

INTERNATIONAL HUMAN RIGHTS LAW AND THE VICTIMIZATION OF WOMEN BY THE BOKO HARAM SECT*

Abstract:

In the course of the Boko Haram insurgency, the female gender has become the worst hit in terms of inhuman and degrading treatment. Women and girls have experienced the most horrific form of debasement. The group has not disguised its disdain for the female gender, neither has it been ashamed about its intentions at using them as weapons of war. With its murderous rage against females, the insurgency has in some aspect been conducted as a war against women and girls. This is clearly a violation of women's rights under International Human Rights Law (IHRL). This article examines Boko Haram's war of attrition against women and girls in the course of the insurgency, and how several of the group's activities violates the principal women's rights instrument i.e. the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW). It argues that the challenge of protecting women's rights in the conflict is rooted in the patriarchal hegemony of the region, which in some material respect is in direct conflict with the position under IHRL, making practical implementation difficult. It submits that in thinking and formulating strategies at improving women's right protection under IHRL, a proper understanding of these unwholesome practices is of high utility value in determining the approach to adopt. It advocates a paradigm shift towards more women

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involvement in the region, that would help drive more respect for women's rights.

1. Introduction

Gender relations has been a major issue in the continuously changing trajectory of the Boko Haram insurgency.¹ In the course of its ten year insurgency at undermining the sovereignty of the Nigerian State, Boko Haram has specifically targeted women and girls, with these grave abuses earning it infamy across the globe.² In the different spheres of the group's murderous activities, women have featured prominently either as the prime target of abductions, attacks, and other manner of violence, or as pawns to be used in key negotiations to further secure its interest and agenda. Yet, even as the group's siege on women continues, women's rights are continually celebrated at major fora, as a major aspect of international law.

Consequent upon the foregoing, this article examines the acts of the group against women, and how this contextualises as a violation of women's rights under international law. To achieve this, the article would be divided into six parts – While part one represents the introduction, part two will examine the group's war against females in the north-east. Part three looks at the development of women's rights under international law while part four interrogates the violation of these rights. Part five provides a way forward on the discourse while part six concludes the article.

2 Boko Haram's Violence Against Women and Girls in Northern Nigeria

Boko haram, with its more than ten years' insurgency against the Nigerian state, remains the biggest modern threat to the country's security. As a member of the global enterprise of terror, the group has been a major impediment to the actualisation of women's rights in the north-east region of the country where its activities have been most felt. It cannot be gainsaid, that the governance gap and huge economic disparity in this part of the country contributed to the growth and development of the group.³ Aside this fact, Boko haram's act of targeting women is reflective of its ambition to impose strict sharia in the north of the country.⁴ While this is the religious code that governs a large part of northern Nigeria, the southern part is dominated by the Christian faith.⁵ Severally, the group has issued out commands, directing war against those who oppose its mission.⁶ However, the most direct influence on the sect's attitude of gender victimisation is the sharia from where it has pushed most of its claims. Even with this demarcation, the country has continued to wrestle against the challenge of

¹ C. Pereira, 'Beyond the Spectacular: Contextualising Gender Relations in the Wake of the Boko Haram Insurgency', (2018), 17 (2), *Meridians*, 246 – 268.

² M. Bloom and H. Matfess, 'Women as Symbols and Swords in Boko Haram's Terror', (2016), 6 (1), *PRISM – A Journal of the Centre for Complex Operations*, 104 – 121.

³ H O Yusuf, 'Harvest of Violence: The Neglect of Basic Rights and the Boko Harm Insurgency in Nigeria', (2013), 6 (3), *Critical Studies on Terrorism*, 371 – 391.

⁴ J Zenn and E Pearson, 'Women, Gender, and the Evolving Tactics of Boko Haram', *Journal of Terrorism Research*, Vol. 5, No 1, 2014, pp.46 – 57.

⁵ A A Oba, 'The Sharia Court of Appeal in Northern Nigeria: The Continuing Crisis of Jurisdiction', 52, *American Journal of Comparative Law*, 2004, p 859.

⁶ J Zenn and E Pearson, n. 4. (2004),

managing ethnic diversity on one hand,⁷ and the affront on the plural constitutional state by the sharia on the other hand.⁸ The growth of Boko Haram at the same time sharia was introduced in respect of criminal matters in the twelve states of northern Nigeria doesn't appear to be accidental. For one, the introduction of sharia at the time, came as a major affront on the country's criminal justice system. However, the point relevant to this article is that the introduction of sharia in the region, which was seen by the poor people as an antidote to the corruption amongst the elites,⁹ later turned out to be dubious in its implementation, as the occurrence of social inequality and poor governance persisted.¹⁰ This helps put in perspective the group's attitude towards women and girls.¹¹

It is an open fact that sharia and women's rights are two streams that have remained in serious confrontation.¹² This is because the sharia regulates the religious as well as the secular life of a major part of Northern Nigeria.¹³ In this wise, it imposes extensive limitations on women and girls denying them several of their human rights and fundamental entitlements, as provided for under domestic law as well as international law. This can be gleaned from certain practices in Nigeria, such as cutting of limbs for theft and stoning for adultery usually sanctioned as forms of criminal punishment, which violates the right to freedom from torture, degrading, and inhuman treatment;¹⁴ segregation of male and female which violates the right to freedom from discrimination;¹⁵ and the inadmissibility of the testimony of an outsider in convicting a person under the sharia, which is a violation of the right to fair hearing.¹⁶ These violations are all gender-centric, as the victims most times are women and girls in different parts of the north. The 2002 case of Amina Lawal, the 31-year-old lady who on being convicted for adultery, was sentenced to death by stoning in Katsina state, clearly brings this to the fore.¹⁷ To show the grave violation of her rights that the sentence depicts, the sentence was to be carried out with the lady buried in the ground to the

⁷ J A A Ayoade, 'Ethnic Management in the 1979 Nigerian Constitution', *Publius: The Journal of Federalism*, Vol. 16 (2), 1986, pp.73 – 90.

⁸ S O Ilesanmi, 'Constitutional Treatment of Religion and the Politics of Human Rights in Nigeria' *African Affairs*, 16 (2), 2001, pp.529 – 544.

⁹ F Ludwig, 'Christian-Muslim Relations in Northern Nigeria since the Introduction of Sharia in 1999', *Journal of the American Academy of Religion*, 76 (3), 2008, pp. 602 – 637.

¹⁰ B Kendhammer, 'The Sharia Controversy in Northern Nigeria and the Politics of Islamic Law in New and Uncertain Democracies', *Comparative Politics*, 45 (3), 2013, pp.291 – 311.

¹¹ *Ibid.*

¹² Q Wodon, 'Islamic Law, Women's Rights, and State Law: The Cases of Female Genital Cutting and Child Marriage', *The Review of Faith and International Affairs*, 13 (3), 2015, pp.81 – 91.

¹³ B A Venkatraman, 'Islamic States and the United Nation's Convention on the Elimination of All Forms of Discrimination Against Women: Are the Sharia and the Convention Compatible?', (1995), 44, *American University Law Review*, 1964.

¹⁴ Constitution of the Federal Republic of Nigeria, 1999. section 34, (1) (a); International Covenant on Civil and Political Rights (ICCPR), Article 7.

¹⁵ Constitution of the Federal Republic of Nigeria, 1999, section 42 (1) (2), & (3). Also J.O. Odion, 'The Advent of Sharia Law in the Nigerian Legal System: Constitutional Issues Arising', *Nigerian Law and Practice Journal*, Vol. 4,2000, p. 10.

¹⁶ Constitution of the Federal Republic of Nigeria, 1999. section 36, (1 – 12),

¹⁷ J I Elaigwu and H Galadima, 'The Shadow of Sharia over Nigerian Federalism', *Publius: The Journal of Federalism*, Vol. 33(3), 2003, pp. 123 – 144.

neck, with the stoning to then follow.¹⁸ Since the sharia already prescribes varied restrictions for women and girls, it was not difficult for Boko Haram to latch on to it, to violently push its fundamentalist ideology, an ideology in which the female gender will have no role to play.

There are however scholars who have argued that to see the group's abduction of girls as specifically targeting women and girls is to misunderstand the true situation. Accordingly, Matfess argues that not all the women found with Boko Haram were abducted by the group.¹⁹ The claim is that several other women joined voluntarily especially because of the material benefit they stood to get.²⁰ In essence, the picture painted of these women, is that of both victims and villains.²¹ Others have said that females also get recruited through peer influence,²² and as a means of changing their societal status given that they enter the ranks of leadership and policy making in these groups.²³

There is a necessary corollary between the influence of the sharia and the cultural pattern of the northern region; a cultural pattern in which the girl-child and in extension, women did not enjoy full legal status, connoting some form of asymmetric gendering.²⁴ In most African societies, this status is already attached to the female child from birth, such that where a woman gives birth to a girl she is accorded little regard.²⁵ This necessarily limits the chances of such a child to fundamental entitlements of life such as good and quality education as well as cultural entitlements like right to inheritance and succession.²⁶ According to Durojaiye, patriarchy is a strong and deeply rooted theme in Nigeria.²⁷ The practice is however far pronounced in the north where given its formidability, women hardly stand up to it, hence they face the consequences.²⁸

At the centre of the group's insurgency, is its broad pattern of tactical violence against women and girls in the north-east. According to Bloom and Matfess, "*women and girls have become swords mobilised and weaponised to carry out attacks, while also been used as*

¹⁸ S Crutcher, 'Stoning Single Nigerian Mothers for Adultery: Applying Feminist Theory to an Analysis of Gender Discrimination in International Law', *Hastings Women Law Journal*, Vol. 15, 2004, p. 239.

¹⁹ H Matfess, *Women and the War on Boko Haram: Wives, Weapons, and Witnesses*, (Zed Book Ltd: London, 2017), pp.1 -263.

²⁰ *Ibid.*

²¹ *Ibid.*

²² K Jacques and P J Taylor, 'Male and Female Suicide Bombers: Different Sexes, Different Reasons', *Studies in Conflict and Terrorism*, Vol.31 (4), 2008, pp.304 – 326.

²³ M Gonzalez-Perez, *Women and Terrorism*, (Milton Park-Abingdon : Routledge Publishers) 2008, pp. 1 – 156.

²⁴ C Coles, 'Hausa Women's Work in a Declining Urban Economy: Kaduna, Nigeria, 1980 – 85', in C. Coles, and B Mack., (eds.), *Hausa Women in the Twentieth Century*, (United States of Africa: University of Wisconsin Press, 1991), pp.162 - 191.

²⁵ B O Omoleye and E B Oluwakemi, 'The Status of Women under International Legal Instruments and African Customary Law: Two Normative Systems in Perpetual Conflict?', *American International Journal of Contemporary Research*, Vol. 8(1), 2018, p. 51.

²⁶ *Ibid.*

²⁷ E Durojaiye, 'Woman but not Human: Widowhood Practices and Human Rights Violations in Nigeria', *International Journal of Law, Policy, and Family*, Vol 27, 2013, pp. 176 – 196.

²⁸ A Josh, 'Boko Haram, Ten Years on: How Thousands of Girls Bear Brunt of Insurgency', *Premium Times Newspaper*, (Lagos: July 28, 2019), available online at <https://www.premiumtimesng.com/news/headlines/343455-boko-haram-ten-years-on-how-hundreds-of-girls-bear-brunt-of-insurgency.html>, accessed 30/07/2019.

powerful symbols of Boko haram's ideology".²⁹ With its extreme ideology of total domestication of females, it has wantonly and systematically targeted women and girls, with many either abducted or killed.³⁰ As compared to their male counterparts, the anguish, cruelty, and suffering that the group directs at females is of a different kind.³¹ Key aspects include the degrading and inhuman treatments meted out to women such as rape and sexual molestations of different gradients, e.g. repeated sexual intercourse and other forms of depravity.³² The abducted girls are also forced into marriages, as well as made to partake in the killing of captured persons.³³ Aside the above, some are also indoctrinated into becoming fighters.³⁴ The effect is that these women and girls suffer both physical and emotional trauma, as well as other gender-related issues, in which their humanity is virtually taken from them, and which sometimes results in death.³⁵

In her leading book, *Women and the War on Boko Haram: Wives, Weapons, Witnesses*, Matfess cuts through a myriad of earlier assumptions, to catalogue the group's regime of systematic exploitation of females in advancing its agenda.³⁶ Hundreds of women have been targeted by the group since the insurgency began. According to reports, since 2012 more than 2,000 women and girls have been abducted,³⁷ with the most horrifying cases been the attacks on the Girls Secondary School Chibok in which about 276 girls were abducted in April 2014 and the replica attack on the Girls Secondary School in Dap chi leading to the abduction of over a hundred girls in February 2018 respectively.³⁸ In these two key abductions, not only were hundreds of girls abducted, it took time before their families could get accurate information of what transpired thereby increasing their agony.³⁹

A key aspect of the groups' operational strategy is the turning of captured women and girls into suicide bombers,⁴⁰ a developing phase in violence attained by self-sacrifice.⁴¹ From

²⁹ M Bloom and H Matfess, n. 2, at 106.

³⁰ J Mbagwu and A Alaiyemola, 'Gender Issues and the Boko Haram Insurgency in Nigeria', *African Journal of Gender and Development*, Vol. 2(2), 2015, p.91

³¹ *Ibid.*

³² *Ibid* at 92.

³³ L Amusan and U P Ejoke, 'The Psychological Trauma Inflicted by Boko Haram Insurgency in the North Eastern Nigeria', *Aggression & Violent Behaviour*, Vol. 36, 2017, pp. 52 – 59 at 54.

³⁴ J Mbagwu and A Alaiyemola, n. 30, at 92.

³⁵ *Ibid* at 93.

³⁶ H Matfess, n. 19.

³⁷ L Ford, 'Women Freed from Boko Haram Rejected for bringing 'Bad Blood' back Home', *The UK Guardian Newspaper*, (London: February 16, 2016), available online at <https://www.theguardian.com/global-development/2016/feb/16/women-freed-boko-haram-rejected-for-bringing-bad-blood-back-home-nigeria>, accessed 30/07/2019.

³⁸ S Olukoya, 'Women and Girls 'Preyed on as the Spoils of War', (2019), *Inter Press Service News Agency*, available online at <http://www.ipsnews.net/2019/04/women-girls-preyed-spoils-war>, accessed 30/07/2019.

³⁹ H Matfess, 'Boko Haram has Kidnapped More Girls, Here is What We Know', *The Washington Post Newspaper*, (Washington: March 8, 2018), available online at https://www.washingtonpost.com/news/monkey-cage/wp/2018/03/08/boko-haram-has-kidnapped-more-girls-heres-what-we-know/?noredirect=on&utm_term=.f0a257e52060, accessed 30/07/2019.

⁴⁰ D Searcey ; 'Boko Haram Turns Female Captives into Terrorists', *The New York Times*, (New York: April 17, 2016), available online at <https://www.nytimes.com/2016/04/08/world/africa/boko-haram-suicide-bombers.html>, accessed 30/07/2019.

⁴¹ R Skaine ; *Female Suicide Bombers*, (North Carolina: MacFarland Publishing,2006)pp. 1 – 225.

its first use on April 8, 2011, the group has deployed this tactic in coordinated attacks.⁴² For instance, it is reported that since January 2018, eighty-three children, made up of fifty-five girls and twenty-seven boys, were used as suicide bombers.⁴³ In June 2019, two girls and a boy carried out a suicide attack in a video hall in Konduga village, Borno State.⁴⁴ It is reported that about 434 suicide bombings, both attempted and those that scaled through, have been carried out by the group, in which it claimed about 1,934 lives.⁴⁵

These attacks given its potentials for sensationalism attract the much-expected media frenzy,⁴⁶ but more importantly the preference for girls by the insurgents lies in the overall effectiveness it brings.⁴⁷ Available research shows that the use of female suicide bombers by earlier groups like the Al Qaeda network resulted in more lethality than the use of male suicide bombers by groups like Boko Haram.⁴⁸ This marked a significant ideological as well as operation paradigm for such groups in their search for greater lethality,⁴⁹ an act rooted in the feminization of terror.⁵⁰ This is a system in which girls and women given their tendency to either be motivated by trauma cum revenge,⁵¹ or sympathy towards the cause of the insurgents, and the societal attitude towards them as less prone to violence, are able to easily pass security checks unlike their male counterparts.⁵²

It is evident that the group has exploited this system to its advantage. Added to this, is the fact that girls of the northern region wear a veil over their head, an attire that fits into the perfect disguise mechanism of the insurgents.⁵³ The insurgents under a well-oiled camouflage are able to slip these girls into crowded places like markets and rallies to unleash terror and obtain a high casualty rate. In addition, the insurgents are able to indoctrinate these women into the ideals of the insurgency, such that the same women raise children on the

⁴² J Warner and H Matfess, 'Exploding Stereotypes: The Unexpected Operational and Demographic Characteristics of Boko Haram's Suicide Bombers', *Combatting Terrorism Centre at Westpoint*, 2017 pp.1 – 44 at 9.

⁴³ HRW, 'World Report 2018', (2018), *Human Rights Watch*, pp.1 – 7 at 2.

⁴⁴ BBC, 'Nigeria: Children used as Suicide Bombers in Borno Attack', *BBC News* (London: June 18, 2019), available online at <https://www.bbc.com/news/world-africa-48674014>, (accessed 30/07/2019).

⁴⁵ J Warner and H. Matfess, n. 42.

⁴⁶ H La and S Pickett, 'Framing Boko Haram's Female Suicide Bombers in Mass Media: An Analysis of News Articles Post Chibok Abduction', *Critical Studies on Terrorism*, Vol.12 (3),2019, pp. 512 – 532.

⁴⁷ L A O'Rourke, 'What's Special About Female Suicide Terrorism?'; *Security Studies*, Vol. 18(4), 2009, pp.681 – 718.

⁴⁸ N Fullmer, S L Mizrahi, and E Tomsich; 'The Lethality of Female Suicide Bombers', *Women and Criminal Justice*, (2019), available online at <https://www.tandfonline.com/doi/abs/10.1080/08974454.2018.1548409>, accessed (05/08/2019).

⁴⁹ J Davis, 'Evolution of the Global Jihad: Female Suicide Bombers in Iraq', *Studies in Conflict and Terrorism*, Vol. 36(4), 2013, pp. 279 – 291.

⁵⁰ M Bodziany and M Netczuk-Gwozdziejewicz, 'Feminization of Terror: Psychoanalysis of the Role of Women in Terrorist Structures', *Studies in Conflict and Terrorism*, (2019), available online at <https://www.tandfonline.com/doi/full/10.1080/1057610X.2018.1531542?scroll=top&needAccess=true>, (accessed 05/08/2019).

⁵¹ A Speckhard, 'Female Suicide Bombers in Iraq', *Democracy and Security*, Vol. 5(1), 2009, pp. 19 – 50.

⁵² A Speckhard, 'The Emergence of Female Suicide Terrorists', *Studies in Conflict and Terrorism*, Vol.31(!), 2005, pp. 995 – 1023.

⁵³ S Olukoya, n. 38

home front in the ideology behind the insurgency, while also providing the needed support in facilitating operations.⁵⁴

3 The Development of Women's Rights Under International Human Rights Law

International Human Rights Law (IHRL) offers appreciable guarantees to women through a number of binding treaties. These are treaties that Nigeria being a member of the United Nations (UN) community must have become obligated under.⁵⁵ These instruments which are central to the safeguard and development of the rights of women globally include the Universal Declaration of Human Rights (UDHR), the International Convention on Civil and Political Rights (ICCPR), the International Covenant on Economic, Social and Cultural Rights (ICESCR), and the Convention Against Torture and Other Cruel, Inhuman and Degrading Treatment or Punishment (CAT).

For years, human rights discourse within the precinct of United Nations (UN) remained gender-insensitive, focusing on general human rights. This unkind position held sway all through the different generations of human rights from the UDHR to the ICCPR and ICESCR.⁵⁶ The era following the UDHR was one of rapid development of human rights at the level of the UN. It was also a period in which women's rights movements gain uncommon speed, a dispensation spanning from the mid-70s to the mid-80s.⁵⁷ The establishment of the UN Commission on the Status of Women two years after the UN Charter, provided the needed momentum, following which a number of women related treaties were drafted.⁵⁸ The watershed moment came in 1967 when UN member states adopted the Declaration of the Elimination of all Forms of Discrimination Against Women, which called on members to eradicate all laws and policies promoting discrimination against women.⁵⁹ This effort culminated in the adoption of the principal women's rights treaty i.e. the Convention on the Elimination of all Forms of Discrimination Against Women (CEDAW) (hereinafter 'the Convention'). This convention was adopted, opened for signature and ratification on December 18, 1979 and entered into force on September 3, 1981.⁶⁰

The Convention significantly changed the landscape of international human rights. Its adoption reinforced the fact that earlier human rights instruments did not adequately

⁵⁴ K Von Knop, 'The Female Jihad: Al Qaeda Women', *Critical Studies in Terrorism*, Vol.30(5), 2007, pp. 397 – 414.

⁵⁵ Nigeria signed the CEDAW on 23 April 1984 and ratified the document on 13 June 1985.

⁵⁶ P Alston, 'A Third Generation of Solidarity Rights: Progressive Development or Obfuscation of International Human Rights Law?', *Netherlands International Law Review*, p. Vol. 29, 1982, 321.

⁵⁷ For an extensive read on the development of women's right in this era see generally M.A. Chen, 'Engendering World Conferences: The International Women's Movement and the United Nations', (1995), *Third World Quarterly*, 16(3), 1995, pp.477 – 494; J.P. Zinsser, 'From Mexico to Copenhagen to Nairobi: The United Nations Decade for Women 1975–1985', *Journal of World History*, 13(1), 2002, pp.139 - 168.

⁵⁸ R Holt, 'Women's Rights and International Law: The Struggle for Recognition and Enforcement', *Columbia Journal of Gender and Law*, 1(1)1991, available online at <https://cjl.cdrs.columbia.edu/article/womens-rights-and-international-law-the-struggle-for-recognition-and-enforcement>, accessed 31/07/2019.

⁵⁹ UN, 'Women's Rights are Human Rights', *United Nations Human Rights – Office of the High Commissioner*, 2014, pp.1 – 117 at 5.

⁶⁰ UN General Assembly Resolution 34/180 of December 18, 1979.

safeguard the rights of women.⁶¹ Following its adoption and entry into force, it emerged as the principal document of customary international law and treaty law dealing with the human rights of women. It is regarded as the ‘International Bill of Rights’ for women, given that its emergence provided a comprehensive document encompassing special rights belonging to the female gender. It brought women’s rights to the front burner in a manner never seen before.⁶² It is also the most assertive international legal instrument demanding the observance of women’s right,⁶³ and obtaining international legitimacy for this class of rights. The aspirations in the convention, was further reinforced by two landmark events that played a great role in pushing women rights into mainstream human rights discourse. These are the UN World Conference on Human Rights held in Vienna, Austria 1993 and the Women World Conference in Beijing, China 1995. In the Vienna Declaration and Program of Action, governments agreed that:

The human rights of women and the girl-child are an inalienable, integral, and indivisible part of human rights. The full and equal participation of women in political, civil, economic, social, and cultural life at the national regional, and international levels, and the eradication of all forms of discrimination on grounds of sex are priority objectives of the international community.⁶⁴

Women’s rights are expected to be enjoyed at the national, regional, and international levels. The eradication of all forms of discrimination on grounds of sex, are priority objectives of the international community. This is because gender-based violence and all forms of sexual harassment and exploitation, including those resulting from cultural prejudice and international trafficking, are incompatible with the dignity and worth of the human person, and must be eliminated.⁶⁵ There is no gainsaying the fact that the Convention has made tremendous progress in advancing the rights of women.⁶⁶ While the Convention has continued to hold its own in the committee of human rights treaties, the reality when it comes to substantial compliance by parties in armed conflicts has remained at best abysmal. It would appear that all of the efforts made since the convention, in safeguarding women’s rights is what Boko haram has with one hand flung into the dunghill. However, in order for the recommendations to be made in this article to have any meaning, it is important to

⁶¹ C O’Rourke and A Swaine, ‘CEDAW and the Security Council: Enhancing Women’s Rights in Conflicts’, *International & Comparative Law Quarterly*, 67(1), 2018, pp. 167 – 199 at 175.

⁶² R J Cook, ‘State Responsibility for Violations of Women’s Human Rights’, *Harvard Human Rights Journal*, Vol. 7, 1994, p. 158.

⁶³ R J Cook, ‘Reservations to the Convention on the Elimination of all Forms of Discrimination against Women’, *Virginia Journal of International Law*, Vol. 30, 1990. p.643.

⁶⁴ C Bunch, ‘Women’s Rights as Human Rights: Towards a Re-Vision of Human Rights’, *Human Rights Quarterly*, 12(4), pp. 486 – 500.

⁶⁵ UNGA, ‘Vienna Declaration and Programme of Action’, *World Conference on Human Rights, A/CONF. (Vienna: 14 – 25 June, 1993)*, 157/23.

⁶⁶ N A Englehart and M K Miller, ‘The CEDAW Effect: International Law’s Impact on Women’s Rights’, *Journal of Human Rights*, 13(1)2014, pp. 22 – 47.

highlight areas of the convention that the group has and continues to assault, so as to properly contextualise the problem. This would be the focus of the next section.

4 Boko Haram's Activities as Violations of The Convention on The Elimination of All Forms of Discrimination Against Women (CEDAW)

The core agenda of the Convention is the elimination of all forms of discrimination against women. In pursuing this agenda, it recognises that discrimination against women violates the values of human dignity, thereby eroding the equal participation of women in all matters of societal life, while also arresting the full actualisation of their potentials.⁶⁷ It also notes that the full development of countries and the goal of global peace is better assured when women have access to a level playing field.⁶⁸ The question to then ask is what is meant by, “*discrimination against women?*”. Article 1 of the Convention addresses this question, by defining it as:

Any distinction, exclusion or restriction made on the basis of sex which has the effect or purpose of impairing or nullifying the recognition, enjoyment or exercise by women, irrespective of their marital status, on a basis of equality of men and women, of human rights and fundamental freedoms in the political, economic, social, cultural, civil or any other field.⁶⁹

Essentially, the Convention tries to resolve the disparities that has endured as regards the enjoyment of human rights by both men and women. Both men and women and members of the human community ought to have direct access to the enjoyment of basic human rights and fundamental freedoms. However, that has not been the case, given the penchant for different societies to interpret human rights provisions to suit their peculiar socio-cultural idiosyncrasies. Within its 30 articles, the Convention simply reaffirms these rights, as rights that women must not be denied of, while at the same time providing for a host of measures towards their realisation. The point has however been made that the necessary gains in this area can only be fully realised if in applying these criteria, cognisance is taken of the peculiar needs and characteristics of women.⁷⁰

Within the context of Boko haram's brutal assault on women and girls, some provisions of the Convention come into focus, necessitating a proper analysis of how failure by the Nigerian State to attend to its commitment in this area has provided an environment for the group to perpetrate much atrocities. Specifically, articles 5, 10, 16, and 24 of the Convention which deals with issues peculiar to the women and girls of the north-east region will be in view. To start with, the Convention encourages State parties to eradicate cultural practices that impede the realisation of women's rights. Article 5 (a) provides that:

⁶⁷ Preamble to CEDAW.

⁶⁸ Preamble to CEDAW.

⁶⁹ CEDAW 1979.

⁷⁰ K Knop, 'Re-Statements: Feminism and State Sovereignty in International Law', *Transnational Law and Contemporary Problems*, Vol. 3, 1993, p.304.

States Parties shall take all appropriate measures to modify the social and cultural patterns of conduct of men and women, with a view to achieving the elimination of prejudices and customary and all other practices which are based on the idea of the inferiority or the superiority of either of the sexes or on stereotyped roles for men and women.⁷¹

However, notwithstanding the existence of these well-worded article and the relative success the convention has recorded in other climes, the same cannot be said as regards the fate of the women and girls caught in north-east Nigeria where Boko haram operates. Not only has the above provision not translated into meaningful life for the women, the document itself has enjoyed little or no respect from the insurgents. As established earlier, this is rooted in the practice of sharia in the region, which has engineered a less than important socio-cultural perception of women. As an insurgent group that evolved out of Salafist fundamentalism, Boko haram's disdain for women and girls is nothing but an offshoot of this quiet menace, that had for decades been tolerated in different parts of the region.

While Article 5 imposes a duty on Nigeria as a state party to the convention to take "*appropriate measures to modify the socio-cultural patterns of conduct of men and women*". The case of women and girls in this regard has received meagre attention, with the state largely unwilling to move with the urgency required. Some of these practices includes matters such as child and forced marriage, segregation, sexual and gender-based violence, and so on. These practices are all antithetical to the realisation of Article 5 and the failure of successive governments to take steps towards their eradication has allowed room for a group like Boko haram to exploit the gap to its gain.

Another important provision is Article 10 which provides that "*state parties shall take all appropriate measures to eliminate discrimination against women in order to ensure them equal rights with men in the field of education*".⁷² It is a known fact, that in its campaign of terror, Boko haram has methodically targeted schools, with schools providing education for girls having witnessed some of the largest attacks. The Chibok and Dapchi girls' abductions are two key pointers in this regard. It is evident that the group did not go after this schools accidentally, rather the attacks are part of a pattern of ensuring that the girls of the region are cut off from education. Prior to Boko haram, the northern region had become notorious for its very poor girl-child education record. Successive governments have failed to give any meaningful effect to Article 10 of the Convention, and so, Boko haram's evil abductions in Chibok and Dapchi were simply an extension of an environment that had ensured. Thus, not only had the right to education of women and girls in the region been a subject of relentless violation over the years, Boko haram simply found a template to carry out its own violations, this time in a more vicious and deadly manner.

Also necessary for consideration is Article 16 (1). It states that;

⁷¹ CEDAW 1979.

⁷² CEDAW 1979.

States Parties shall take all appropriate measures to eliminate discrimination against women in all matters relating to marriage and family relations and in particular shall ensure, on a basis of equality of men and women: (a) The same right to enter into marriage; (b) The same right freely to choose a spouse and to enter into marriage only with their free and full consent; (c) The same rights and responsibilities during marriage and at its dissolution; (d) The same rights and responsibilities as parents, irrespective of their marital status, in matters relating to their children; in all cases the interests of the children shall be paramount; (e) The same rights to decide freely and responsibly on the number and spacing of their children and to have access to the information, education and means to enable them to exercise these rights; (f) The same rights and responsibilities with regard to guardianship, wardship, trusteeship and adoption of children, or similar institutions where these concepts exist in national legislation; in all cases the interests of the children shall be paramount; (g) The same personal rights as husband and wife, including the right to choose a family name, a profession and an occupation; (h) The same rights for both spouses in respect of the ownership, acquisition, management, administration, enjoyment and disposition of property, whether free of charge or for a valuable consideration.⁷³

In support of this provision, Article 16 of the UDHR provides that marriage shall be entered into only with the free and full consent of the proposed spouses, while also stipulating that such men and women must be of full age.⁷⁴ Instructively, in interpreting the notion of full age for both male and female, the convention prescribes the age of eighteen,⁷⁵ and in addition states that any betrothal or marriage involving a child would be void of legal standing.⁷⁶ This same position finds support under the Childs Rights Act 2003. Section 21 forbids child marriage by providing that, “*No person under the age of eighteen years is capable of contracting a valid marriage, and accordingly, a marriage so contracted is null and voids and of no effect whatsoever*”,⁷⁷ Section 22 prohibits child betrothal and Section 23 makes both acts punishable by a fine of N500, 000 or imprisonment of 5 years or both.⁷⁸ Despite the above provisions, this is one area that Boko haram’s vicious violation has been stark. A major

⁷³ CEDAW 1979.

⁷⁴ UDHR, 1948. See R. Jensen and R. Thornton, ‘Early Female Marriage in the Developing World’, (2003), 11 (2), *Gender and Development*, 9 – 19.

⁷⁵ *Ibid.*

⁷⁶ N Otoo-Oyortey and S Pobi, ‘Early Marriage and Poverty: Exploring Links and Key Policy Issues’, *Gender and Development*, 11(2), 2003, pp.42 – 51.

⁷⁷ CRA No. 26, 2003.

⁷⁸ *Ibid.*

aspect of the group's activities has been the criminal abduction of women and girls, to the end that they are forced into marriages with the its retinue of lieutenants and commanders, against their will. Not only has hundreds of girls been abducted in the course of the insurgency, several of them have been married off, while those not married have become victims of all manner of sexual violence.

However, Boko haram's brazenness cannot be disconnected from centuries-old practice of child marriage in the region. With northern Nigeria's polygamous system, women are naturally rendered poor in terms of both material and intellectual power. With such structured insecurity, the women live in wanton economic deprivation and hardship, making them destitute even within the matrimonial walls. With such a culturally designed frame, it is not surprising that they correspondingly become vulnerable to all manner of assault and harassment from the men, and sometimes his kits and kin, given that they have no other choice but to accept him as a vehicle for their wellbeing and survival. Such girls may even end up outside of such marriages with children that would be deemed as product of confused circumstances and therefore become victims of total neglect.⁷⁹

The debilitating effect of patriarchy in the region is beyond imagination. For instance, it appears a normal thing in both the north-west and the north-east regions, to see many teenage girls married off for pecuniary rewards.⁸⁰ Many of these girls as soon as they are suspected to be inching close to puberty are ferried off to be married, irrespective of their psychological and emotional development. Parents are active conspirators in this cultural attack, in which they deliberately prepare them as early age five to be ready for marriage.⁸¹ Available reports show that about 80 percent of these girls become child brides under this strict patriarchal framework.⁸² This practice which is endemic among the Kanuri, Fulani, and other tribes in the region, contributes in no innumerable measure to the mentality of entitlement to the woman as a commodity at all times.⁸³ These young women who may have had great dreams of a beautiful future, become trapped in the sad realities of a culture that largely deprives them of educational advancement and a good and quality life, with the multiplier effect on the society being a generational transfer of poverty.⁸⁴

While articles 5, 10, and 16 refer to critical issues relating to women's rights such as that of cultural practices, education, and marriage which State parties are enjoined to protect, the Convention provides for some form of accountability framework. Under Article 17, it provides for a Committee on the Elimination of Discrimination Against Women which is expected to consider progress made in terms of the Convention. In line with Article 18, State parties are equally enjoined to:

⁷⁹ N N Chinwuba, 'Human Identity: Child Rights and the Legal Framework for Marriage in Nigeria', (2015), *Marriage and Family Review*, 51(4), 2015, pp.305 – 336.

⁸⁰ A Josh, n.28.

⁸¹ *Ibid.*

⁸² *Ibid.*

⁸³ A A Allen and P O Adekola, 'Health Implications of Child Marriage in North-East Nigeria', *Analele Universității din Oradea, Seria Geografie*, Vol. 1, 2017, pp.54 – 61.

⁸⁴ J Parsons, et.al, 'Economic Impacts of Child Marriage: A Review of the Literature', *The Review of Faith and International Affairs*,13(3), 2015, pp. 12 – 22.

submit to the Secretary-General of the United Nations for consideration by the Committee, a report on the legislative, judicial, and administrative or other measures which they have adopted to give effect to the provisions of the present convention and of the progress made in this respect.⁸⁵

Further to this, the Convention imposes additional responsibility on parties to take steps towards domesticating its provisions. The expectation is that state parties will go further to constitutionalise these rights as well as enact local legislations and establish institutions for their further safeguard. Accordingly, Article 24 states that “*state parties undertake to adopt all necessary measure at the national level aimed at achieving the full realisation of the rights recognised in the present convention*”.⁸⁶ Additionally, Article 2 provides that:

States Parties condemn discrimination against women in all its forms, agree to pursue by all appropriate means and without delay a policy of eliminating discrimination against women and, to this end, undertake: (a) To embody the principle of the equality of men and women in their national constitutions or other appropriate legislation if not yet incorporated therein and to ensure, through law and other appropriate means, the practical realization of this principle; (b) To adopt appropriate legislative and other measures, including sanctions where appropriate, prohibiting all discrimination against women; (c) To establish legal protection of the rights of women on an equal basis with men and to ensure through competent national tribunals and other public institutions the effective protection of women against any act of discrimination; (d) To refrain from engaging in any act or practice of discrimination against women and to ensure that public authorities and institutions shall act in conformity with this obligation; (e) To take all appropriate measures to eliminate discrimination against women by any person, organization or enterprise; (f) To take all appropriate measures, including legislation, to modify or abolish existing laws, regulations, customs and practices which constitute discrimination against women; (g) To repeal all national penal provisions which constitute discrimination against women.⁸⁷

⁸⁵ CEDAW 1979.

⁸⁶ CEDAW 1979.

⁸⁷ CEDAW 1979.

These are all national initiatives that state parties are expected to come up with. They impose a heavy moral burden on signatories to the convention, and provide a basis for stakeholders to demand both domestic actions to secure women's rights. The convention's effort at pushing for these measures is also reflected in a majority of its articles.⁸⁸ That has however failed to make the desired impact. There have been arguments that constitutionalising these rights would not achieve much. According to Charlesworth, Chinkin, and Wright, the fact that the principle of non-discrimination is constitutionalised cannot itself guarantee women equality with their male counterparts.⁸⁹ The veracity of this argument can be seen in the fact that even with the constitutionalizing of the right to freedom from discrimination in Nigeria,⁹⁰ Boko haram in total disregard of this principle, has waged, and continue to wage a bitter war against the women and girls of the parts of the north-east that it has ravaged. While issues such as child marriage would appear to have been dealt with in domestic legislations like the Child's Rights Act 2003,⁹¹ others such as deep cultural practices and education remain outside the constitutional framework. Not only is education still languishing under Chapter 2 of the Constitution which makes it non-justiciable, there has been no effort at enacting any domestic legislation to deal with the cultural practices in the region.

It is worth stating that the reluctance of most governments that have come to power in Nigeria, to commit themselves to actualising Article 24 of the Convention cannot be distanced from the country's complicated political environment, in which governments see their continuance in power as resting on political compromises amongst the regions. In this wise, the north given its acquisition of a larger territorial holding, the huge population ascribed to it, and the edge that it had snatched through the military's creation of states and local governments areas, always prided itself as the domain of political power. To this end, successive government, lacking the necessary courage, tends to ignore Article 24, preferring to play the Ostrich. Glaringly, were Nigeria to have followed up on its commitment in Article 24, this would have translated into legislations and institutions abrogating the terrible cultural practices in the region, which continues to stifle the realisation of women's rights.

5 Way Forward

Boko Haram's strategy of targeting females represents the targeting of women's rights. The barbaric acts discussed above is a violation of domestic human rights provided for in Section 33 – 44 of the Nigerian Constitution.⁹² These provisions are the same entitlements that the Convention was adopted to champion. However, both the human rights provisions of the Constitution and that of the Convention have not succeeded in achieving much. To this end, many of the promises of international law as touching women's rights remains unrealised for millions of African women. As revealed in this article, it is clear that Boko haram neither respects the provisions of Conventions, nor see them as binding on it.

A key area of concern is the several criticisms that has trailed the convention as an international human rights treaty. Firstly, is the fact that some of the leading jurisdictions in

⁸⁸ Articles 3 – 17, CEDAW 1979.

⁸⁹ H Charlesworth, C Chinkin, and S Wright, 'Feminist Approaches to International Law', *American Journal of International Law*, 85, 1991, p.635.

⁹⁰ Constitution of the Federal Republic of Nigeria, 1999, section 34.

⁹¹ CRA No. 26, 2003.

⁹² Constitution of the Federal Republic of Nigeria, 1999.

the world where women's right is supposed to be much cherished, have refused to ratify the Convention.⁹³ For example notwithstanding Eleanor Roosevelt's frontline position in the adoption of the UDHR, her home country, the United States (US) is yet to ratify the Convention.⁹⁴ This has generally reduced the potentiality for impact on the side of the Convention, particularly given that countries such as the US would have been greatly useful in bringing other outsiders to the table, in terms of demanding respect for women's rights in the Boko haram insurgency. This is further made worse by the fact that the Convention has also not been able to overcome the problem of enforceability of its provisions,⁹⁵ which has made accountability difficult flowing from the failure to provide for an individual complaint procedure.⁹⁶

Secondly, the Convention has been accused of been a product of a long patriarchal foundations, so much so that it neglects specific concerns of the female gender.⁹⁷ In this regard, Otto argues on whether the Convention directs its attention to the specificities of women and whether the much touted "*women's rights are human rights*" indeed flows from an understanding of the concept of gender.⁹⁸ An example is the fact that the convention fails to deal with critical issues that affect females such as rape, female genital mutilation, cruel and degrading religious practices, and other related sexual and gender-based abuses.⁹⁹ These are issues that have been dominant in Boko haram's violation of women's rights in the north-east of Nigeria. According to Charlesworth, a breakthrough can be achieved where effort at constitutionalising the convention's mandate of non-discrimination and equality is done from a gendered understanding of women and issues specific to them.¹⁰⁰ There is therefore a need for understanding gender as being the social construction of the disparities between men and women.¹⁰¹

Thirdly, is the criticism that the crafting of the Convention underestimated the far-reaching impact of hegemonic cultural practices that has sustained the imperialism of the sharia in northern Nigeria. It is for this reason that most of the provisions of the Convention are sculptured in the usual western ideas of human rights without an attempt at understanding the possible clogs that can impede its realisation in certain cultures.

⁹³ A major example in this regard is the United States. See J.A. Minor, 'An Analysis of Structural Weakness in the Convention on the Elimination of All Forms of Discrimination Against Women', (1994), 24 (1), *Georgia Journal of International and Comparative Law*, 137 - 153.

⁹⁴ H Hongju Koh, 'Why America Should Ratify the Women's Rights Treaty (CEDAW)', (2002), 34 (3), *Case Western Reserve Journal of International Law*, 263 - 276 at 263.

⁹⁵ E Evatt, 'Finding a Voice for Women's Rights: The Early Days of CEDAW', *George Washington International Law Review*, 34, 2002, pp.515 - 553.

⁹⁶ A Byrnes and J Connor, 'Enforcing the Human Rights of Women: A Complaints Procedure for the Women's Convention?', *Brooklyn Journal of International Law*, 21, 1996, p. 684.

⁹⁷ S Tamale, 'The Right to Culture and the Culture of Rights: A Critical Perspective of Women's Sexual Rights in Africa', (2008), *Feminist Legal Studies* 16(1), 2008, pp. 1 - 352.

⁹⁸ D Otto, 'Lost in Translation: Re-scripting the Sexed Subjects of International Human Rights Law', in A Orford, (ed.), *International Law and its Others*, (Cambridge: Cambridge University Press, 2006), p. 356.

⁹⁹ J L Southard, 'Protection of Women's Human Rights under the Convention on the Elimination of All Forms of Discrimination Against Women', *Pace International Law Review*, 8(1), 1996, p 1.

¹⁰⁰ H Charlesworth, 'Human Rights as Men's Rights', in Peters, J and Wolper, A (eds.), *Women's Rights Human Rights - International Feminist Perspectives*, (New York: Routledge Publishers, 1995) pp.1 - 367.

¹⁰¹ H Charlesworth, 'Feminist Methods in International Law'; *American Journal of International Law*, 93, 1999, p. 379.

Flowing from the above, a number of measures have been canvassed. For example, there is a need for further practical implementation measures, to realign the Convention with contemporary understanding of the ways in which groups such as Boko haram virtually degrade women. The merit of this approach is that it would help invent new ideas at circumventing the tactics of these groups, and help vulnerable women and girls fulfil their rights. Additionally, it is suggested that to reverse the patriarchal structure of the socio-political and economic life of the north, there is a need for more women to be given opportunities for leadership positions at the community and state, as well as core political offices, where key decisions are taken and policies formulated. The inherent benefit in this is that such women would better understand the critical issues peculiar to women, which are some of the issues that the convention and other women-centric international treaties have been adopted to address. With such move, these women given their position of influence can better drive the objectives and aspirations of the Convention, by providing the needed advocacy demanding respect for women's rights and by pushing that measures required for these rights to be realised are put in place. In this wise, their advocacy would be directed at both state and non-state actors, such that the current culture saturated environment can give way.

Additionally, women activists on the domestic scene should take their case to the international scene and push for greater inclusion of policies that will reduce the attacks on women's rights. In this wise, they can partner with leading women's rights focused international organisations who as international actors can put the needed pressure on major stakeholders. The position finds support in the argument of O'Rourke, who states that such domestic activist can leverage on international law by pushing for women to be a part of peace-building efforts.¹⁰²

6 Conclusion

This article has examined Boko haram's violence against the women and girls of north-east Nigeria. It has presented an overview of the development of women's rights under international law as well as important areas of the Convention that the Boko haram has virulently violated in the course of its insurgency. It has also made effort to draw a nexus between the prevailing patriarchal system of the north and the group's contempt for women and women's rights.

The article concludes that though the Convention is a commendable women's rights document, the fact that it has not been realised in the northern part of Nigeria is a major shortcoming.

It therefore recommends several solutions, amongst which is that additional regulations and protocols to the Convention must necessarily take cognisance of the heavy cultural practices of some regions such as the northern part of Nigeria.

It is hoped that the recommendations made herein, will propel efforts towards a new understanding of women's rights within the context of patriarchal practices, so that the goal

¹⁰² C O Rourke, 'Feminist Strategy in International Law: Understanding its Legal, Normative and Political Dimensions'. *European Journal of International Law*, 2017, Vol. 28, pp.1019 – 1045.

of international law in securing a better deal for women and their right, can be better achieved.