultural Rights (ICESCR) recognizes the "right of everyone to the enjoyment of the highest attainable standard of physical and mental health,"<sup>49</sup> which is systematically denied in situations of mass atrocities and forced displacement. Collectively, these binding obligations establish that the international community, including the United States, has a duty to act to prevent further violations under the principle of the Responsibility to Protect (R2P), recognizing that the failure to intervene would perpetuate breaches of jus cogens norms and entrenched human rights.

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<sup>45</sup> 54 Application of the Convention on the Prevention and Punishment of the Crime of Genocide (Croatia v Serbia) (Judgment) [2015] ICJ Rep 3

<sup>46</sup> ICCPR (1966) art 6.

<sup>47</sup> Ibid art 7

<sup>48</sup> Ibid art 26

<sup>49</sup> ICESCR (1966) art 12

The principle of Responsibility to Protect (R2P) is directly engaged, such that when a state either cannot or will not halt large scale mass atrocities against a civilian population, the international community bears a duty to protect. The Responsibility to Protect (R2P) principle, which enjoins the international community to intervene when countries fail to protect their populations from mass atrocity crimes such as genocide, crimes against humanity, war crimes, and ethnic cleansing, has recently gained recognition as an emerging norm of international law. Under R2P, sovereignty ceases to be a shield for mass killing. Here, Nigeria is failing precisely in that duty. Article 4 of the African Charter on Human and People's Rights provide that "Every human being shall be entitled to respect for his life and the integrity of his person. No one may be arbitrarily deprived of this right."<sup>50</sup> This article underscores a non-derogable or fundamental standard under regional human rights law. More importantly, Article 8 of the African Charter on Human and People's Rights guarantees freedom of conscience, religion, free expression of religious practice.<sup>51</sup>

Nigeria's Failure to Act and the Justification of the U.S. to intervene This however is not the case in Nigeria as it has been globally noticed by credible reports which show that since early 2025, over 7,000 Christians have been killed, kidnappings of Christian students have surged, and entire Christian villages are being razed by terrorist and militia groups, yet the Nigerian Government has not mounted a sufficient legal or security response. The European Parliament has recorded that more than 7,000 Christians have died in that year alone, while thousands of churches have been attacked or destroyed, evincing Nigeria's manifest inability or unwillingness to safeguard its Christian citizens.<sup>52</sup> The Nigerian Government's repeated failure to address credible reports of Christian targeted mass atrocities underscores the urgency for the U.S. intervention. Section 33 of the 1999 Constitution of the Federal Republic of Nigeria states; "Every person has a right to life, and no one shall be deprived intentionally of his life, save in execution of the sentence of a court in respect of a criminal offence of which he has been found guilty in Nigeria."<sup>53</sup>

Furthermore, Section 38 of the 1999 Constitution of the Federal Republic of Nigeria states; "Every person shall be entitled to freedom of thought, conscience and religion, including freedom to change his religion or belief, and freedom (either alone or in community with others,

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<sup>50</sup> African Charter on Human and Peoples' Rights (adopted 27 June 1981) 1520 UNTS 217 art 4. 39

<sup>51</sup> Ibid, art 8.

<sup>52</sup> European Parliament Resolution 2023/2505(RSP) on Freedom of Religion in Nigeria

<sup>53</sup> Constitution of the Federal Republic of Nigeria 1999 (as amended) s 33 42

and in public or in private) to manifest and propagate his religion or belief in worship, teaching, practice and observance.”<sup>54</sup> Despite the aforementioned widely circulated horrific videos of church invasions in Kwara State in which armed assailants kill congregants, follow up reports note the Nigerian authorities’ response has been limited to expressions of sorrow, vague promises of investigation, and no visible protective measures for survivors. Meanwhile, U.S. diplomatic leadership has not remained idle. The U.S. Ambassador to the United Nations, Rep. Michael Waltz, publicly described the burning of churches, clergy assassinations, and abductions calling on immediate accountability and government action, yet there has been no response.

The fact that the American diplomatic messaging is more forceful, coherent, and urgent than Nigeria’s own state response highlights a moral and legal imperative for the United States to go beyond diplomacy. The United States has formally acknowledged the existence of genocidal mass violence against Christians in Nigeria duly notifying the Security Council of the “slaughter of thousands of Christians,” the United States has moved from knowledge to documented acknowledgment, the threshold past which inaction is no longer legally permissible under the Convention. History provides compelling proof that U.S. intervention, has successfully halted unfolding atrocities, neutralised exterminatory forces, and restored basic human security.

### **(III) International Case Law Confirming Duty to Intervene**

ICJ jurisprudence confirms the extraterritorial duty to prevent genocide. In *Barcelona Traction* (1970), the Court recognized that certain obligations, especially those protecting human life, are *erga omnes*, owed to the international community. This establishes that when atrocity crimes unfold in Nigeria, all capable States, including the United States, carry a duty to respond. In *Namibia Advisory Opinion* (1971), the ICJ confirmed that sustained violations of human rights give rise to obligations on all States not to remain passive. In *East Timor* (1995), the Court reinforced that fundamental rights cannot be suppressed by claims of sovereignty. In *Bosnia v. Serbia*, the Court held that once a State has knowledge of a serious risk of genocide, the duty to prevent arises immediately. The *Wall Advisory Opinion* (2004) reaffirmed that the right to life and dignity attracts special international concern. Together, these authorities

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<sup>54</sup> *Ibid*, s 38

demonstrate that the law does not tolerate indifference from States with capacity to prevent extermination.

#### **(IV) Sovereignty Cannot Shield Nigeria from Accountability Sovereignty cannot protect Nigeria from accountability when it fails to protect its own population.**

Sections 33 and 38 of the Nigerian Constitution guarantee the right to life and freedom of religion. Nigeria's systemic failure transforms sovereignty into a responsibility that the international community may assume. ICJ jurisprudence, as reflected in Namibia Advisory Opinion (1971) and East Timor (1995), makes clear that sovereignty does not shield a State from intervention where mass human rights violations occur. Nigeria's failure thus creates a legal pathway for U.S. action under R2P.

#### **(V) International Jurisprudence and Contemporary Precedents Supporting Lawful Intervention**

The ICJ has consistently emphasized that international law recognizes obligations to prevent and respond to genocide and mass atrocities. In Application of the Convention on the Prevention and Punishment of the Crime of Genocide in the case of The Gambia v. Myanmar,<sup>55</sup> the Court highlighted the need for urgent protective action in the face of genocidal risk. In Bosnia v. Serbia, it held that once a State knows of serious risks of genocide, the duty to prevent arises immediately. In Croatia v. Serbia,<sup>56</sup> the ICJ reinforced that patterns of systematic ethnic targeting invoke concrete obligations to act. In DRC v. Belgium, the Court recognized that certain crimes trigger obligations beyond borders, supporting the notion that Application of the Convention on the Prevention and Punishment of the Crime of Genocide (The Gambia v Myanmar) (Provisional Measures) [2020] ICJ Rep. Application of the Convention on the Prevention and Punishment of the Crime of Genocide (Croatia v Serbia) (Judgment) [2015] ICJ Rep 3 24 humanitarian intervention may be lawful when genocide threatens civilians. This jurisprudence confirms that the U.S., by establishing corridors, is fulfilling international legal duties to prevent further mass killings. The corridors would operationalize these duties while remaining strictly limited, proportionate, and humanitarian.

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<sup>55</sup> Application of the Convention on the Prevention and Punishment of the Crime of Genocide (The Gambia v Myanmar) (Provisional Measures) [2020] ICJ Rep

<sup>56</sup> Application of the Convention on the Prevention and Punishment of the Crime of Genocide (Croatia v Serbia) (Judgment) [2015] ICJ Rep 3

In Afghanistan (2001), U.S. led intervention was justified under collective security and humanitarian grounds, with the aim of preventing further mass atrocities by the Taliban. In Libya (2011), NATO intervention under UN Security Council Resolution 1973 was explicitly framed as an R2P enforcement to protect civilians from regime led mass killings. Both cases show that timely external intervention can prevent further harm to civilians and is legally recognized when a State is unable or unwilling to protect its population. Nigeria's ongoing mass killings and abductions meet the threshold for such lawful intervention. Both cases show that timely external intervention can prevent further harm to civilians and is legally recognized when a State is unable or unwilling to protect its population. Nigeria's ongoing mass killings and abductions meet the threshold for such lawful intervention.

Where the UN Charter establishes duties, regional instruments affirm them, jurisprudence interprets them, and Nigeria breaches them, intervention is not discretionary but legally justified. ICJ authority, including *Barcelona Traction* (1970) on *erga omnes* obligations, *Namibia Advisory Opinion* (1971) on prolonged violations, *East Timor* (1995) on overriding sovereignty, *Bosnia v. Serbia* on the duty to prevent, and *Wall Advisory Opinion* (2004) on the right to life and dignity, provides the authoritative framework demonstrating that the United States' action is fully grounded in international law. Combined with R2P and regional legal instruments, these authorities collectively provide the United States with a lawful and enforceable mandate to intervene in Nigeria to prevent ongoing genocide.

#### **(vi) Customary International Law Customary international law reinforces this further.**

Custom arises from State practice and *opinio juris*, which is the belief that practice is legally required. Over the last thirty years, States have consistently intervened where atrocity crimes escalate beyond State control, believing intervention lawful. The International Court of Justice confirms this duty. In the *Barcelona Traction* (1970), the ICJ recognized that *erga omnes* obligations are owed to all humanity and are enforceable by every State. The right to life is a core *erga omnes* obligation. In Nigeria, the systematic killings of civilians and destruction of communities create an urgent *erga omnes* duty for States, including the United States, to act. The failure of Nigeria to protect its population triggers this international responsibility. In the case of *Bosnia v. Serbia*, the Court held that the duty to prevent genocide arises at the instant a State is aware of a serious risk, not after completion. Nigeria has long crossed this threshold, with repeated mass killings and abductions. The United States, aware of the risk, is 27 therefore

legally obligated to take preventive measures before further atrocities occur. In Namibia Advisory Opinion (1971), the Court affirmed that prolonged human rights violations create obligations for the international community to act. In Northern Nigeria, the ongoing systemic targeting of civilians constitutes prolonged violations. International intervention is warranted to prevent escalation and protect human life. In Wall Advisory Opinion (2004), the ICJ recognized that the protection of life and human dignity is a concern beyond borders, obligating States to act when one State fails.

Nigeria's refusal or inability to safeguard civilians triggers this extraterritorial duty. U.S. action aligns with this principle, as it directly protects life and prevents gross human rights violations. Also, in East Timor (1995), the Court held that sovereignty cannot shield a State from responsibility when atrocities occur. Nigeria cannot invoke sovereignty to justify its inaction. Humanitarian intervention by the United States is therefore consistent with international law and necessary to uphold peremptory norm. In the Armed Activities on the Territory of the Congo (2005), the ICJ affirmed the responsibility of States to protect civilians from violence and mass extermination. Northern Nigeria, where civilians face systematic slaughter and abductions, falls squarely within this precedent.

The United States, as a capable State, has the legal authority and obligation to intervene. These cases converge on one conclusion. Once extermination risk emerges and the State fails, international law demands intervention. III. Historical Precedents Establishing State Practice. Customary international law reinforces this further. Custom arises from State practice and *opinio juris* — the belief that practice is legally required. Over the last thirty years, States have consistently intervened where atrocity crimes escalate beyond State control, believing intervention lawful. The International Court of Justice confirms this duty. In the *Barcelona Traction* (1970), the ICJ recognized that *erga omnes* obligations are owed to all humanity and are enforceable by every State. The right to life is a core *erga omnes* obligation, meaning that violations of fundamental human rights concern all States, not just the one directly responsible.

In Nigeria, the systematic killings of civilians, mass abductions, and destruction of villages create an urgent *erga omnes* duty for States, including the United States, to act. The international community cannot remain passive when a population faces extermination, as the consequences transcend borders and threaten the moral and legal fabric of the global order. Failure by Nigeria to protect its population triggers a responsibility for other capable States to

intervene and prevent further atrocities. This case underscores that humanitarian intervention is not optional but a legal obligation when fundamental rights are under systemic threat, and inaction itself may constitute complicity under international law. In the case of *Bosnia v. Serbia*, the Court held that the duty to prevent genocide arises at the instant a State is aware of a serious risk, not after completion. In Northern Nigeria, repeated mass killings, systematic targeting of religious minorities, and widespread abductions clearly establish a serious and imminent risk of genocide. The United States, being aware of this ongoing threat, is legally obligated to take preventive measures before further atrocities occur. This principle demonstrates that intervention is legally justified not as a reaction to completed genocide, but as a proactive duty to halt its progression while it is still preventable. Inaction at this stage would constitute a breach of both international law and moral responsibility. In the *Namibia Advisory Opinion* (1971), the Court affirmed that prolonged human rights violations create obligations for the international community to act. In Northern Nigeria, decades of institutional neglect, combined with escalating religiously-targeted killings and village destructions, constitute prolonged violations of fundamental human rights. The international community, and specifically States capable of intervention like the United States, has a legal responsibility to prevent further harm.

This precedent confirms that waiting for a crisis to escalate to full-scale genocide is unlawful; preventive intervention is compelled when violations are persistent and systematic. In the *Wall Advisory Opinion* (2004), The ICJ recognized that the protection of life and human dignity is a concern beyond borders, obligating States to act when one State fails. Nigeria's refusal or inability to safeguard its civilians triggers this extraterritorial duty. The United States, by acting to prevent massacres, abductions, and the destruction of villages, fulfills its legal duty to uphold these fundamental norms. This case emphasizes that international obligations to protect civilians are not limited by territorial boundaries and that capable States have a positive duty to intervene when human rights are systematically violated. In *East Timor* (1995), the Court held that sovereignty cannot shield a State from responsibility when atrocities occur. Nigeria cannot invoke sovereignty to justify its inaction in the face of widespread, targeted killings.

Humanitarian intervention by the United States is therefore consistent with international law, as it directly protects life and prevents further breaches of peremptory norms. This precedent reinforces the principle that the international community has a right, and indeed a duty, to intervene when a State fails to protect its population from mass atrocities. Sovereignty is conditional upon compliance with fundamental human rights obligations. In the Armed

Activities on the Territory of the Congo (2005), The ICJ affirmed the responsibility of States to protect civilians from violence and mass extermination. Northern Nigeria, where civilians face systematic slaughter, abductions, and deliberate destruction of livelihood, falls squarely within this precedent. The United States, as a capable State, has both the legal authority and the obligation to intervene to prevent further atrocities. This case demonstrates that the international community cannot remain passive when States fail in their primary duty to protect civilians, and proactive measures are required to safeguard human life. These cases converge on one conclusion: once extermination risk emerges and the State fails, international law demands intervention.

At this stage, legality, morality, and precedent point toward only one outcome. *Jus cogens* norms occupy the pinnacle of international law. They are non-derogable, universally binding, and superior to all other rules of law. Genocide has attained this status. From Nuremberg, to Rwanda, to Bosnia, the international community affirmed that genocide is peremptory law and every State must stop it. Customary international law codifies this responsibility. Consistent State practice confirms it. Judicial rulings enforce it. History vindicates it. Humanity demands it. Treaty law demands action. Customary law demands action. ICJ jurisprudence demands action. African regional law demands action. Historical precedent demands action. *Jus cogens* demands action. Humanity demands action. Therefore, the United States is legally justified, legally empowered, and legally obligated to intervene in Nigeria to prevent genocide through necessary, proportional humanitarian measures, including humanitarian corridors.

## 1.5 RECONCILING THE DEBATE: ALTERNATIVE MEASURES

Opponents of the United States military intentions to stall the mass atrocities in Nigeria, propose other alternate measures within the Africa Regional architecture. This initiative, according to the opposition view will provide the most legally sound, historically proven, and operationally effective means of protecting civilians, compared with unilateral foreign intervention. It is argued that Nigeria's security challenges extend beyond its borders. Boko Haram and ISWAP insurgencies have caused over 70,000 deaths and displaced more than 2.5 million people across Nigeria, Niger, and Chad.<sup>57</sup> Insecurity in Borno State triggered mass migration into Niger's Diffa region, overwhelming governance systems.<sup>58</sup> Attacks in Nigeria's

<sup>57</sup> UNHCR, Nigeria Situation Regional Update (2023) AU Constitutive Act (2000), art 4(h); AU Peace and Security Council Protocol (2002).

<sup>58</sup> International Crisis Group, In Niger's Diffa Region, a Refugee Crisis Deepens (ICG Africa Report 2021)

Northwest and North Central zones disrupted transnational markets in Cameroon and Niger. Porous borders facilitate the movement of arms, militants, and criminal networks.<sup>59</sup> These dynamics demonstrate that Nigeria's internal conflicts are regional in nature, necessitating coordinated regional responses rather than unilateral external interventions.

**(i) REGIONAL STABILITY AND THE NECESSITY OF AFRICAN-LED MECHANISMS IN PROTECTING CIVILIANS IN NIGERIA.**

Chapter VIII of the UN Charter recognizes the role of regional organization in the maintenance of peace and security at the regional level.<sup>60</sup> Consequently, the African Union Constitutive Act, Article 4(h), authorizes intervention in grave humanitarian crises, war crimes, and crimes against humanity. The AU Peace and Security Council (hereinafter referred to as 'PSC'), provides mechanisms for conflict prevention, mediation, ceasefire negotiation, and rapid deployment with regional legitimacy.<sup>61</sup> It is imperative to state that the PSC is not a mere symbolic body but a standing decision-making organ endowed with comprehensive responsibilities, including conflict prevention, mediation, ceasefire negotiation, and rapid deployment of peace support operations.<sup>62</sup> This regional mechanism embodies collective African sovereignty and ensures that peace and security interventions occur through methods that respect the principles of non-intervention and regional cooperation.<sup>63</sup> Any unilateral intervention by non-African states, such as the United States, undermines the authority of the AU and disrupts the fragile regional stability meticulously maintained through consensus and multilateral frameworks. Such actions flagrantly disregard the AU's efforts to manage crises internally, which is precisely the vehicle through which African states have chosen to assert their peace and security governance. This negation of this role is not only a breach of fundamental international law norms but also erodes regional stability by sidelining locally mandated conflict resolution mechanisms.

Additionally, The ECOWAS' Protocol on Conflict Prevention, Management, Resolution, Peacekeeping and Security (1999) mandates member states to respond collectively when

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<sup>59</sup> Institute for Security Studies (ISS), The Lake Chad Basin Report on Cross-Border Insecurity (2022).

<sup>60</sup> UN Charter (1945), Chapter VIII, Art.52-54

<sup>61</sup> AU Constitutive Act (2000), Art 4(h); AU Peace and Security Council Protocol (2002).

<sup>62</sup> TG Olajuwon and LO Asamoah, 'The role of the Peace and Security Council in implementing the decisions of the African Commission on Human and Peoples' Rights' (2024) 24 African Human Rights Law Journal 1017 1033 <http://dx.doi.org/10.17159/1996-2096/2024/v24n2a24> [Accessed 22nd November, 2025].

<sup>63</sup> *Ibid*

internal conflict threatens regional stability.<sup>64</sup> ECOWAS has deployed forces in Liberia and Sierra Leone to stabilize conflicts, protect civilians, and support democratic governance transitions. Notably, the Economic Community of West African States Monitoring Group (ECOMOG) was instrumental in stabilizing these conflicts, protecting civilians, and supporting democratic transitions. These interventions exemplify a legitimate regional response mechanism grounded in consensus and collective security principles, contrasting markedly with unilateral external interventions lacking regional mandate or legitimacy.<sup>65</sup> Accordingly, the Protocol and ECOWAS practice underscore that legitimate interventions require multilateral regional authorization aimed at restoring peace and security in accordance with principles of sovereignty and non-intervention. Any unilateral action undermining this established framework disregards the collective African sovereignty and regional cooperation mechanisms essential for sustainable peace.

## **(ii) EFFECTIVENESS OF AFRICAN-LED MECHANISMS.**

It is argued by opponents of foreign intervention in Nigeria genocide crisis that, ECOWAS and AU interventions have a track record of stabilizing conflicts in West Africa. According to these opponents, In Liberia, ECOWAS military operations supported the transition to democratic governance without dismantling state institutions.<sup>66</sup> In Sierra Leone, the regional force reversed a coup and protected thousands of civilians.<sup>67</sup> In The Gambia (2017), ECOWAS facilitated a political transition while preserving national institutions.<sup>68</sup> The Multi-National Joint Task Force (MNJTF), comprising Nigeria, Niger, Chad, and Cameroon, significantly reduced Boko Haram territorial control between 2015 and 2019.<sup>69</sup> These successes according to opponents, reflect regional understanding, cultural literacy, and alignment with local conflict dynamics, which foreign actors often lack. These interventions reflect not only the operational capacity of regional bodies but also their deep understanding of local cultural, social, and political

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<sup>64</sup> ECOWAS, Protocol Relating to the Mechanism for Conflict Prevention, Management, Resolution, Peacekeeping and Security (1999), arts 25–28

<sup>65</sup> Reuters, "Military interventions by West African ECOWAS bloc", 4 August 2023, <https://www.reuters.com/world/africa/military-interventions-by-west-african-ecowas-bloc-2023-08-04/> [Accessed 22nd November, 2025].

<sup>66</sup> Adebajo, A, Building Peace in West Africa: Liberia, Sierra Leone, and Guinea-Bissau (Lynne Rienner 2002). 38 Lake Chad Basin Commission, MNJTF Joint Operations Review (2020).

<sup>67</sup> Ibid

<sup>68</sup> ECOWAS, Final Report of the ECOWAS Mission in The Gambia (ECOMIG) (2017).

<sup>69</sup> Lake Chad Basin Commission, MNJTF Joint Operations Review (2020)

dynamics, which are essential for sustainable conflict resolution.<sup>70</sup> By contrast, foreign interventions often lack such nuanced regional engagement, resulting in diminished legitimacy and effectiveness.

## 1.6. THE WAY FORWARD

Resolving the debate over U.S. intervention in the Nigerian crisis requires moving beyond a binary framing of action versus inaction and toward a multidimensional approach that upholds humanitarian principles while respecting international law and Nigerian sovereignty. The following pathways offer a pragmatic and legally grounded way forward:

### 1. Prioritize Multilateralism Over Unilateral Action

Any external intervention should be channeled through multilateral institutions, particularly the United Nations, African Union (AU), and ECOWAS. This reduces perceptions of U.S. legal overreach and aligns humanitarian action with internationally recognized frameworks such as the Responsibility to Protect (R2P). A multilateral mandate enhances legitimacy, shared responsibility, and accountability.

### 2. Strengthen Preventive and Non-Military Measures

Before coercive intervention is considered, the U.S. should expand:

- Diplomatic engagement with the Nigerian government and regional actors
- Targeted sanctions against individuals credibly implicated in mass atrocities
- Arms embargoes and financial tracking to limit the capacity for violence
- Support for independent investigations and early-warning mechanisms

These tools reinforce humanitarian objectives while remaining within established legal norms.

### 3. Support Nigerian-Led Solutions and Civil Institutions

A sustainable response must empower Nigerian institutions, civil society, and community-

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<sup>70</sup> T. Ajayi, 'The UN, the AU and ECOWAS - a Triangle For Peace Building In West Africa?' (2024) Friedrich Ebert Stiftung, Available at <https://library.fes.de/pdf-files/bueros/usa/05878.pdf> [Accessed 22nd November, 2025].

based peacebuilding initiatives. External actors should focus on:

- Capacity-building for judicial and human rights institutions
- Support for humanitarian access and protection of displaced populations
- Strengthening mechanisms for accountability and reconciliation

This approach avoids undermining sovereignty while addressing root causes of violence.

#### **4. Clarify Legal Thresholds for Humanitarian Intervention**

To reduce future controversies, the international community—led by legal scholars, policymakers, and institutions—should work toward clearer legal standards on when humanitarian intervention is justified. Establishing transparent criteria helps distinguish genuine humanitarian action from politically motivated interference.

#### **5. Maintain Congressional and International Oversight**

If U.S. involvement deepens, it must be subject to robust congressional oversight and continuous international review. This ensures adherence to domestic law, international humanitarian law, and proportionality, preventing mission creep or unilateral escalation.

#### **6. Center Victims, Not Geopolitics**

Ultimately, the legitimacy of any response depends on whether it meaningfully reduces human suffering. Policy debates should consistently center the protection of civilians, access to aid, and long-term peace rather than strategic or ideological interests.

### **CONCLUSION**

The debate over U.S. intervention in the Nigerian genocide crisis underscores a fundamental tension at the heart of international relations: the moral obligation to prevent mass human suffering versus the legal duty to respect state sovereignty and international law. While the humanitarian imperative demands urgent action in the face of atrocities, such action loses legitimacy if it disregards established legal frameworks and multilateral consensus. Conversely, strict adherence to legal restraint without meaningful response risks enabling

impunity and continued loss of life. The resolution of this debate lies not in choosing one principle over the other, but in forging a response that reconciles compassion with legality—anchored in multilateral authorization, regional cooperation, and accountability. Ultimately, the credibility of humanitarian intervention depends on its ability to protect lives while upholding the rule of law, ensuring that intervention serves humanity rather than undermines the international order it seeks to defend.

The way forward lies not in choosing between humanitarian intervention and legal restraint, but in integrating both. By grounding action in multilateral legitimacy, preventive diplomacy, and respect for sovereignty—while remaining responsive to mass human suffering—the U.S. and the international community can navigate the Nigerian crisis responsibly and credibly.