

## WOMEN AND CHILDREN AS VICTIMS OF ACTS OF TERRORISM IN NIGERIA

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### ABSTRACT

Terrorism is a global menace that transcend national borders. It is targeted against government and its national security. Terrorism through the Boko Haram group first emerged as a religious jihadist group around 1999 in Nigeria. Few years down the lane in metamorphosed into a dangerous terrorist organisation, with its activities targeted against government organisations and agencies. Bombing of government agencies, churches, market places and places of public gathering. By the year 2015 a federal government college in Chibok was attacked and well over 200 girls kidnapped. Although a few of these girls escaped a greater number of them are still at large. With rumours that some of them were sold in neighbouring Cameroon and some others forced into marriages with the Boko Haram fighters. With these development women, girls and children have become the most vulnerable group of persons targeted by terrorist organisations. Women are used as sex slaves, used as smugglers of light arms, since by their perceived gender roles, women and girls are not likely persons to be searched as suspects by the police at check points. Young girls are brainwashed and used as suicide bombers, while the young boys are conscripted as child soldiers. The research question therefore is what role does government have to play to curb insecurity and terrorism in Nigeria. It is the finding of this paper that the justification for civil unrest and acts of terrorism by those who have taken up arms is blamed on government insensitivity to the plight of the poor, lack of welfare and social amenities, lack of employment, to mention but a few. This paper therefore concludes that there is a need for reparation and reintegration of every group that has taken up arms in defence of their claims.

**Keywords:** violence, insecurity, terrorism, women and children as victims of terrorism, sexual and gender-based violence.

## INTRODUCTION

Boko Haram, Fulani headsmen, bandits, IPOB and gun attacks on innocent Nigerians have become a daily routine. The greatest victims of these deadly attacks being women and children. The etymology of the word “terrorism” is traced to the French word, ‘*terrrisme*’.<sup>i</sup> The word was said to have appeared in English in 1795 in reference to the Jacobin radicals of France.<sup>ii</sup> Terrorism is a conscientious commission of act of violence to create deep fear and awareness by suffering and or endangering the victims as a statement for political, social and or religious objective. Terrorism is synonymous with insecurity that is threat to lives and properties.

Historically, terrorism in Nigeria started in the 1970’s when a religious fundamentalist group, led by Mohammad Marwa, caused the Maitatsine riot in Kano. This resulted in the killing of so many people in the early 80’s.<sup>iii</sup> In recent times, another religious based group known as Boko Haram emerged in the Northeast of Nigeria.<sup>iv</sup> The religious group has precipitated unprecedented acts of terror resulting in loss of lives and properties in Nigeria.

The Boko Haram terrorist group began in 1999<sup>v</sup> as a jihadist group in armed rebellion against the government of Nigeria.<sup>vi</sup> It began as a religious violence between Nigeria's Muslim and Christian communities, with the ultimate aim to establish an Islamic State in the North-Eastern region of Nigeria. Boko Haram's initial uprising failed, when its leader Mohammed Yusuf was killed by the Nigerian government.<sup>vii</sup> The movement fractured into factions and started an insurgency by the rebel commander, Abubakar Shekau who managed to achieve a kind of supremacy among the insurgents. Though challenged by internal rivals, such as Abu Usmatul al-Ansari's Salafist conservative faction and the Ansaru faction, Shekau became the insurgency's *de facto* leader and mostly kept the different Boko Haram factions from fighting each other, but aimed towards overthrowing the Nigerian government. Supported by other Jihadist organizations such as Al-Qaeda and Al-Shabaab, Shekau's tactics involved extreme brutality targeted against government and civilians.<sup>viii</sup>

Their violent activities escalated dramatically in 2014, with 10,849 deaths recorded, while it drastically expanded its territories.<sup>ix</sup> During that period, the insurgency spread to neighbouring Cameroon, Chad, and Niger, thus becoming a major regional conflict. Shekau attempted to improve his international standing among Jihadists by tacitly aligning with the Islamic State of Iraq and the Levant (ISIL) in March 2015, with Boko Haram becoming the "Islamic States of West Africa Province" (ISWAP).<sup>x</sup>

In every armed conflict, particularly terrorism, women and children become the greatest victims of their activities.<sup>xi</sup> In the North East Nigeria, women and children have been subjected to sexual abuse, violence and have been kidnapped in cluster. Following the religious armed group continued attack on citizens and the nation state, the Federal Government by a gazette in 2013 declared the Boko Haram religious armed group 'a Terrorist group'. Thus, all their violent acts and activities became categorised as acts of terrorism. In furtherance of their terrorism, in 2014, they abducted about 276 female students from a College in Chibok in Borno State.<sup>xii</sup> Some of the abducted school girls were sold into marriages at a price below a dollar.<sup>xiii</sup> This attracted international attention with several countries like the United States of America and Britain offering their support to the Nigerian government to help rescue the abducted girls. In 2018 Leah Sharibu and about 110 other girls were kidnapped from Government Girl's Science and Technical College Dapchi in Yobe State. Although some of the girls abducted were later released, but Leah Sharibu is still in the custody of her abductors because she refused to renounce her religious beliefs.

One of the modus operandi of this terrorist group is that women and girls abducted are often raped and forcefully married to members of the terrorists group to bear children for them.<sup>xiv</sup> Other than the purpose of sex, the women and children are used as human shields, and smugglers of arms as well as suicide bombers.<sup>xv</sup>

Interestingly, despite the adoption of the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) by the United Nations General Assembly in 1979, violence against women and girls remains a pervasive problem worldwide.<sup>xvi</sup> In 1981, women's right activist set aside 25th November<sup>xvii</sup> as a day to raise red flags against gender-based violence and to honour the Mirabel sisters (3 political activists from the Dominican Republic) who were brutally murdered in 1960 by the order of the then country's leader, Rafael Trujillo.<sup>xviii</sup>

In the currency of the increased presence and activities of the terrorist group cumulating in violence against women and children, it has been argued and proposed that Nigeria should follow the path and or model of the defunct Soviet Union, as the union of Nigeria seemingly has not worked out a better developed nation since Independence.<sup>xix</sup> This and other developmental solutions such as strong regional government have been proposed as panacea to end the ever increasing spate of armed conflicts and violence in the country.

In lieu of the above, this paper is divided into seven major parts. The first and second parts of this paper, contains the introduction and clarification of basic concepts used in the paper; the third part of the paper deals with the theoretical framework, the fourth part of the paper discussed instances of acts of terrorism against women and children; the fourth part of the paper deals with the Terrorism offences under the Terrorism (Prevention and Prohibition Act as it pertains to women and children, the sixth part discussed relevant conventions on the protection of the rights of women and children and finally the paper concludes by stating that a lot needs to be done on the bridge that cuts across religion, ethnicity and culture so that women can harmoniously work together to tackle all forms of inhuman and degrading treatment meted out to them by society. Government and non-governmental agencies need to set up women empowerment scheme as this will enable women contribute adequately to matters and issues that concern the protection of women and their children during and after conflicts.

## **CLARIFICATION OF CONCEPTS**

The following concepts such as violence, insecurity and terrorism have been discussed which is necessary for better understanding of this paper.

### **Violence**

Every expression of terrorism or any form of armed conflict, entails conscientious violent activities to create overwhelming fear and awareness of vulnerability. Therefore, the coinage of terrorism is violence. In this paper, the concept of violence as the coinage of terrorism, will be conceptually clarified for effective discuss in women and children as victim of terrorism.

The Violence Against Persons (Prohibition) Act<sup>xx</sup> defined “Violence” to mean, any act or attempted act which causes or may cause any person physical, sexual, psychological, verbal, emotional or economic harm whether it occurs in private or public life, in peace time or in conflict situation. The Act went further to describe as vulnerable group, women, children, persons living under extreme poverty, persons with disability, the sick and the elderly, ethnic and religious groups refugees, internally displaced persons, migrants and person in detention.

Violence, undoubtedly can be caused by ethnic and cultural, religious and armed conflicts in general, and Boko Haram terrorist group. Violence is a threat to national security. According to, Ullman,<sup>xxi</sup> a threat to national security is an action or sequence of events that threatens drastically over a period of time to degrade the quality of life thereby creating a state of insecurity.<sup>xxii</sup>

Security in Nigeria demands that people should be free from both external and internal aggressions. This includes that people should be free from threats to their physical existence as well as to the rights and conditions on which their well-being is based. Truly, “insecurity will occur if all the necessities of life, such as food, shelter, employment, healthcare, education and other life necessities which contribute to the socio-economic functionality of the nation are threatened.”

The Boko Haram group perpetrate violence and has become a threat to the security of the Nigerian nation. People are killed or kidnapped while those who are lucky to escape become Internally Displaced Persons living in Internally Displaced Persons (IDP) camps.<sup>xxiii</sup> IDP's are existential threat to Nigeria's nation, as some of the child soldiers recruited by members of the Boko Haram group are often, from the IDP camps.<sup>xxiv</sup>

### **Insecurity**

The term security on one hand can be viewed as the condition of being free from danger or threat.<sup>xxv</sup> It can also be seen as the condition of not being threatened, especially physically, psychologically, emotionally or financially.<sup>xxvi</sup> Insecurity, connotes the absence of security, the negation of freedom from danger or threat.<sup>xxvii</sup> It can be defined as the absence of security of lives and property. This can be caused by ethnic and cultural, religious and armed conflicts in general such as the type caused by the bandits and Boko Haram group.

The traditional meaning of insecurity refers to acts of threats or violence, destruction of lives and properties, loss of independence, through the use of weapon.<sup>xxviii</sup>

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“national insecurity will occur if all the necessities of life, such as food, shelter, employment, healthcare, education and other life necessities which contribute to the socio-economic functionality of the nation are threatened.”<sup>xxx</sup>

Recent occurrences in Nigeria clearly show that the State of insecurity in the polity has assumed a frightening dimension. While it may be posited that insecurity is a global problem, what looks rather strange in our situation is the seeming inability of our government to tackle the challenge. The cliché of security threat has almost transformed to security collapse. What can be more frightening to hear that on the 6<sup>th</sup> of July the convoy of the current President Mohammed Buhari with the best of security operatives was ambushed leaving some victims dead.

## **Terrorism**

Terrorism is a concept that is fluid and devoid of a widely acceptable definition. The concept is very difficult to define. Etymologically, the term emanates from a Latin word, “*terre*,” meaning “to frighten” while the French refers to it as “*terrorisme*,” which is often associated with the regime *de la terreur*, meaning the reign of terror of the revolutionary government in France from 1793 to 1794.<sup>xxxii</sup> The English word “terrorism” was first recorded in English dictionaries in 1798 meaning systematic use of terror as a policy.”<sup>xxxiii</sup> According to the Black’s law dictionary, terrorism is the use of threat or violence to intimidate or cause panic, especially as a means of effecting political conduct.<sup>xxxiii</sup>

The difficulty in defining terrorism is in agreeing on the basis for determining when the use of violence (directed at whom, by whom, for what ends) is legitimate. Therefore, the modern definition of terrorism is inherently controversial.<sup>xxxiv</sup> For Silke, terrorism is violence against the innocent.<sup>xxxv</sup> A comprehensive definition of terrorism has been provided by the United Nations Ad Hoc Committee on International Terrorism in its Convention against International Terrorism. It states that “a person commits terrorism if that person, by any means, unlawfully and intentionally, causes death or serious bodily injury to any person, or serious damage to public or private property resulting in major economic loss.”<sup>xxxvi</sup> It further provides that “it is acts of terrorism where such act intimidates a population, or is aimed to compel a government or an International Organization to do or abstain from doing any act.”<sup>xxxvii</sup> Nigeria’s Terrorism Act<sup>xxxviii</sup> only states that an “act of terrorism’ means any act specified in section 1 of this Act.”

In May 2013 the Federal High Court Abuja<sup>xxxix</sup> declared the activities of Jama'atu Ahlus Sunna Liddawatiwal Jihad otherwise known as Boko Haram, as terrorism and illegal. By this decision of the Court the Federal Government proscribed the Boko Haram group.<sup>xl</sup> The Economic and Financial Crimes Commission Act<sup>xli</sup> defines terrorism as an act which may endanger life or property or is intended to intimidate or induce any government or the general public to do or abstain from doing any act, or disrupt any public service.<sup>xlii</sup> From the foregoing definitions it could be argued that the acts of violence perpetrated by the Boko Haram group qualify as acts of terrorism.

### ***Terrorism, Armed Conflict and the Nigerian Child***

Besides the indelible atrocities of the Nigerian civil war of 1967-1970 where children died in their numbers as a result of malnutrition which necessitated an outbreak of kwashiorkor and several diseases, Nigeria had faced various forms of violence in the last two decades.<sup>xliii</sup> Terrorism, banditry and internal armed conflicts due to ethnic and political intolerances have ravaged many parts of the country at various times.<sup>xliv</sup> All these have the same disastrous effects on children. Its socio-economic and environmental impact is hardest on all vulnerable persons especially children. The harm done to children is more severe than that done to adults and has long lasting effects on the child victims. This group of persons are physically weaker and their physical and psychological development depend heavily on their childhood experiences. According to Isiguzo,<sup>xlv</sup> terrorism and armed conflict affect children in three broad ways. One, terror and Armed Conflict shatter families. Children being the tender part of the family suffer greatly. Two, children are exploited and deliberately targeted and killed. Three, children also suffer indirect attacks from terrorism through government actions in a bid to curb terrorism and militancy in the country.<sup>xlvi</sup>

Like all child soldiers involved with armed groups, children who are recruited into terrorist organisations are exposed to extreme forms of violence.<sup>xlvii</sup> They may bear arms and participate directly in hostilities, act as porters or spies, and are subjected to all forms of sexual and gender-based violence such as sexual slavery and forced marriages. In addition, they may be involved in activities more typically associated with terrorism such as suicide bombings and the execution of hostages. Consequently, they become normalised to violence and for children born into terrorist groups, this upside-down world is the only one they know.<sup>xlviii</sup>

According to United Nations estimates, at least 8,000 children have been recruited into Boko Haram since 2009, including children as young as four.<sup>xlix</sup> Poverty, illiteracy, unemployment, peer and family pressure, combined with social injustice, are cited as factors facilitating recruitment, although abduction is a widely used method to expand membership of the group. The activities carried out by children in Boko Haram from around 2013 to 2016 were reported by the UN Secretary-General as follows:

Children were used in direct hostilities, for planting improvised explosive devices, burning schools and houses and in support roles such as cooks, messengers and spies. Children were also reportedly used as human shields to protect Boko Haram elements during military operations. Many children are also subjected to forceful religious conversions and forced marriage and used for sexual purposes. Predominately from mid-2014 to 2016, children, including girls as young as 10, were used by Boko Haram in suicide bombings.<sup>1</sup>

There are few words to adequately capture the conditions under which boys and girls are being birthed and living in detention and IDP camps in Nigeria. In these appalling circumstances of daily life, that was not their making, the argument is that children are deserving of State protection. State and non-State actors at all levels should affirm and respect the fundamental vulnerability of children caught up in armed conflicts.<sup>li</sup> Children enjoy special protection in accordance with the Convention on the Rights of the Child and its Optional Protocols as well as international humanitarian law. Children must always be treated primarily as victims while the best interest of the child must always be a primary consideration.<sup>lii</sup>

## **THEORETICAL FRAMEWORK**

The nature of this research requires that certain economic variables be applied in complementing radical feminist theory as a framework for broad-based elucidation of the problem. Derived from the works of some writers such as Nnam,<sup>liii</sup> Adagba,<sup>liv</sup> Harris,<sup>lv</sup> Aolain,<sup>lvi</sup> Oyebade,<sup>lvii</sup> Njoku and Akintayo,<sup>lviii</sup> the starting point is the question: what about the women? In other words, as applied in this research, why the use of women in terrorism or by terrorist organisations? In explaining this, the writers argued that the situation of women is as a result of the direct power relationship between men and women in Nigeria. As a result of deep embedded cultural practice men feel they are superior to women and have



controlling power over them. Using and oppressing women with practice of domination as rooted in patriarchy is based on male lineage.<sup>lix</sup>The stand point of some of the writers draws attention to the importance of political and economy perspective and its application to understanding the recent recurring use of women and by extension children, in Boko Haram violent extremism. The core of the problem is linked to structural economic, political, religious and cultural exploitation.

Worthy of note is that in recent times, Nigeria has witnessed several conflicts. Some are politically motivated while others are in the form of armed conflict. Another important factor is that our society is divided along the lines of class structure which is usually dependent on economic power.<sup>lx</sup> The upshot of these contradictions always favour men at the detriment of their female counterparts and children. It is not just because men are more creative and resourceful than women, men are usually more in number at all political structure and other structures of our society (like culture and religion). This helps them have greater input in decision making and law reforms. These are intervening variables which make the situation more difficult for women to either challenge the prevailing social order or resist the seductive lure into terrorist groups and activities. Implicitly supporting their views, with political economy variables, though directly using control theory as a framework, some sociologist<sup>lxi</sup> believe that male-dominated patriarchal society like Nigeria pave way for a total control, exploitation and manipulation of women, making it more easier and successful for them to be used in committing crime of terrorism. Since for the promise of monetary reward they can be used as spies or for the movement of arms. More to the point is that an understanding of the pattern of crime is inextricably connected to an understanding of political economy, not just of unemployment, but more broadly of the new inequality characteristic of free market societies.<sup>lxii</sup>

The free market, capitalism tends to thrive in an economy or society where priority and pre-eminence are unduly accorded to men. This captures the true situation in present day Nigeria. The nature of political economy and social structure of Nigeria is almost always structurally exploitative and antithetical to women and children more than any other group of persons. In the North, as in other regions of Nigeria, what obtains is an illustrative of a long standing institutionalised social order of male-dominated patriarchy, with virtually all the societal structures affected. For these reasons, according to the radical feminists, women are everywhere violently oppressed by the system of patriarchy arrangements and gender system

of domination and subordination. Through participation in patriarchy, men learn the culture of how to hold women in contempt, and control them.<sup>lxiii</sup>

Nigeria is a society where patriarchy and religion holds sway, where gender inequality is nurtured and sustained and women and children are under undue control, subjugation and domination, as predicated upon traditions, native law, religion and culture. Little wonder therefore, that Onuoha<sup>lxiv</sup> stated that the increasing use of females as suicide bombers by Boko Haram group amounts to feminisation of terror in Nigeria. In his view he lamented that forceful feminisation shows the presence of two interfacing practices. Firstly, it shows the exploitation of female gender by male on the basis of superiority; and secondly, the exploitation of a supposed weaker vessel by a stronger one is a manifestation of patriarchal culture prevalent in the society. Both the first and second opinions showed a strong synergy between political approach and feminist theory. Arguing directly from the political economy perspective Nnam<sup>lxv</sup> stressed that the involvement of people, including women and children in crime such as terrorism is as a function of the nature, form and process of the social relations arising from the political, social, economic and religious order of the society. For her the political economy of any one society is a determinant in itself; it defines and determines, in broad terms, the nature, trends and patterns of criminal behaviour among other social events and institutions prevalence in any one particular society.

The permission and decision making thrust of women and children may not be sought and obtained before using them for suicide bombing, implying that they only had to carry out instructions given to them by men in the men dominated mainstream culture and as well as Boko Haram criminal subculture.<sup>lxvi</sup> Seeking their informed consent is immaterial and ignored, as they had been conditioned to see men as the stronger force whose commands whether good or bad must be obeyed, as cultural and religious obligations.<sup>lxvii</sup> Other evidence abounds, indicating that there is often forced indoctrination and compulsion from the men around the female suicide bombers into radical ideas that has shaped their perception of involvement in terrorism. For instance, the narratives of some would be suicide bombers who were caught before the detonation of their explosive devices indicate that most of them were kidnapped<sup>lxviii</sup> or were taken by force by Boko Haram group amidst threat, intimidation and coerced to undertake the suicide missions.

There is evidence of active female terrorist networks in other parts of the world, for example there had been reported cases in the United Kingdom where girls left their homes to be joined in marriage with terrorist fighters in Syria and Turkey<sup>lxxix</sup> yet the Nigerian experience presents some peculiarities. All women are not always victims of terrorism, they sometimes play support roles, such as helping the group in recruitment, act as spies, conceal information from relevant government agencies as well as harbour members of terrorist groups. They can sometimes be members of terrorist groups and perpetrators of acts of violence.<sup>lxxx</sup> Some of the reasons for female membership in terrorist group may not be unrelated with a woman's own sense of disenfranchisement from national or international economic, social, or political spheres.<sup>lxxxi</sup> Bloom and Matfess<sup>lxxxii</sup> posited that the increasing reliance of Boko Haram on female operatives for suicide bombing occur against a backdrop of mounting violence against women for political ends. It is significant to note that the vast majority of women and children in the terror campaign are not participating of their own predilection and rational choice and decision. Some women who have escaped from captivity or have been rescued by the Nigerian soldier's report exposure to, or forced participation in this extreme violence.

### **INSTANCES OF ACTS OF TERRORISM ON WOMEN AND CHILDREN**

Boko Haram has kidnapped several young schoolgirls in Borno, and has physically, psychologically and sexually abused them, as well as using and selling them as sex slaves and/or brides of forced marriages with their fighters.<sup>lxxxiii</sup> The most famous example being the Chibok girls kidnap in 2014. In addition to kidnapping child brides, Human Rights Watch reports state that Boko Haram uses young boys as young as 12 years old as child soldiers.<sup>lxxxiv</sup>

The Nigerian Constitution<sup>lxxxv</sup> prohibits slavery, servitude, forced or compulsory labour, inhuman and degrading treatment. Section 42<sup>lxxxvi</sup> prohibits discrimination, including on grounds of sex. The Constitution<sup>lxxxvii</sup> further prohibits the unlawful deprivation of one's personal liberty. Section 46 provides that an aggrieved person is entitled to seek redress for alleged contravention of his/her fundamental rights by applying to High Court of the State, which shall have jurisdiction to hear applications on fundamental human rights issues. It is therefore clear from the fore going that victims of terrorism and SGBV whose rights have been violated can approach a court of competent jurisdiction to seek redress.<sup>lxxxviii</sup>

Nigerian government forces launched an offensive attack in the Borno region in an attempt to dislodge Boko Haram fighters after a state of emergency was called on 14th May 2013. On 5th August 2013 Boko Haram launched dual attacks on Bama and Malam Fatori, leaving 35 dead.<sup>lxxxix</sup> This led to a declaration of a state of emergency which was still in force in May 2014. The state of emergency, applied to the States of Borno, Yobe, and Adamawa in North- Eastern Nigeria.<sup>lxxx</sup> The offensive had initial success, but the Boko Haram rebels were able to regain their strength. In July 2014, Boko Haram massacred 42 students in Yobe,<sup>lxxxii</sup> bringing the school year to an early end in the State.

On 15th April 2014, terrorists abducted about 276 female students from a college in Chibok in Borno state.<sup>lxxxiii</sup> The abduction was widely attributed to Boko Haram.<sup>lxxxiii</sup> It was reported that the group had taken the girls to neighbouring Cameroon and Chad where they were perceived to be sold into marriages. The abduction of another eight girls was also reported later. These kidnappings raised public protests, which caught international attention.<sup>lxxxiv</sup> Several countries like the United States of America and Britain pledged support to the Nigerian government and to help the military with intelligence gathering on the whereabouts of the girls and the operational camps of Boko Haram.<sup>lxxxv</sup>

Ukpong in his article stated that the British Royal Air Force (RAF) conducted Operation Turus in response to the kidnap of Chibok schoolgirls by Boko Haram in Nigeria.<sup>lxxxvi</sup> It was that the girls were located within the first few weeks of the RAF mission, but the Nigerian government declined the offer of a rescue operation by RAF. This was because Nigerian government viewed any action to be taken as a “national issue,” and for it to be resolved by Nigerian intelligence and security services, the source added that the girls were then tracked by the aircraft as they were dispersed into progressively into smaller groups over the following months.<sup>lxxxvii</sup>

There are numerous reports by governmental, inter-governmental and non-governmental organizations, academic researchers and journalists regarding sexual and gender-based violence perpetrated by members of the Boko Haram. Aladekomo provided the following extract from a 2015 report of the UN High Commissioner for Human Rights on violations and abuses committed by Boko Haram and the impact on human rights in the affected countries provides an overview of the SGBV related violations committed by Boko Haram thus:

*Since 2009, Boko Haram subjected women and girls to widespread and severe abuses, including sexual slavery, sexual violence, forced marriages, forced pregnancies and forced conversions. The group justifies such practices by its conception of the role of women and girls in society. In one video message in which the group claimed responsibility for the abduction of the Chibok girls, Shekau stated that “God instructed me to sell them, they are his properties and I will carry out his instructions”. In another message, he spoke of abducted girls as “spoils of war.”<sup>lxxxviii</sup>*

One woman interviewed by Office of the High Commissioner for Human Rights (OHCHR) said she was coerced into marriage when Boko Haram attacked her village. According to her, “they came back after killing the men and boys and told me that an Imam in their group would preside over the marriage ceremony.” OHCHR received reports of younger girls being married off to fighters and older women forced to work as cooks and cleaners.<sup>lxxxix</sup>

Discussions with psychosocial counsellors in Northeast Nigeria confirmed widespread sexual violence against women and girls held by Boko Haram.<sup>xc</sup> One counsellor reported that a girl who managed to escape narrated how Boko Haram fighters would sexually abuse her, telling her ‘you are the kind of girl we like’. Another interviewee told OHCHR that she witnessed the rape of girls as young as 15.<sup>xcii</sup>

OHCHR documented cases of rape following forced marriages to Boko Haram members during an attack on Bama, Borno state, Nigeria, in September 2014. Some 150 women at Dalori camp, which opened in April 2015 and hosts IDPs from Bama, had given birth after they escaped from captivity. OHCHR received information that a Nigerian refugee woman, in Niger was abducted in Damasak, Borno State on 28 November 2014 and raped by 40 men. A 14-year-old girl told OHCHR she was raped when Boko Haram attacked Damasak in November 2014 and that, after killing the men and boys; they took the women and children to a house, and selected some 40 girls to marry their fighters. She was forcefully married and raped three times before escaping, during a “wedding” with three other girls.”<sup>xciii</sup>

Human Rights Watch has identified that the conflict has seen numerous human rights abuses conducted by the Nigerian security forces in an effort to control the violence although there



had been no official reports from the government.<sup>xciii</sup> Some government officials have as well encouraged the formation of numerous vigilante groups (for example, the Civilian Joint Task Force).<sup>xciv</sup> It is necessary to add that there are also reports indicating “Government officials and other authorities in Nigeria that have raped and sexually exploited women and girls displaced by the conflict with Boko Haram.”<sup>xcv</sup> The government is not doing enough to protect displaced women and girls and to sanction the abusers who include camp leaders, members of vigilante groups, policemen, and soldiers.”<sup>xcvi</sup>

### **WOMEN AND CHILDREN AS VICTIMS OF ACTS OF TERRORISM IN NIGERIA**

The commission of acts of terrorism, such as attacks with improvised explosive devices, killing and abduction, rape, forced pregnancy, forced religion conversion are only a part of the overall activity of terrorist groups.<sup>xcvii</sup> The Boko Haram as a structured group have combatants who are directly engaged in the commission of acts of violence, while many others play support roles.<sup>xcviii</sup> Women for instance provide companionship when they agree to marry them. They equally play several support roles such as smuggling of arms since by their perceived gender roles they are not likely to be searched at check points. They cook, act as spies and help in recruitment of members for the group. In all they provide moral support to the Boko Haram combatants.

The Terrorism Prevention Amendment Act<sup>xcix</sup> provides for certain offences and punishment. For instance the Act criminalises as offence, soliciting or rendering support to members of a terrorist group,<sup>c</sup> and harbouring any member of a terrorist group.<sup>ci</sup> A person is deemed to have committed an offence of concealment if the person knows or suspects a person to be a member of a terrorist group but makes no effort to report such a person to the relevant security authority.<sup>cii</sup> A person who voluntarily joins the members of any terrorist group is deemed to be a member of such terrorist group and equally commits an offence punishable under the Act.<sup>ciii</sup>

Furthermore, acts of terrorism could take the form of sexual violence on women and children. Sexual violence connotes violent act against a person’s sexuality without the persons consent.<sup>civ</sup> It could be in the form of cultural practices such as early marriage, female genital mutilation and extreme violation such as rape.<sup>cv</sup> Most times victims do not report such violence against them because of societal norms and stigmatization, hence perpetrators are not brought to

justice. In some cases the perpetrators of such violence are not known or identifiable by the victims especially when it is a case of a gang rape or one committed by members of a terrorist group.<sup>cv</sup> The resultant effect is that victims are often traumatized, which in turn affect their mental health. Their reproductive health is not spared as most victims end up with vesico vagina fistula (VVF) and in extreme cases die from complications as a result of the violation.<sup>cvi</sup> Terrorist groups also specifically target women through acts of sexual and gender-based violence such as rape, sexual slavery and forced marriage, as a means of achieving tactical, strategic and ideological aims.<sup>cvi</sup> In recent times, women have been seen by members of terrorist groups in armed conflict as objects used to satisfy their sexual urge, render domestic services, act as spies, recruits, suicide bombers or used in moving light weapons.<sup>cix</sup> For this reason many women and girls in the Northeast of Nigeria have been kidnapped, some trafficked in exchange for money while the others are forced into marriages to fulfil their sexual desires.<sup>cx</sup> These victims are often gang raped and this sometimes results in pregnancy. The resultant effect of a gang rape is that unless a **DNA** test (deoxyribonucleic acid) is conducted no one is sure of who the actual father is. Women and men, boys and girls are among the victims of acts of terrorism for hostage taking, human trafficking, suicide bombers, and attacks in public places or aeroplane hijacking to mention but a few. Many terrorist groups encroach on women's human rights and impede their socio-economic development.

Although the Violence against Persons Act (VAP)<sup>cx</sup> made no specific provisions for SGBV offences, it however made provisions for offences causing bodily harm. Prosecutors therefore in bringing a perpetrator of SGBV offence before the court will have to examine the various statutes in order to decide which statutes provide the most adequate sanctions to bring justice to victims of SGBV offences committed by members of terrorist group. But beyond justice, there should be provisions for reparations, such as monetary compensation, medical, psychological and social care should be provided for victims. Sexual and gender-based violence (SGBV) such as rape, forced marriage, sexual slavery is violence perpetuated against a woman without her consent. According to Okafor<sup>cxii</sup> sexual and gender-based violence refers to any harmful act that is perpetuated against a person's will, based on socially ascribed (gender) differences between males and females. It includes acts that inflict physical, mental or sexual harm or suffering, threats of such acts, coercion and order deprivations of liberty, whether occurring in public or in private life. SGBV entails widespread human rights violations, and is often linked to unequal gender relations within communities and abuse of

power. Acts of sexual and gender-based violence are not restricted to one gender, but rather may be inflicted upon women, men, girls and boys. It comprises the following two notions:

- a. Gender-based violence; and
- b. Sexual based violence

Gender Based Violence is considered to be any harmful act directed against individuals or groups of individuals on the basis of their gender. For example, acts of physical violence, domestic violence and harmful traditional practices. It is worthy to note that sexual violence is a form of gender-based violence, but gender-based violence is a broader category of crime and may be perpetrated through non-sexual acts (for example physical violence).<sup>cxiii</sup>

Sexual based violence encompasses any sexual act, attempt to obtain a sexual act or acts otherwise directed against a person's sexuality using coercion, by any person regardless of their relationship to the victim in any setting. Sexual violence takes multiple forms and includes rape, sexual abuse, forced pregnancy, forced sterilization, forced abortion, forced prostitution, forced pornography, sexual enslavement, forced circumcision, castration and forced nudity.<sup>cxiv</sup>

SGBV entails widespread human rights violations, and is often linked with unequal gender relations within communities and abuses of power. Acts of SGBV are not restricted to one gender, but rather may be inflicted upon women, men, girls and boys. Men and boys are also subjected to SGBV in armed conflict situations by terrorist groups, a phenomenon that is hardly reported.<sup>cxv</sup> SGBV has been systematically used as a strategy to achieve certain goals by terrorist organisations and in most of the cases, this violence in times of conflict continues to be disproportionately perpetrated against women and girls.<sup>cxvi</sup>

The gender dimension of terrorism has largely been overlooked until recent times. Women during armed conflicts such as terrorism can be both victims and perpetrators.<sup>cxvii</sup> In fact women have long been involved in terrorism, they sometimes act as spies to terrorist groups.<sup>cxviii</sup> At other times, they render aid through the movements of arms because of their perceived gender roles which make it easy to beat security check points without being searched.<sup>cxix</sup> In the context of restorative justice for the victims of terrorism it is important to consider the impact of terrorism on women and how this differs from men. By so doing, one may want to consider the factors that make women more vulnerable to acts of terrorism as against their male counterparts.

Human rights analysis of counter-terrorism measures had traditionally assumed that men suffer the most during armed conflict such as terrorism.<sup>cxx</sup> Although this may be true in some aspects but it is not completely true in all aspects. In the context of countering terrorism as with most security operations, there is a heightened risk of human rights violations for women and children. These gender-specific challenges and threats include gender-based violence, trafficking in persons and deterioration of women's rights particularly through the targeting of women whether for abuse by terrorist groups or as witnesses by State actors.<sup>cxxi</sup> There is also the challenge of male dominance in legal and political sphere where issues of gender equality are discussed. They end up using gender stereotypes to suppress social movements that seek gender equality in the protection of human rights.<sup>cxxii</sup> The evidence of this can be seen when government granted amnesty to male repentant Boko Haram members whereas nothing was said of their female counterpart nor of women and children who are victims of terrorism.

International observers such as the European Union have noted that efforts to include women tend to emphasize their engagement only at the informal or local level- for example, women as victims of terrorism and women as mothers. Some emphasize women's engagement in ways that have reinforced gender stereotypes or has led to women being perceived as mere tools of national security due to their presumed position within the household.<sup>cxxiii</sup> For example, community engagement frequently go hand in hand with placing the family structure at the front line of prevention of violent extremism.<sup>cxxiv</sup> There are other examples, where women are empowered, educated or encouraged to participate in furtherance of an agenda to counter terrorism.<sup>cxxv</sup> There have also been instances of institutionalisation of women's engagement in acts of terrorism and peace keeping.

Kufuor observed that, <sup>cxxvi</sup> when women's rights are identified with a broader agenda, then gender equality, women's rights, and girls' right to education increases. In the same way does the possibility of the enhancing of women's rights and gender equality to further national security interests. In recognition of this reality, advocates and policy-makers have drawn attention to the characteristics and needs of women involved in terrorism cases. They argue that laws should take into account the ways women's needs differ from the characteristics and needs of men.<sup>cxxvii</sup> The former UN Secretary-General responded to these developments by calling on States to place emphasis on gender stereotypes especially when addressing violence against women. Efforts should be made to empower women and address the spectrum of crimes committed against them including sexual violence that extremist groups perpetrate.<sup>cxxviii</sup> The

UN Security Council also recognise the different impact of terrorism on women and girls and made recommendations to address these issues better at national and international levels.<sup>cxxxix</sup>

Acts of terrorism can at least on their face be gender neutral. The hijacking of a commercial flight to press political demands, an attack on a tourist resort by an armed commando, or an explosive attack in a crowded market, are examples of gender neutral violence.<sup>cxxx</sup> However within the last 12 years or more terrorist groups such as ISIS, Boko Haram and ISIL/Daesh have engaged in sexual and gender based violence (SGBV) when they kidnap girls and use them as suicide bombers as a means of achieving their objectives.<sup>cxxxii</sup> This is because women and girls are less likely to be suspected as persons carrying dangerous weapons by the security operatives during a stop and check routine. The impacts of terrorist activities have therefore become highly gendered in recent times.<sup>cxxxiii</sup> Terrorist groups carry out violent actions intentionally against women, encroach on their human rights and thus hinder their socio economic development.<sup>cxxxiii</sup>

SGBV has been systematically used as a strategy to achieve certain goals by terrorist organisations and in most of the cases, violence in times of conflict continues to be disproportionately perpetrated against women and girls.<sup>cxxxiv</sup> In the Nigerian context in particular, since SGBV against women is being used as a tactic by Boko Haram combatants, a proper response by the criminal justice system is required.<sup>cxxxv</sup> Women disproportionately undergo internal displacement due to terrorist threat or lose financial stability due to terrorist attacks that cause an environment of fear and insecurity. Besides, women may have difficulties accessing justice and seeking remedies for the violations and abuses they suffer. This is because most women in the Northeast are un-educated, un-informed about their rights and remedies available to them, as well as lack the financial capacity to institute court action.<sup>cxxxvi</sup>

Discrimination against women is prohibited under Nigerian law<sup>cxxxvii</sup> and International Human Rights Law. Violence against women has been classified as a form of discrimination against women. International humanitarian law prohibits sexual violence in armed conflict. Until very recently Sexual and gender-based violence offences were not among the offences envisaged by the International Conventions and Protocols against terrorism. However the United Nations Security Council states that “victims of sexual violence, committed by terrorist groups should be classified as victims of terrorism”.<sup>cxxxviii</sup> Also, the Nigerian Terrorism Prevention Act 2011 and the Terrorism Prevention (Amendment) Act 2013 do not contain any sexual gender-based



violence related offences, however the Violence Against Person's Act (VAPA) make provisions for offences causing grievous harm.

## LEGAL FRAMEWORK FOR THE PROTECTION OF WOMEN AND CHILDREN IN NIGERIA

Nigeria has domestic laws that prohibit and punish financing, joining and supporting terrorist groups as well as acts of terrorism. Notably, Nigeria has primarily invoked its Terrorism Act<sup>cxix</sup> with respect to allegations against Boko Haram. The Act makes provisions for gender sensitive witness protection programmes, which takes into consideration, arrest, investigation and detention of female victims/witnesses or perpetrators. This is with a view to avoid re-traumatisation or re-victimisation. The Act makes special provisions for witness protection and for protection of victims of terrorism.<sup>cxl</sup> Under the Act a witness in a terrorism prosecution can give evidence in camera. The true identity for example, name of witness and address can be concealed this is to prevent the members of the terrorist group from coming after the witness. In extreme cases where such a prosecution witness has been a victim or has been in captivity of the members of the Boko Haram group, the Act provides for relocation of such sensitive witness. The Nigerian Terrorism Act goes further to criminalise acts such as concealment and harbouring of any member of a terrorist group. It is a crime where a person knows that some other person is a member of a terrorist group and conceals such information from the relevant authority or harbours such a person.<sup>cxli</sup>

In Nigeria there has been challenges trying suspected members of a terrorist group and most of the cases of persons arrested for offences of terrorism have not gone beyond the court of first instance. In fact till date no terrorist case has gotten up to the Supreme court. The reason being that often times prosecutors lack sufficient evidence to prove the essential ingredient needed to prove the commission of the crime. At other times it is either the case that evidence was wrongfully obtained or evidence was not properly preserved in a manner that it will be admissible in court. The Uganda case of Dominic Ongwen is hereby discussed with the aim to demonstrate the difficulty in proceeding against terrorism cases in Nigeria. In the Uganda case of *Dominic Ongwen v. ICC*<sup>cxlii</sup>. The International Criminal Court on 4<sup>th</sup> February 2021 convicted a Ugandan child soldier-turned-Lord's Resistance Army (LRA) commander of war crimes and crimes against humanity. The accused was abducted by the LRA as a child, he later

rose to the rank of a Commander in the LRA. The Netherlands-based court found the accused person guilty of 61 charges out of the 70 charges preferred against him. The charges for which he was found guilty include murder, widespread rape, sexual enslavement, crime of forced pregnancy committed against seven women, abducting children, torture and pillaging carried out in the early 2000's. The Judges while delivering their judgement found that the accused had acted out of free will in committing the offences between 2002 and 2005. "There exist no ground excluding Dominic Ongwen's criminal responsibility. His guilt has been established beyond any reasonable doubt," presiding Judge Bertram Schmitt said as he read out the verdict. The accused can now be imprisoned for life. The accused lawyers had at trial asked for an acquittal of the accused, arguing that he had suffered psychological damage as a result of being abducted as a child and was a "victim and not a victim and perpetrator at the same time." However, the trial Judge stated that the case for which the accused was standing trial was crimes committed when he was already an adult and Commander of LRA. Although it has been stated that Dominic Ongwen's case was "morally the most complicated" the ICC had ever dealt with. "The main question has been can a former child soldier be held accountable for the crime he has committed? And the crimes are numerous. The ICC has not seen such a list of war crimes before." The defence through out the trial maintained that the accused was mentally unstable, that he was indoctrinated, and he never had a way to form his consciousness. Kristof Titeca, a senior lecturer at the University of Antwerp and an expert witness during the trial, added the case has raised a "huge grey area which is difficult to determine in international law, which thinks in terms of the victims and perpetrators." The lecturer continues by stating that "It is huge dilemma between structure and agency," under the leadership of fugitive rebel Joseph Kony, the LRA terrorised Ugandans for nearly two decades as it battled the government of President Yoweri Museveni from bases in the north of the country and in what is now South Sudan, the Democratic Republic of the Congo and the Central African Republic.

In 2004, the Ugandan government referred the conflict with the LRA to the ICC, the world's first permanent tribunal for war crimes, crimes against humanity and genocide. The United Nations says the LRA killed more than 100,000 people and abducted 60,000 children during its campaign of violence. Military pressure forced the armed group out of Uganda in 2005, and its members scattered across parts of central Africa. Dominic Ongwen surrendered to US special forces who were hunting Kony in the Central African Republic in early 2015 and was transferred to the ICC to face trial. Human Rights Watch (HRW) said the decision of the ICC

was a landmark moment in achieving justice for victims of the LRA. The LRA terrorised the people of northern Uganda and its neighbouring countries for more than two decades. One LRA leader has at last been held to account at the ICC for the terrible abuses victims suffered. Would be rights violators should take note that the law can catch up with them, even years later.”

Nigeria can learn from the facts of this case to determine the way to go about the arrest of members of terrorist group and how such cases should be handled. Rather than granting them blanket amnesty and leaving the victims un-provided for and re-traumatised.

International Covenants<sup>cxliii</sup> requires States to ensure non-discrimination and equality on the basis of sex and to address instances where gender inequality intersects with other prohibited grounds of discrimination, such as race, colour and religion. These guarantees of non-discrimination and gender equality are particularly integral to ensuring the enjoyment of economic, social and cultural rights which are often adversely affected.<sup>cxliv</sup> In addition, Security Council resolutions have identified gender-based violence, particularly sexual violence, in armed conflict and humanitarian crisis as a major concern for the international community.

International Human Rights law prohibits violence against women, in all its forms as it is a violation of women’s rights and fundamental freedoms. Law enforcement officials when carrying out counter-terrorism measures have an obligation to act with due diligence to prevent, investigate, prosecute or punish these acts and refrain from perpetrating new human rights violations with impunity.<sup>cxlv</sup> These include ensuring war rhetoric and increased militarization in countering terrorism does not reinforce gender-based violence and gendered economic, social and cultural rights violations. The Bangkok Rules and other international instruments set out a legal framework for addressing the causes and consequences of women’s imprisonment, including their connections with gender-based violence.

Law enforcement officials are also required to take rigorous official action to prevent the victimization of women and or ensure that re-victimization does not occur as a result of Police omissions or gender-insensitive enforcement practices.<sup>cxlvi</sup> For example, the Police during investigation should not sanction female relatives of suspected terrorists through unlawful detention or ill-treatment. Such relative should not be used as a means to gain information about male family member, neither should male terrorism suspects be compelled to provide information or confessions. As this may have adverse effect at trial and may negatively impact

on female family members of persons whose husbands have disappeared or were compelled to join members of a terrorist group.

Every Nigerian child is entitled to certain minimum rights besides their fundamental human rights due them as human beings.<sup>cxlvii</sup> These rights are threatened by terrorism, banditry and armed conflicts. Children have mental, physical and emotional limitations, which faced with a terrorist environment could have far-reaching and detrimental effects. The unique vulnerabilities of children to terrorist activities manifest in three broad contexts.<sup>cxlviii</sup> Firstly, when families are shattered by terrorist attacks, children are rendered homeless or orphaned. Most times, children who lose their parents or guardian to armed conflict are often stranded, demobilized, tortured or recruited as child soldiers in armed conflicts or terrorist groups.<sup>cxlix</sup> Secondly, children are increasingly exploited and recruited by terrorist groups to become child soldiers or suicide bombers.<sup>cl</sup> Terrorist groups have increasingly adopted this strategy to groom, indoctrinate and less likely to resist, since they do not yet fully understand their own morality and mortality. Thirdly, apart from the direct effects of terrorist attacks themselves, government actions aimed at combating terrorism have on many occasions added to the vulnerability of children.<sup>cli</sup> This offends the Convention of the Rights of the child (CRC), the Nigerian Constitution (CFRN), Child Right's Act (CRA) amongst other legislations. In recognition of their unique vulnerabilities, international law has, over the last decade, emphasised the need for tailored and holistic legal regimes designed to protect, fulfil and realize the fundamental human rights of children, as part of national counter-terrorism efforts. For example, Article 38(4) of the United Nations Convention on the Rights of the child (CRC) 1989, encourages countries to take all feasible measures to ensure protection and care of children in armed conflict situations. Article 37 provides that no child shall be deprived of his or her liberty unlawfully or arbitrarily. While Article 39 mandates countries to take all appropriate measures to promote physical and psychological recovery and social reintegration of a child victim of armed conflict, in an environment, which fosters the health, self-respect and dignity of the child. Some of these rights are discussed below:

Every child has the right to life which is fundamental right due every human being.<sup>clii</sup> The CRC specifically provides for the child's right to life and self-development.<sup>cliii</sup> This International legal instruments places an obligation on state parties to ensure the protection of life and development of every child and this must not be deprived. According to the International Covenant on Civil and Political Rights (ICCPR), all humans have intrinsic right to life which

the law must protect at all times even in cases of extreme emergency which may threaten the well-being of the nation.<sup>cliv</sup> Universal Declaration on Human and People's Rights (UDHR) also provides for the right to life, security and liberty of every human being irrespective of age, sex, race or religion.<sup>clv</sup> At the regional scene, the African Charter on Human and People's Right (ACHPR) recognizes the right to life.<sup>clvi</sup> Coming to Nigeria, the Constitution provides for the right to life which shall not intentionally be deprived anyone including children.

Beyond the Constitutional provisions is the Child's Right Act (CRA) of 2003 which expressly states that every child has the right to life, survival and development in Nigeria.<sup>clvii</sup> Government ought to take measures to reduce maternal mortality and increase life expectancy of children. Government in order to preserve life must take measures to prevent happenings that can threaten the life and survival of children. In other to protect the right to life of the child, government is enjoined to take steps to avoid situations that can encourage terrorism and armed conflicts. Nigeria is under obligation to protect, promote and respect the right to life of every Nigerian citizen which includes children, including their right to survival and development.<sup>clviii</sup>

These obligations have to a large extent remained unmet and have not been holistically integrated into Nigeria's overall framework for combating terrorism. For example, Nigeria's Terrorism (Prevention and Prohibition) Act of 2022 fails to specifically identify how terrorism uniquely impacts on the right of children to enjoy fundamental human rights, and therefore fails to prescribe tailored programs and policies that could prevent and effectively respond to the impact of terror on the rights of the Nigerian child.

## CONCLUSION

The findings of this paper in its theoretical framework blame some of the causes of insecurity and terrorism, banditry on religion, culture and masculinity supremacy. The legal framework goes to show how women and children are disproportionately affected by acts of terrorism. There is the need for reparation and reintegration of every group that has taken up arms in defence of their claims.

A lot needs to be done on the bridge that cuts across religion, ethnicity and culture so that women can harmoniously work together to tackle all forms of inhuman and degrading treatment meted out to them by society. Government and non-governmental agencies have a



role to play to empower these categories of persons cut up in armed conflicts through capacity building and enhanced controlled communication before such roles can be played. Women need to be equally represented in organizations that will empower them to contribute adequately in matters and issues that concern the protection of women and their children during and after conflicts.

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