

# The question of definition: Armed banditry in Nigeria's North-West in the context of international humanitarian law

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## Abstract

*In terms of its disruptive impact and intensity of violence, banditry is the gravest security threat that Nigeria currently faces, and it is driving her worst national humanitarian crisis in decades. There are contests about the origin, nature and the drivers of banditry and how well bandits by their modus operandi fit into the various definitional frameworks of an organized criminal group. The article examines what is known about bandits and banditry in light of existing definitional and conceptual paradigms of organized crime and criminal groups,*

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*and interrogates the applicability of international humanitarian law to this security crisis that characterizes the current face of conflict in the West African Sahel.*

**Keywords:** bandits, North-West Nigeria, international humanitarian law, organized criminal groups.



## Introduction

Nigeria's two geopolitical regions at the edge of the Sahel are sites of two different ongoing conflicts that have developed and evolved independently.<sup>1</sup> In the North-East, the decade-long fundamentalist insurgency led by Boko Haram and its spawns has caused around 350,000 deaths,<sup>2</sup> displaced over three million residents<sup>3</sup> and destroyed public infrastructure in a region already blighted by poverty and poor socio-economic outcomes.<sup>4</sup> In the North-West, groups of violent non-State actors, widely referred to as bandits, are laying siege to Nigeria's most populated geopolitical zone, with distressing consequences, that at some point outweighs the fatalities from Boko Haram's insurgency. In 2019, bandits were reportedly responsible for almost half of all violent deaths in Nigeria.<sup>5</sup>

Bandits are a loose collection of various criminal groups involved in kidnap-for-ransom, armed robbery, cattle rustling, rape and other sexual violence, pillage and attacks on traders, farmers and travellers – particularly in Nigeria's North-West region. The first written reference to banditry in the region dates back to more than 120 years and the term was used in a colonial correspondence to describe a 1901 attack on a 12,000-camel trade caravan that resulted in the death of around 210 traders.<sup>6</sup> Essentially, the colonial and recent conceptualizations and definitions of banditry are largely socio-political, and this problem of definitional haziness has continued to define discussions around the theme. The intensity of the attacks by bandits on communities and residents of

- 1 James Barnett, Murtala Ahmed Rufa'i and Abdulaziz Abdulaziz, "Northwestern Nigeria: A Jihadization of Banditry, or a 'Banditization' of Jihad?", *CTC Sentinel*, Vol. 15, No. 1, 2022, p. 46, available at: <https://ctc.westpoint.edu/wp-content/uploads/2022/01/CTC-SENTINEL-012022.pdf> (all internet references were accessed in June 2022).
- 2 Paul Carsten and Felix Onuah, "Northeast Nigeria Insurgency Has Killed Almost 350,000 – UN", *Reuters*, 24 June 2021, available at: <https://www.reuters.com/world/africa/northeast-nigeria-insurgency-has-killed-almost-350000-un-2021-06-24/>.
- 3 United Nations High Commissioner for Refugees (UNHCR), "Nigerian Refugees in Chad, Cameroon and Niger", 28 February 2022, available at: [https://data2.unhcr.org/en/situations/nigeriasituation#\\_ga=2.155809531.1973709748.1571844796-1590759838.1571844796](https://data2.unhcr.org/en/situations/nigeriasituation#_ga=2.155809531.1973709748.1571844796-1590759838.1571844796).
- 4 Saskia Brechenmacher, "Stabilizing Northeast Nigeria After Boko Haram", *Carnegie Endowment for International Peace*, 3 May 2019, available at: <https://carnegieendowment.org/2019/05/03/stabilizing-northeast-nigeria-after-boko-haram-pub-79042>.
- 5 Daily Trust, "Bandits Kill More Nigerians Than Boko Haram, Robbers, Kidnappers, Cultists, Others", 22 September 2019, available at: <https://dailytrust.com/bandits-kill-more-nigerians-than-boko-haram-robbers-kidnappers-cultists-others>.
- 6 Murtala Ahmed Rufa'i, "Cattle Rustling and Armed Banditry along Nigeria–Niger Borderlands", *IOSR Journal of Humanities and Social Science*, Vol. 4, No. 4, 2018, p. 67.

North-West Nigeria has triggered the campaign for the classification of bandits as terrorists by policymakers, security agencies, the media and citizens.<sup>7</sup> The Nigerian government in January 2022 officially declared two of the numerous bandit groups as terror organizations,<sup>8</sup> leaving many of these bandit groups outside the purview of the anti-terrorism law in Nigeria.<sup>9</sup>

Putting in perspective national and international regimes of classification, are bandits terrorists or is banditry the latest form of terrorism? Do their operations fall within the definitional parameters of organized criminal groups or are they a motley group of opportunists? More critically, are definitions and framing of any importance? In addition, this article seeks to answer the question of the required threshold of intensity and organizational capacity in the operations of bandits in the Nigerian North-West for the rules of international humanitarian law (IHL) to apply. Looking at conflict trends in the West African Sahel, of which the Nigerian North-East region is an important part, the dominant parties to the conflict do not fall neatly within existing IHL non-international armed conflict (NIAC) frameworks and yet these various armed groups ruinously affect communities the way ordinary criminals cannot.

## Loosely structured v. organized: The question of definitional adequacy

There are three competing theories about the origin and nature of banditry in Nigeria. The most prominent narrative in literature attributes banditry to out-of-control farmer–pastoralist conflicts in some of Nigeria's volatile geopolitical zones.<sup>10</sup> The second perspective considers banditry as a new form of terrorism and a continuation of the historical Fulani *Jihad* of the 20th century that targeted farming communities across northern Nigeria.<sup>11</sup> However, the third perspective, which is the most controversial, views banditry as government-sanctioned

7 Tosin Osasona, "New Lords of Nigeria's North West. Bandits: Terrorists or Criminal Gangs?", *The Republic*, 5 July 2021, available at: <https://republic.com.ng/june-july-2021/new-lords-nigeria-northwest/>.

8 Federal Republic of Nigeria, Terrorism (Prevention) Proscription Order Notice, 2021: The activities of Yan Bindiga Group, Yan Ta'adda Group and other similar groups in Nigeria are declared to be terrorism and illegal in any part of Nigeria, especially in the North-West and North-Central Regions of Nigeria and are proscribed pursuant to sections 1 and 2 of the Terrorism (Prevention) Act, 2011, *Official Gazette*, 29 November 2021, Vol. 108, No. 212, available at: <https://thenigerialawyer.com/wp-content/uploads/2022/01/Gazette-declaring-bandits-TheNigerialawyer.pdf>.

9 Federal Republic of Nigeria, Terrorism (Prevention and Prohibition) Act, 2022, *Official Gazette*, 16 May 2022, Vol. 91, No. 109, available at: [https://www.nfiu.gov.ng/Home/DownloadFile?filePath=C%3A%5CNFIU%5Cwwwroot%5Cdocuments%5CTPp\\_DFV8G6](https://www.nfiu.gov.ng/Home/DownloadFile?filePath=C%3A%5CNFIU%5Cwwwroot%5Cdocuments%5CTPp_DFV8G6).

10 Mohammed J. Kuna and Jibrin Ibrahim, *Rural Banditry and Conflicts in Northern Nigeria*, Centre for Democracy and Development, Centre for Democracy and Development, Abuja, 2016, p. 15, available at: <https://cddwestafrica.org/wp-content/uploads/2017/09/ruralbanditryinnorthernnigeria1.pdf>.

11 Institute for Economics and Peace, *Global Terrorism Index 2016*, available at: <https://www.economicsandpeace.org/wp-content/uploads/2016/11/Global-Terrorism-Index-2016.2.pdf>; SBM Intelligence, *Terror in the Food Basket: A Look Into the Violence in North-Central Nigeria*, October 2015, available at: [https://sbmintel.com/wp-content/uploads/2015/12/201510\\_Terror-in-Nigerias-Food-Basket.pdf](https://sbmintel.com/wp-content/uploads/2015/12/201510_Terror-in-Nigerias-Food-Basket.pdf).

violence geared towards depopulation of communities and Islamization of the extended northern Nigeria, particularly non-Hausa- and Fulani-dominated regions. This third perception coheres around public discontent with the government's handling of pastoralists' violence in northern Nigeria.<sup>12</sup>

Irrespective of the theories about origin and intent, the rise of banditry coincides with the timeline of Nigeria's return to democratic governance in 1999. The last two decades of the post-military government era have witnessed the hitherto unknown explosion of violent non-State actors – ethnic militants, gangs and cult groups, and political thugs among others – and these groups have dominated national and sub-national security agendas in Nigeria.<sup>13</sup> These groups have taken advantage of the relative freedom provided by democratic governance, particularly the repeal of restrictive military-era laws and restrictions of the civic space.

While there are contests about the origin, nature and ultimate objectives of banditry, the description of bandits is uncomplicated. Bandits are an assortment of the various criminal groups involved in extensive cattle rustling, sexual violence, kidnapping, armed robbery, pillage and attacks on gold mineral and traders particularly in North-West Nigeria.<sup>14</sup> In essence, banditry is a composite crime and that underlines the absence of a singular legislation in Nigeria that describes and proscribes banditry as a crime, although the component crimes are criminalized in extant legislations.<sup>15</sup>

The number of bandit groups in the North-West is a subject of conjecture. However, one of Nigeria's authoritative researchers on banditry opined that there are around 120 bandit camps in the region and bandits are in possession of more than 60,000 AK-47 rifles.<sup>16</sup> One of the stakeholders appointed by bandit groups as liaison with the government stated that there are more than 100,000 armed bandits in the North-West region.<sup>17</sup> A traditional ruler in one of the six States affected by armed banditry in the region claimed that there are more than 30,000 armed bandits operating in just one of the six States of the geopolitical zone.<sup>18</sup>

12 ACAPS, "Nigeria: Banditry Violence and Displacement in the Northwest", Short Note, 24 July 2020, available at: [https://www.acaps.org/sites/acaps/files/products/files/20200723\\_acaps\\_short\\_note\\_northwest\\_banditry\\_crisis\\_nwbc\\_nigeria.pdf](https://www.acaps.org/sites/acaps/files/products/files/20200723_acaps_short_note_northwest_banditry_crisis_nwbc_nigeria.pdf).

13 European Union Agency for Asylum, "Nigeria: Non-State Actors, Common Analysis", February 2019, available at: <https://euaa.europa.eu/country-guidance-nigeria/12-non-state-actors>.

14 International Crisis Group, "Violence in Nigeria's North West: Rolling Back the Mayhem", *Africa Report* No. 288, 18 May 2020, p. 6, available at: [https://d2071andvip0wj.cloudfront.net/288-violence-in-nigerias-north-west\\_0.pdf](https://d2071andvip0wj.cloudfront.net/288-violence-in-nigerias-north-west_0.pdf).

15 Kidnapping and Cattle Rustling (Special Provisions) Law of Niger State, 2021; Olaide Oyelude, "Katsina Gov Approves Death Sentence for Kidnapping, Cattle Rustling", *Punch*, 24 May 2019, available at: <https://punchng.com/katsina-gov-approves-death-sentence-for-kidnapping-cattle-rustling/>; Emeka Mamah, "Kaduna Outlaws Kidnapping", *The Vanguard*, 15 October 2009, available at: <https://www.vanguardngr.com/2009/10/kaduna-outlaws-kidnapping/>.

16 Murtala Rufa'i, "I Am a Bandit: A Decade of Research in Zamfara State Bandit's Den", Public Lecture at the Department of History, Usman Danfodiyo University (UDUS), Sokoto, Nigeria, delivered on 9 September 2021.

17 Samson Folarin, "No School is Safe Until Govt Negotiates with Bandits, Says Gumi", *Punch*, 21 June 2021, available at: <https://punchng.com/no-school-is-safe-until-govt-negotiates-with-bandits-says-gumi/>.

18 Attahiru Ahmed, "There Are More Than 30,000 Bandits with Sophisticated Weapons in Zamfara, Emir Tells Service Chiefs", *The Nigerian Tribune*, 9 March 2021, available at: <https://tribuneonlineng.com/there-are-more-than-30000-bandits-with-sophisticated-weapons-in-zamfara-emir-tells-service-chiefs/>.

Some of these bandits are well resourced, have a large network of informants and patrons within the larger society and are familiar with the complicated geography of the region.<sup>19</sup>

Organizationally, bandit groups operate independently; they do not have formalized structures and identities and are organized around personalities. There are instances of intergroup collaboration, for instance, when there are opportunities for pillage and protection of their operational bases in rural communities and forest reserves from attack (often from formal and informal security actors).<sup>20</sup> Operationally and resource-wise, bandit groups do collaborate. However, there are also records of intergroup conflicts and turf wars between and among bandit groups.<sup>21</sup>

According to multiple studies and the media, Nigerian citizens of the Fulani ethnic stock dominate these criminal groups.<sup>22</sup> This is explainable by the fact that these groups are mostly products of local conflicts between farmers and pastoralists.<sup>23</sup> According to one of the State governors affected by the activities of these groups:

[The] majority of those involved in this banditry are Fulanis [sic] whether it is palatable or it is not palatable but that is the truth. I am not saying 100% of them are Fulani but majority of them are, and these are people who live in the forest and their main occupation is rearing of cattle.<sup>24</sup>

Profit and personal enrichment drive banditry, rather than political, ideological or any sectional interest.<sup>25</sup> Bandits are indiscriminate in their attack, and they have plundered different communities of faith and ethnicity across the region with the same level of brutality. Bandits have attacked pastoralist Fulani communities, who have claimed that hundreds of their members have been kidnapped by bandits and 30% of their cattle lost to attacks.<sup>26</sup> Likewise, bandits have destroyed

- 19 Laleye Dipo, "Bandits Have Informants in Kidnapped District Head's Community, Says Niger Gov", *This Day*, 4 January 2021, available at: <https://www.thisdaylive.com/index.php/2021/01/04/bandits-have-informants-in-kidnapped-district-heads-community-says-niger-gov/>.
- 20 Yusuf Anka, "Leaders of Bandit Groups in Northwest Agree to Unite, Escalate Attacks on Communities", *HumAngle*, 20 May 2020, available at: <https://humanglemedia.com/leaders-of-bandit-groups-in-northwest-agree-to-unite-escalate-attacks-on-communities/>.
- 21 Ibrahim HassanWuyo, "Bandits Fight Each Other in Kaduna Forest, Kingpin Nasiru Kachalla, Others Killed", *The Vanguard*, 28 December 2020, available at: <https://www.vanguardngr.com/2020/12/bandits-fight-each-other-in-kaduna-forest-kingpin-nasiru-kachalla-others-killed/>.
- 22 Idris Saminu, Che Mohd Aziz Yacoob and Shazwanis Binti Shukri, "Identity and 'Fulanization' of Banditry in Nigeria: The Fulani as a 'Criminal Tribe'", *Zamfara Journal of Politics and Development*, Vol. 3, No. 1, 2022, p. 1.
- 23 Ibrahim Hassan Wuyo, "Banditry: It's Hausa-Fulani War, Zamfara Traces Origin of Hostilities", *The Vanguard*, 3 April 2021, available at: <https://www.vanguardngr.com/2021/04/banditry-its-hausa-fulani-war-zamfara-traces-origin-of-hostilities/>; J. Barnett, M. A. Rufa'i and A. Abdulaziz, above note 1, p. 47.
- 24 Kayode Oyero, "Most Bandits are Fulani Who Profess Same Religious Beliefs as Me – Masari", *Punch*, 6 September 2021, available at: <https://punchng.com/most-bandits-are-fulani-who-profess-same-religious-beliefs-as-me-masari/>.
- 25 Suleiman Ladan and Abdul Iguda, "Analysis of Contemporary Insecurity in Katsina State, Nigeria", *Journal of Scientific and Industrial Research*, Vol. 6, No. 7, 2019, p. 98.
- 26 Nduka Orjinmo, "Katsina: The Motorcycle Bandits Terrorising Northern Nigeria", *BBC News*, 5 July 2020, available at: <https://www.bbc.com/news/world-africa-53009704>.

hundreds of villages settled by Hausa farmers.<sup>27</sup> Although the Nigerian president is an ethnic Fulani, bandits have repeatedly attacked the president's hometown<sup>28</sup> and kidnapped leaders from his community.<sup>29</sup> Also, traditional leaders of Fulani ethnic extraction from the region have been kidnapped by Fulani-dominated bandit groups and ransom reportedly paid to secure their release.<sup>30</sup>

Banditry also has a transnational component. Extortion, ransom and other criminal funds from banditry drive the regional trade in small arms and light weapons and lubricates transnational crime in the wider Sahel region.<sup>31</sup> There is also continuous inflow of non-Nigerians into these criminal groups across the region's poorly policed 800-kilometre international boundaries with the Benin Republic and the Republic of Niger.<sup>32</sup> Equally worrisome is the cross-border kidnapping for ransom across the Nigerian–Nigerien international border.<sup>33</sup>

How one thinks about how well bandits and banditry fit into the existing paradigm of organized crime and criminal groups depends on a spectrum of equally valid definitions and conceptualizations of the contested term “organized criminal groups”.<sup>34</sup> On one end of the spectrum are definitions that conceive of organized crime as very sophisticated criminal activities that are situated in some forms of complex illicit markets and transactions. This class of definitions is based on indicators of criminality.<sup>35</sup> The second end of the definitional spectrum defines “organized crime” in terms of criminal organizations such as the Italian *mafia*, South American drug cartels and the Japanese *yakuza*.<sup>36</sup>

Another method is to review the organizational structure and the structure of the various markets within which these criminal groups operate. At one end,

- 27 Ebinoluwa Olafusi, “Yari: In Five Years, Bandits Have Killed Over 3000 in Zamfara”, *The Cable*, 9 April 2019, available at: <https://www.thecable.ng/yari-in-five-years-bandits-have-killed-over-3000-in-zamfara>.
- 28 Francis Sardauna and Seriki Adinoyi, “Kidnappers Attack Daura, Abduct District Head, Umar”, *This Day*, 2 May 2019, available at: <https://www.thisdaylive.com/index.php/2019/05/02/kidnappers-attack-daura-abduct-district-head-umar/>; Sahara Reporters, “Again, Bandits Attack President Buhari’s Home State, Kill Three, Abduct Businessman”, 1 July 2021, available at: <https://saharareporters.com/2021/07/01/again-bandits-attack-president-buhari%E2%80%99s-home-state-kill-three-abduct-businessman>.
- 29 Sani Tukur, “District Head of Buhari’s Hometown, Daura, Kidnapped”, *Premium Times*, 1 May 2019, available at: <https://www.premiumtimesng.com/news/headlines/328014-district-head-of-buharis-hometown-daura-kidnapped.html>.
- 30 Mohammed Babangida, “Zamfara Emir Kidnapped Along Kaduna–Abuja Road”, *Premium Times*, 15 September 2021, available at: <https://www.premiumtimesng.com/news/headlines/484904-zamfara-emir-kidnapped-along-kaduna-abuja-road.html>; Mohammed Lere, “Bandits Abduct Kaduna Emir, 3 Wives, 2 Grandchildren, Staff”, *Premium Times*, 11 July 2021, available at: <https://www.premiumtimesng.com/news/headlines/472898-just-in-bandits-abduct-kaduna-emir-10-others.html>.
- 31 John Campbell, “Kidnapping and Ransom Payments in Nigeria”, *Council on Foreign Relations Blog*, 18 February 2021, available at: <https://www.cfr.org/blog/kidnapping-and-ransom-payments-nigeria>.
- 32 Goodluck Jonathan Foundation, *Terrorism and Banditry in Nigeria: The Nexus*, 2021, p. 29, available at: <https://www.gejfoundation.org/terrorism-and-banditry/>.
- 33 Idrees Ali, “U.S. Special Forces Rescue American Held in Nigeria: Officials”, *Reuters*, 31 October 2020, available at: <https://www.reuters.com/article/us-usa-nigeria-military-idUSKBN27G0JI>.
- 34 Pierre Hauck and Sven Peterke, “Organized Crime and Gang Violence in National and International Law”, *International Review of the Red Cross*, Vol. 92, No. 878, 2010, pp. 408–9.
- 35 Alan Wright, *Organised Crime*, Willan Publishing, New York, 2006, pp. 48–9.
- 36 United Nations Office on Drugs and Crime, Global Programme Against Transnational Organized Crime, *Results of a Pilot Survey of Forty Selected Organized Criminal Groups in Sixteen Countries*, September 2002, p. 30, available at: [https://www.unodc.org/pdf/crime/publications/Pilot\\_survey.pdf](https://www.unodc.org/pdf/crime/publications/Pilot_survey.pdf).

organized criminal groups are sophisticated organizations with well-defined organizational capacity, which makes the organization exist independently of the people it is composed of at any particular point in time. A contrasting view to this argues that organized crime groups are more akin to informal rather than formal organizations. According to this school of thought, organized crime groups are largely composed of localized sets of loosely structured relationships that derive from kin, ethnicity, cultural affinity and other forms of intimate association. The organizational context is less formal and bureaucratic and more of shared cultural understandings and cooperation.<sup>37</sup>

There is no consensus among African scholars about the definition of organized crime in the African context nor is there a uniquely Nigerian definition.<sup>38</sup> The United Nations Convention against Transnational Organized Crime offers a definition that is growingly being accepted as the standard working definition of organized crime globally.<sup>39</sup> Article 2(a) defines organized crime as “a structured group of three or more persons, existing for a period of time and acting in concert with the aim of committing one or more serious crimes or offences established in accordance with this Convention, in order to obtain, directly or indirectly, a financial or other material benefit”. Paragraph 2(c) of the same article defines a structured group as “a group that is not randomly formed for the immediate commission of an offence and that does not need to have formally defined roles for its members, continuity of its membership or a developed structure”.<sup>40</sup>

Bandit groups in Nigeria are organized criminal groups but are closer in structure and operation to the Russian *mafia*<sup>41</sup> than the *Cosa Nostra* (Sicilian *mafia*). The Russian *mafia* do not have a homogeneous hierarchical structure under the leadership of any single individual unlike the structured organizational outlook of the *Cosa Nostra*. Bandits like the Russian *mafia* operate based on a loose, opportunistic, flexible and adaptive network to evolving security realities; members are recruited for their knowledge of terrain and operational capabilities. Bandits do not have a singular or permanent hierarchy, even though each bandit group tends to adhere around the personality of a bandit lord.<sup>42</sup>

Also, each bandit group is led by an independent crime entrepreneur, who is responsible for financing, recruitment, arming and direct overall operational

37 James O. Finckenauer and Elin J. Waring, *Russian Mafia in America: Immigration, Culture, and Crime*, Northeastern University Press, New York, 1998, p. 12.

38 African Union, *Comprehensive Assessment of Drug Trafficking and Organised Crime in West and Central Africa*, January 2014, p. 3, available at: [https://au.int/sites/default/files/documents/30220-doc-organized\\_crime\\_in\\_west\\_and\\_central\\_africa\\_-\\_july\\_2014\\_-\\_abridged\\_summary\\_english.pdf](https://au.int/sites/default/files/documents/30220-doc-organized_crime_in_west_and_central_africa_-_july_2014_-_abridged_summary_english.pdf).

39 Ian Tennant, “Fulfilling the Promise of Palermo? A Political History of the UN Convention Against Transnational Organized Crime”, *Journal of Illicit Economies and Development*, Vol. 2, No. 1, 2021, p. 54.

40 United Nations Convention Against Transnational Organized Crime, G.A. Res. 25, Annex I, UN GAOR, 55th Sess., Supp. No. 49, at 44, UN Doc. A/45/49, Vol. I, 2001 (entered into force 29 September 2003).

41 United Nations Office on Drugs and Crime, *Global Programme Against Transnational Organized Crime*, above note 36, p. 8.

42 Centre for Democracy and Development, “Northwest Nigeria’s Bandit Problem: Explaining the Conflict Drivers”, 5 April 2022, p. 4, available at: <https://cddwestafrica.org/northwest-nigerias-bandit-problem-explaining-the-conflict-drivers/>.

control of the group.<sup>43</sup> However, there is shared ethnic, linguistic and cultural kinship between the various bandit groups and this shared affinity is the basis on which these groups relate and engage with the wider community.

The consequence of this organizational fluidity and independence is a lack of formal structure and centralized control system, which drives internal violence as well as intergroup conflicts between and among bandit groups. This goes a long way in determining how bandits fit into the paradigms of organized criminal groups and by extension operate under the purview of IHL.

## Violent extremism v. banditry: Delineating lines

The Nigerian National Security Strategy, which outlines the major security concerns of the country, and the various strategies to meet them, differentiated between terrorism and violent extremism on one hand and armed banditry and kidnapping on the other. According to the strategy document of the Nigerian government, “kidnapping and armed banditry and militia activities have become a serious threat to Nigeria’s national security. Collectively, they constitute about forty per cent of national insecurity in Nigeria.”<sup>44</sup> The reason is seemingly straightforward, though the drivers of banditry and violent extremism in Nigeria are mostly different.

Globally, there are different manifestations of banditry, and the classification of banditry is based on its peculiar drivers.<sup>45</sup> The main driver of banditry in North-West Nigeria is mostly economic. The region that is the epicentre of banditry in Nigeria is blighted by endemic poverty. Further, illiteracy in the region is among the highest in Nigeria, with high levels of substance abuse, a near-total lack of economic opportunities and a high rate of rural unemployment. When added to failure of governance that is manifested in the poor management regime of Nigeria’s international borders, inadequate presence of policing actors, poor policing of rural communities, and past human rights abuses and unresolved communal conflicts, the current security crisis in the region becomes relatable.<sup>46</sup> The alluring prospect of wealth that banditry offers in that region, where poverty and lack of economic opportunity are a common denominator, is beyond what farming and herding – the primary occupation of the region – can provide.

There are many differing views on what terrorism is. However, the position of most experts is that there is a religious, ideological or even political imperative to

43 J. Barnett et al., above note 1, p. 50.

44 Federal Government of Nigeria, *National Security Strategy 2019*, December 2019, p. 24, available at: <https://ctc.gov.ng/wp-content/uploads/2020/03/ONSA-UPDATED.pdf>

45 Ray Kea, “‘I Am Here to Plunder on the General Road:’ Bandits and Banditry in the Pre-Nineteenth Century Gold Coast”, in Donald Crummey (ed.), *Banditry, Rebellion, and Social Protest in Africa*, James Currey, London, 1986, p. 117.

46 D. Ekpa, O. I. Oladele and M. Akinyemi, “Poverty Status of Climate Smart Agricultural Farmers in North West Nigeria – Application of Foster Greer and Thorbecke Model”, *American Journal of Rural Development*, Vol. 5, No. 5, 2017, p. 138.



terrorism.<sup>47</sup> In addition, a synthesis of the various definitions by governments shows the following key criteria as *sine qua non*: target, objective, motive, perpetrator, and legitimacy or legality of the act as the fundamental hallmark of acts of violence that are categorized as terrorism.<sup>48</sup> Irrespective of the angle of examination, there is little ideological or organized thought in the actions of the bandit groups other than violence and the opportunities that accrue to them from it.

Nothing highlights the non-ideological nature of banditry than the acceptance in the past, by the leadership of some of these groups, to abandon crime and take on legitimate businesses in exchange for monetary compensation and general amnesty for their crimes against local communities.<sup>49</sup> However, this does not exclude the fact that some extremist groups have operational bases in the same geographical spaces that bandits have colonized.<sup>50</sup> There is also the possibility that some bandit groups might have adopted more of a religious *modus operandi* on their own initiative or through contact with extremist groups,<sup>51</sup> pointing to a developing crime–terror nexus in the region.

The crime–terror nexus refers to either the environmental or operational convergence of violent non-State actors and terror groups that have divergent objectives and that would naturally utilize differing tactics to achieve their goals.<sup>52</sup> Globally, criminal groups and extremist groups have been documented to converge in the following five ways. The first is co-existence, which implies the operation of criminal and terrorist groups in the same territorial space. The second is the appropriation of activity; this is criminal organizations deploying terrorist tactics and terrorist organizations engaged in criminal activities for strategic advantages. The third refers to alliances between terrorist groups and criminal gangs, a symbiotic collaboration where criminal and terrorist organizations collaborate and contribute in their areas of expertise to achieve their respective goals. The fourth refers to the merger of criminal groups with terrorist organizations, or vice versa. The fifth is the transformation of criminal gangs into terrorist organizations and vice versa.<sup>53</sup>

47 J. B. S. Hardman, "Terrorism", in Edwin R. A. Seligman and Alvin Saunders Johnson (eds), *Encyclopaedia of the Social Sciences*, The Macmillan Company, New York, 1937, Vol. 14, p. 575; Michael Stohl, "Demystifying Terrorism: The Myths and Realities of Contemporary Political Terrorism", in M. Stohl (ed.), *The Politics of Terrorism*, Mark Dekker, New York, 1988, p. 3; Lesley Brown (ed.), *The New Shorter Oxford English Dictionary on Historical Principles*, Clarendon Press, Oxford, Vol. 2, N–Z, 1993, p. 32.

48 Bruce Hoffman, *Inside Terrorism*, Columbia University Press, New York, 1988, p. 17.

49 Daily Trust, "Sokoto Villagers Heave Sigh of Relief After Bandits Surrender Arms", 28 May 2017, available at: <https://dailytrust.com/amp/sokoto-villagers-heave-sigh-of-relief-after-bandits-surrender-arms>.

50 Ifeanyi Onwuzuruigbo, "Enclaves of Banditry: Ungoverned Forest Spaces and Cattle Rustling in Northern Nigeria", *African Studies Review*, Vol. 64, No. 1, 2021, p. 168; Agence France Presse (AFP), "Boko Haram Terrorists Now Training Bandits in Kaduna, Other North-West States – Military Sources", *Nigerian Tribune*, 24 September 2021, available at: <https://tribuneonline.ng.com/boko-haram-terrorists-now-training-bandits-in-kaduna-other-north-west-states-military-sources/>.

51 James Barnett, "Investigating the 'Boko Haram' Presence in Niger State", Hudson Institute, 30 April 2021, available at: <https://www.hudson.org/research/16878-investigating-the-boko-haram-presence-in-niger-state>.

52 Tamara Makarenko, "The Crime–Terror Continuum: Tracing the Interplay between Transnational Organised Crime and Terrorism", *Global Crime*, Vol. 6, No. 1, 2004, p. 130.

53 Chris Dishman, "Terrorism, Crime, and Transformation", *Studies in Conflict and Terrorism*, Vol. 24, No. 1, 2001, pp. 43–7.

The crime–terror nexus in Nigeria becomes more complicated with the huge number of bandit groups, their continuous organizational evolution and the number of changes in the operational strategy of these bandit groups. However, it is the preponderant opinion of scholars that criminal organizations and terror groups remain what they are at their inception, irrespective of subsequent activities or how they evolve to make money.<sup>54</sup>

The evidence is not conclusive on the exact areas and nature of collaboration between bandits and Islamist fundamentalists in the region. There is evidence, however, of collaboration and of violent confrontation between the bandit groups and Islamist fundamentalist groups in the region. Bandits dominate Nigeria’s North-West region in terms of human resources, social networks and military assets.<sup>55</sup>

## Humanitarian impacts of banditry

Undoubtedly, global attention in the last decade has been on Boko Haram and other Islamist fundamentalist groups in the North-East, yet the impacts of banditry on local populations have been more devastating, and this is so for three reasons. With a population of 35.7 million people,<sup>56</sup> the region is the most populous in Nigeria. Unlike the Islamic insurgency in the North-East that is contained primarily within Borno State, banditry affects all the six States in the region and is able to spread out with a pace unmatched by terror groups.

Banditry has had great ruinous impact on rural communities, and this is more poignant when the low rate of urbanization in the region is put in perspective and these rural communities and forest reserves are the operation theatres of bandits. In Zamfara State, one of the six States affected by banditry in the region, between 2011 and 2019, bandits killed at least 6319 people, kidnapped 3672 people and burnt more than 500 villages.<sup>57</sup> In that State alone, 700,000 rural residents are currently displaced.<sup>58</sup> In Kastina State, another State in the region, bandits killed 213 residents and kidnapped 676 persons between July and October 2021.<sup>59</sup> In Kaduna State in 2021, bandits killed at least 1192 residents and

54 Louise I. Shelley *et al.*, “Methods and Motives: Exploring Links Between Transnational Organized Crime & International Terrorism”, US Department of Justice, 23 June 2005, available at: <https://www.ojp.gov/pdffiles1/nij/grants/211207.pdf>.

55 J. Barnett, M. A. Rufa’i and A. Abdulaziz, above note 1, p. 50.

56 Ojo Maduekwe, “These Figures Explain Why the North-West is Anti Restructuring”, *The Cable*, 9 October 2017, available at: <https://www.thecable.ng/these-figures-explain-why-the-north-west-is-anti-restructuring>.

57 This Day, “Over 3,000 Killed, 500 Villages Affected in Zamfara, Says Yari”, 10 April 2019, available at: <https://www.thisdaylive.com/index.php/2019/04/10/over-3000-killed-500-villages-affected-in-zamfara-says-yari/>.

58 Mohammed I. Yaba, “700,000 People Displaced by Bandits in Zamfara – Gov’t”, *Daily Trust*, 20 March 2022, available at: <https://dailytrust.com/700000-people-displaced-by-bandits-in-zamfara-govt>.

59 Francis Sardauna, “Bandits Kill 213, Kidnap 676 Persons in Four Months in Katsina”, *This Day*, 19 November 2021, available at: <https://www.thisdaylive.com/index.php/2021/11/18/bandits-kill-213-kidnap-676-persons-in-four-months-in-katsina/>.

kidnapped another 3348.<sup>60</sup> Understanding that banditry disproportionately affects rural communities and that they are disconnected from urban governance, it is difficult to get an exact picture of fatalities from these criminal groups.

Bandits primarily target rural communities who are responsible for producing a substantial percentage of Nigeria's agricultural output. The impact on Nigeria's food security is grim, driving the highest increase in food prices in more than fifteen years and close to 20% consumer inflation in 2021.<sup>61</sup> This has worsened socio-economic outcomes for rural communities in the region where agriculture is the main source of livelihood and where most communities are rural.

Serial targeting of schoolchildren for kidnap for ransom by bandits has worsened Nigeria's abysmal out-of-school numbers. In 2021, bandits attacked more than twenty different schools in the North-West region, kidnapped 1436 students and killed another sixteen while in school,<sup>62</sup> resulting in school closures across the region. Even without banditry, only 58% of primary schoolchildren across the region finish six years of primary education and the literacy rate among young women is just 27%.<sup>63</sup> Banditry has made it even worse – around twelve million children are out of school across Nigeria.<sup>64</sup>

Women across the region bear the most significant impact of banditry due to the wanton sexual violence routinely used by bandits against rural communities.<sup>65</sup> Bandits weaponize sexual violence against communities to exact compliance. In one community in Zamfara, bandits randomly raped women as punishment for not paying the levies imposed by the group.<sup>66</sup> There is a pattern to this sexual violence by bandits. In a neighbouring State, bandits reportedly raped more than thirty women to enforce compliance by a community.<sup>67</sup>

60 Mohammed I. Yaba, "Kaduna: Bandits Killed 1,192, Kidnapped 3,348 in 2021", *Daily Trust*, 1 February 2022, available at: <https://dailytrust.com/kaduna-bandits-killed-1192-kidnapped-3348-in-2021>.

61 Tope Alake, "Nigeria's Buhari Warns Rising Banditry a Threat to Food Security", *Bloomberg*, 13 May 2021, available at: <https://www.bloomberg.com/news/articles/2021-05-13/nigeria-s-buhari-warns-rising-banditry-a-threat-to-food-security>; Premium Times, "Insecurity: Buhari Pledges Action Against Bandits", 13 May 2021, available at: <https://www.premiumtimesng.com/news/headlines/461321-insecurity-buhari-pledges-action-against-bandits.html>.

62 The Vanguard, "In Nigeria: 20 Attacks on Schools, 1,436 Students Abducted, 16 Dead", 16 September 2021, available at: <https://www.vanguardngr.com/2021/09/in-nigeria-20-attacks-on-schools-1436-students-abducted-16-dead/>.

63 UNICEF, *Education: Literacy Among Young Women*, 2021, available at: <https://www.unicef.org/nigeria/media/1631/file>.

64 Ronke Idowu, "Insurgency, Banditry Have Forced Over 12m Children Out of School, Says Presidency", *Channels Television*, 27 October 2021, available at: <https://www.channelstv.com/2021/10/27/insurgency-banditry-forcing-children-out-of-school-says-presidency/>.

65 Oluwole Ojewale and Omolara Balogun, "Banditry's Impacts on Women and Children in Nigeria Needs a Policy Response", *LSE Blog*, 10 January 2022, available at: <https://blogs.lse.ac.uk/africaatlse/2022/01/10/banditry-impacts-on-women-children-in-nigeria-needs-policy-response-kidnappings-ssi-education/>.

66 Dunamis Ogalah, "Bandits Rape Women, Loot Zamfara Community for Not Paying Levy", *Daily Post*, 15 November 2021, available at: <https://dailypost.ng/2021/11/15/bandits-rape-women-loot-zamfara-community-for-not-paying-levy/>.

67 John Adam, "Mass Gang-Rape of Women, Girls by Bandits in Niger Communities", *The Sun*, 24 November 2021, available at: <https://www.sunnewsonline.com/mass-gang-rape-of-women-girls-by-bandits-in-niger-communities/>.

North-West Nigeria is a very poor region and banditry is fast becoming the lucrative pathway out of poverty for many young men and women, not only in Nigeria but also across the region. Funds gained from kidnapping for ransom drive the trade in small arms and light weapons and lubricate transnational crime in the wider Sahel region, aggravating insecurity in a region much wrecked by conflicts.<sup>68</sup> Banditry is attracting criminals from across the region, with the continuous influx of non-Nigerians into their ranks and the internationalization of kidnapping for ransom across the Nigerian–Nigerien international border.<sup>69</sup>

## Banditry and the future of IHL in the Sahel

Armed banditry in North-West Nigeria manifestly highlights the face of conflicts in the West African Sahel and the challenges of IHL in dealing with some of the features of this typology of conflicts across the Sahel. There is no doubt that the other dominant conflict in the region – Islamist fundamentalist insurgency – falls into the purview of NIAC not only as defined by Article 3 common to the four Geneva Conventions but also in line with Article 1 of Additional Protocol II of the Geneva Conventions.<sup>70</sup>

However, as highlighted in the preceding section, banditry has superseded fundamentalist insurgency in North-West Nigeria in terms of humanitarian impact. One of the features of conflict in the West African Sahel in the last decade is that conflicts occur on the margins, fought for reasons other than acquiring State power by a range of non-State actors including warlord factions, clans, tribes and various types of militias.<sup>71</sup> The background to these conflicts is fragile and failing States, that have unremittingly abandoned all manifestations of governance in communities in the Sahel, resulting in a swath of territories where criminal groups and other non-State actors have replaced both formal and informal governance structures.<sup>72</sup>

Another notable feature of conflicts across the region is the prevalence of incoherent parties to conflicts and their interests. A number of ongoing conflicts in the region involve multiple stakeholders – formal State actors, ethnic militias, private armed groups and opportunistic criminal groups. Many of these groups are difficult to define, as their interests are concretely unknown, they have

68 J. Campbell, above note 31.

69 I. Ali, above note 33.

70 Amuda-Kannike Abiodun and Abila, Sylvanus Elijah, “A Review of The Boko Haram Insurgency and Armed Conflicts in Nigeria Under International Humanitarian Law”, *Journal of Law, Policy and Globalization*, Vol. 73, 2018; Oshoma Aduku, “Legal Classification of Conflict in Nigeria (Boko Haram Case Study)”, *SSRN*, 28 July 2021, available at: [https://papers.ssrn.com/sol3/papers.cfm?abstract\\_id=3861496](https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3861496).

71 Scott Straus, “Wars Do End! Changing Patterns of Political Violence in Sub-Saharan Africa”, *African Affairs*, Vol. 111, No. 443, 2012.

72 Dele Olowu and Paulos Chanie, “Introduction: Renewed Interest in State Weakness and Fragility”, in D. Olowu and P. Chanie (eds), *State Fragility and State Building in Africa: Cases from Eastern and Southern Africa*, United Nations University Series on Regionalism, No. 10, Springer, London, 2016.

decentralized operational structures and their political and economic agendas are fuzzy; engaging with these groups creates distinct risks of its own.<sup>73</sup>

The third feature of conflicts in the Sahel is the dearth of information and knowledge about armed conflicts, as knowledge about ongoing conflicts in the region rests on weak foundations. Understanding that armed violence by armed non-State actors (ANSAs) poses a significant threat to human security, IHL has established a threshold that bounds ANSAs in conflict; however, this has not helped the debates on the credibility and relevance of required levels of intensity and characterization of parties.<sup>74</sup> A number of conflicts across the West African Sahel occur in remote and often inaccessible locations, so there is always the constant challenge of collating comprehensive information about this violence.<sup>75</sup> There is a critical gap in the documentation of organized violence in the region and data on casualties, victims are often unreliable, and available information is either unreliable or contested.

It is beyond contest that bandits are members of various organized criminal groups and culpable under the Nigerian criminal law regime and, also, that they are responsible for some of the most egregious human rights violations in the West African Sahel. However, how does IHL, that primarily exists to promote humane standards of behaviour in situations of armed conflict, intervene in Nigeria's latest security crisis and interdict indiscriminate brutality by bandits across the North-West, particularly with the Nigerian State seeming impotent?

Knowing that there is no hierarchy of prioritization and that irrespective of the nomenclature of the conflict – international armed conflicts or NIACs, the principles of IHL apply. A NIAC is deemed to exist “whenever there is prolonged armed violence between government authorities and organized armed groups or between such groups within a State”.<sup>76</sup> Essentially, beyond the classifications provided by common Article 3 and Additional Protocol II, the cases of *Tadić* and *Haradinaj et al.* have provided jurisprudential direction on the twin thresholds of application – “the ‘organization’ of the non-State armed group and the ‘intensity’ of the violence between it and its opponent(s)”.<sup>77</sup>

Excluded from these classifications are “situations of internal disturbances and tensions, such as protests, isolated and sporadic acts of violence, and other acts of a similar nature”.<sup>78</sup> While the Additional Protocol did not specifically mention

73 Paul D. Williams, “Continuity and Change in War and Conflict in Africa”, *PRISM*, Vol. 6, No. 4, 2017, p. 34.

74 Graduate Institute of Geneva, *Human Rights Obligations of Armed Non-State Actors: An Exploration of the Practice of the UN Human Rights Council*, Geneva, Academy In-Brief No. 7, 2016, p. 4, available at: [https://www.geneva-academy.ch/joomlatools-files/docman-files/InBrief7\\_web.pdf](https://www.geneva-academy.ch/joomlatools-files/docman-files/InBrief7_web.pdf).

75 David T. Burbach and Christopher J. Fettweis, “The Coming Stability? The Decline of Warfare in Africa and Implications for International Security”, *Contemporary Security Policy*, Vol. 35, No. 3, 2014, p. 423.

76 International Criminal Tribunal for the former Yugoslavia (ICTY), *The Prosecutor v. Tadić*, Case No. IT-94-1-T, Decision on the Defence Motion for Interlocutory Appeal on Jurisdiction (Appeals Chamber), 2 October 1995, para. 70.

77 ICTY, *The Prosecutor v. Haradinaj et al.*, Case No. IT-04-84-T, Judgment (Trial Chamber I), 3 April 2008, para. 49 c.

78 Protocol Additional (II) to the Geneva Conventions of 12 August 1949, and Relating to the Protection of Victims of Non-International Armed Conflicts, 1125 UNTS 609, 8 June 1977 (entered into force 7 December 1978), Art. 1(2).

banditry in the range of activities excluded from the application of the Protocol, an International Criminal Tribunal for the former Yugoslavia (ICTY) Trial Chamber distinguished an armed conflict from banditry, unorganized and short-lived insurrections, or terrorist activities.<sup>79</sup> The Commentaries on the first and fourth Geneva Conventions state that the criteria “are useful as a means of distinguishing a genuine armed conflict from a mere act of banditry or an unorganized and short-lived insurrection”.<sup>80</sup>

Some IHL scholars have included banditry in the range of events excluded from the definitional parameters of armed conflict. According to an International Committee of the Red Cross (ICRC) Opinion Paper “in order to distinguish an armed conflict, in the meaning of common Article 3, from less serious forms of violence, such as internal disturbances and tensions, riots or *acts of banditry*, the situation must reach a certain threshold of confrontation”.<sup>81</sup> According to Eric David, “the nature of hostilities and the quality of the actors are used as defining criteria to distinguish an armed conflict from *banditry*, terrorism, and short rebellions”.<sup>82</sup> Also, Yoram Dinstein<sup>83</sup> and Anthony Cullen<sup>84</sup> distinguished between *banditry* and armed conflict in IHL.

In addition, not all situations of prolonged violence equate to a NIAC, as parties to a NIAC are expected to “have a minimum degree of organization and discipline, that allows them to respect international humanitarian law, and that is sufficient to be recognized as a party to the conflict”.<sup>85</sup> Even where there is intensity of violence, as organized criminal groups are wont to use extreme violence, this does not automatically imply that the intensity requirement defined by the IHL is met.<sup>86</sup>

While the catastrophic humanitarian impact of banditry is undeniable, however, banditry fails some of the thresholds of intensity and organization established by the ICTY and International Criminal Court, particularly the requirements – “on the type of weapons used, in particular the use of heavy weapons, and other military equipment, such as tanks and other heavy vehicles;

79 ICTY, *The Prosecutor v. Tadić*, Case No. IT-94-1-T, Judgment (Trial Chamber), 7 May 1997, 36 ILM 908 and 920.

80 Jean Pictet (ed.), *Commentary on the Geneva Conventions of 12 August 1949*, Vol. I: *Geneva Convention for the Amelioration of the Condition of the Wounded and Sick in Armed Forces in the Field: Commentary*, International Committee of the Red Cross (ICRC), Geneva, 1952.

81 ICRC, “How is the Term ‘Armed Conflict’ Defined in International Humanitarian Law?”, Opinion Paper, March 2008, available at: <https://www.icrc.org/en/doc/assets/files/other/opinion-paper-armed-conflict.pdf> (emphasis added).

82 Eric David, “Internal (Non-International) Armed Conflict”, in Andrew Clapham and Paola Gaeta (eds), *The Oxford Handbook of International Law in Armed Conflict*, Oxford University Press, Oxford, 2014 (emphasis added).

83 Yoram Dinstein, *Non-International Armed Conflicts in International Law*, 2nd ed., Cambridge University Press, Cambridge, 2021, p. 43.

84 Anthony Cullen, *The Concept of Non-International Armed Conflict in International Humanitarian Law*, Cambridge University Press, Cambridge, 2010, p. 37.

85 ICRC, “Armed Conflicts Linked to the Disintegration of State Structures”, preparatory document drafted by the International Committee of the Red Cross for the first periodical meeting on International Humanitarian Law, Geneva, 19–23 January 1998, available at: <https://www.icrc.org/en/doc/resources/documents/misc/57jplq.htm>.

86 Michael N. Schmitt, “The Status of Opposition Fighter in a Non-International Armed Conflict”, *International Law Studies*, Vol. 88, 2012, p. 123.

the blocking or besieging of towns and the heavy shelling of these towns".<sup>87</sup> Bandits are mostly criminal entrepreneurs, who operate mainly in independent clusters and rely on small and light weapons and motorcycles for mobility.

Essentially, bandits by their organizational structure and operational systems hardly meet the set criteria for the application of IHL rules applicable in NIAC and, for now, the current legal framework may seem inadequate to deal with situations of violence predicated by these criminal groups against vulnerable communities that IHL evolved to protect.

## Conclusion

In terms of its disruptive impact and intensity of violence, banditry is the gravest security threat that Nigeria currently faces, as bandits have beaten the notorious Boko Haram into the second spot. Bandits remain an assortment of non-ideologically but economically driven organized criminal groups gangs involved in large-scale cattle theft, sexual violence, extortion rackets, kidnapping for ransom, armed robbery, pillage, and targeting road users in the Nigerian North-West.

Banditry typifies the current nature and actors of armed conflict in the West African Sahel as well as the incapacity of the State. Unfortunately, the established rules of IHL exclude the humanitarian crimes of bandits within the current framework, raising questions about the ability of IHL and even International Human Rights Law to confront future conflicts in the zone. Although IHL may not implicitly apply to banditry in North-West Nigeria, the activities of bandits can constitute crimes against humanity, and they can be prosecuted nationally or by the International Criminal Court.

87 ICTY, *The Prosecutor v. Boškoski and Tarčulovski*, Case No. IT-04-82, Judgment (Trial Chamber II), 10 July 2008, para. 177, footnotes with references to ICTY case law deleted; ICTY, *The Prosecutor v. Haradinaj et al.*, Case No. IT-04-84-T, Judgment (Trial Chamber I), 3 April 2008, paras 49 and 90–9; ICTY, *The Prosecutor v. Limaj et al.*, Case No. IT-03-66, Judgment (Trial Chamber II), 30 November 2005, paras 90 and 135–70; see International Criminal Court, *The Prosecutor v. Lubanga*, Case No. ICC-01/04-01/06, Judgment (Trial Chamber I), 14 March 2012, para. 538; International Criminal Court, *The Prosecutor v. Katanga*, Case No. ICC-01/04-01/07, Judgment (Trial Chamber II), 7 March 2014, para. 1187; and International Criminal Court, *The Prosecutor v. Bemba*, Judgment (Trial Chamber III), 21 March 2016, paras 137–41.