

RESEARCH ARTICLE

Rejection, Re-victimization and Human Rights Violations of Female Survivors of Boko Haram's Sexual Violence in Nigeria: Legal Analysis

Christiana Ejura Attah*

Faculty of Law, North-Eastern University, Gombe, Nigeria
Email: ejura90@gmail.com

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Abstract

Conflict-related sexual violence and the rights of female victims have received scholarly attention, but the same cannot be said of post-conflict rejection and re-victimization of the victims and the violation of their rights. This article examines the rejection and re-victimization of the returnee victims / survivors of Nigeria's Boko Haram's sexual terrorism. It discusses how this violates their fundamental human rights as contained in various UN conventions and other legal frameworks. Relying on a legal-doctrinal approach, it examines these violations and the difficulty in enforcing such rights. Findings reveal that these human rights violations continue through the rejection and re-victimization of victims / survivors by family and community members. Despite these obvious rights violations, it has been difficult to seek legal redress for enforcing such rights due to the absence of political will on the part of the government.

Keywords: Boko Haram; discrimination; fundamental human rights; sexual violence; victims / survivors; women and girls

Introduction

The abduction and sexual enslavement of women and girls are grave violations of human rights that exacerbate pre-existing gender inequalities, particularly in conflict and post-conflict societies. These atrocities that constitute rights abuse have long been a terrible feature of wars and bloody uprisings, leaving victims with long-lasting social, psychological and bodily wounds.¹ Beyond the immediate horrors, the suffering of female victims of sexual violence is far from over; they and their children often experience physical violence, rejection, discrimination, infanticide and severe psychological anguish.² Due to deeply rooted cultural and societal prejudices that frequently place the responsibility on the victims rather than the offenders, reintegrating these victims into their communities is made even more difficult. States have obligations under international law to uphold, defend and

* Associate professor and dean faculty of law, North-Eastern University, Gombe, Nigeria. This paper is based on the author's doctoral study at Benue State University in Makurdi, Nigeria, which focused on "an appraisal of the legal framework for curtailing terrorism in Nigeria".

- 1 AM Watson "Children born of wartime rape: Rights and representations" (2007) 9/1 *International Feminist Journal of Politics* 20 at 21.
- 2 A Swaine "Addressing the gendered interests of victims / survivors of conflict-related sexual violence and their children through national action plans on women, peace and security" (2020) 7/2 *Journal of Asian Security and International Affairs* 145 at 146.

fulfil human rights, which include stopping both state and non-state actors from violating them. These duties are enshrined in agreements like the African Charter on Human and Peoples' Rights³ and the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW),⁴ both of which Nigeria has ratified. These agreements require states to prevent gender-based violence, maintain accountability and offer survivors compensation.

Like in other conflict zones, the Boko Haram insurgency in Nigeria has resulted in the mass kidnapping of women and girls, many of whom have been subjected to inhumane treatment, including forced marriages and sexual enslavement.⁵ The abductions of the Chibok schoolgirls in 2014 and the Dapchi schoolgirls in 2018 are two of the most well-known examples of the more than 2,000 women and girls who have been abducted by the militants since 2012.⁶ Survivors who escaped or were saved by the Nigerian military ended up in a new kind of human rights abuse characterized by institutionalized discrimination, ostracization and stigma.⁷ Instead of being accepted into the communities upon their return as survivors of horrific crimes, they were frequently called names like "Boko Haram blood" and "Sambisa women".⁸ In addition to being a moral and humanitarian failing, this societal rejection also violates basic human rights. The stigma associated with sexual abuse survivors and their offspring feeds into the vicious cycles of social exclusion and encourages more violence against them. Nigeria and other post-conflict nations run the risk of normalizing discrimination and re-victimization as they ignore these deeply ingrained prejudices.⁹ Survivors are denied opportunities to reconstruct their lives, access to justice and proper psychological treatment.

From a legal perspective, Nigeria's response to the plight of these survivors has been inadequate, revealing significant gaps in both its domestic legal framework and its adherence to international human rights obligations. Nigeria is a signatory to key international legal instruments under the UN and the African Union (AU).¹⁰ These frameworks establish important legal obligations to protect women's rights and ensure their security. However, Nigeria has failed to effectively enforce these commitments. The lack of proper legal protection and support systems for these victims highlights a failure in governance and a disregard for the principles of justice, rehabilitation and non-

3 (1981).

4 (1979) UN Treaty Series vol 1249 (CEDAW).

5 L Aarons "From weapon of war to tactic of terrorism – Dangerous new ground in the fight against conflict-related sexual violence and human trafficking" (2020) 1/2 *Journal of Human Trafficking, Enslavement and Conflict-Related Sexual Violence* 135 at 137; CE Attah "Boko Haram and sexual terrorism: The conspiracy of silence of the Nigerian anti-terrorism laws" (2016) 16/2 *African Human Rights Law Journal* 385 at 390.

6 FI Agbaje "The objectified female body and the Boko Haram insurgency in northeast Nigeria: Insights from IDP camps in Abuja" (2020) 29/1 *African Security Review* 5 at 7; CE Attah "Opinion piece – Terrorism, human trafficking and conflict-related sexual violence: Examining the nexus" (2020) 1/2 *Journal of Human Trafficking, Enslavement and Conflict-Related Sexual Violence* 117 at 129.

7 Attah "Boko Haram and sexual terrorism", above at note 5 at 390.

8 International Alert / UNICEF Nigeria *Bad Blood* (February 2016) at 6, available at: <<https://www.unicef.org/nigeria/reports/bad-blood>> (last accessed 29 July 2025); MAW van de Klundert "Sexual terrorism and social stigma: How stigma influences the pathway to justice for survivors of Boko Haram and potential ways forward" (2021) 2/1 *Journal of Human Trafficking, Enslavement and Conflict-Related Sexual Violence* 59 at 65.

9 S Roupetz, A Delic and H Glaesmer "An intergenerational perspective on conflict-related sexual violence against women: Female survivors and their children born of war rape" in S Lee, H Glaesmer and B Stelzl-Marx (eds) *Children Born of War: Past, Present and Future* (2021, Routledge) 111 at 114.

10 CEDAW; IF Gomez "The Optional Protocol for the Convention on the Elimination of All Forms of Discrimination Against Women: Strengthening the protection mechanisms of women's human rights" (2003) 20/2 *Arizona Journal of International & Comparative Law* 291 at 291; Universal Declaration of Human Rights (1948) General Assembly Resolution 217 A(III) (UDHR); UN Security Council 4213th meeting (31 October 2000) UN Doc S/RES/1325 (Resolution 1325); African Union Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa (2003) (Maputo Protocol); Constitution of the Federal Republic of Nigeria (CFRN) 1999 (as amended) ch IV; Terrorism (Prevention and Prohibition) Act 2022 A 488 No 15.

discrimination. It is legally required of the Nigerian Government to protect victims of sexual abuse committed by Boko Haram from re-victimization and rejection, among other forms of secondary injury. International human rights frameworks that prioritize everyone's right to justice, security and dignity uphold this obligation.

But in reality, these responsibilities are still mostly unmet. Survivors still experience institutional neglect and have little access to economic assistance, trauma treatment or legal action against their abusers. A culture of impunity has also been maintained by the court system's general inefficiency in prosecuting Boko Haram members for sexual violence offences. With a focus on the legal gaps and enforcement issues that prolong their suffering, this article explores the Nigerian State's legal duties to shield these women and girls from such secondary harms in three ways. The effectiveness of current national and international legal frameworks in meeting the distinctive post-conflict requirements of survivors of sexual abuse, particularly regarding their right to dignity and non-discrimination, is the first of the significant legal concerns that arise. The second is how well Nigeria has complied with its duties under international human rights law, such as the need to look into, prosecute and compensate victims of sexual abuse during conflicts. Third, a need for offenders to be held accountable and victims / survivors to have access to justice.

To analyse these legal concerns and determine how well they protect the rights of Boko Haram female victims and survivors, this article will refer to some relevant provisions in the legal frameworks of the UN, the AU and Nigeria. Some of these frameworks include the 1999 Nigerian Constitution (as amended), the 2022 Terrorism Prevention Act (as amended), the African Charter on Human and Peoples' Rights, the CEDAW and the UN Security Council (UNSC) resolutions on women, peace and security, including Resolution 1325. It will demonstrate how discrimination, stigmatization and re-victimization are grave human rights abuses by using feminist legal and transitional justice theories. By critically engaging with these legal concerns, this article will contribute to the broader discourse on post-conflict justice and advocate for stronger enforcement mechanisms to protect the dignity and rights of Nigerian women who have survived sexual violence at the hands of Boko Haram. The failure to adequately address their suffering not only prolongs their trauma but also undermines the principles of justice and reconciliation that are essential for sustainable peace in Nigeria. Ensuring justice and protection for survivors is not just a legal obligation but a crucial step toward breaking cycles of violence and fostering an inclusive, rights-based approach to post-conflict recovery.

Discrimination, stigmatization and re-victimization: "Bring back our girls" but "we don't want them"

Theories and conceptualization

Although the terms discrimination, stigmatization and re-victimization are distinct, their uses in the context of this study are fluid. Hall and Carter¹¹ have described discrimination as the behavioural expression of institutional oppressions that are systematic, such as sexism, racism and ageism. These forms of oppression systematically exclude members of minority groups from equitable access to social and material resources.¹² These actions, whether overt or covert, encompass behaviours aimed at exclusion, avoidance or the creation of distance between individuals as sometimes experienced by victims / survivors of sexual violence. Goffman¹³ posits that stigma is socially constructed, operating

11 SP Hall and RT Carter "The relationship between racial identity, ethnic identity, and perceptions of racial discrimination in an Afro-Caribbean descent sample" (2006) 32/2 *Journal of Black Psychology* 155 at 175.

12 MP Orbe and SK Camara "Defining discrimination across cultural groups: Exploring the [un-]coordinated management of meaning" (2010) 34/3 *International Journal of Intercultural Relations* 284 at 293.

13 E Goffman *Stigma: Notes on the Management of Spoiled Identity* (2009, Simon and Schuster) at 1.

at the micro level and eroding the self-esteem of its targets. It can transform a person or group “from a whole and normal individual to one who is perceived as tainted and discounted”.¹⁴

Consequently, being stigmatized often leads to individuals becoming the subject of rumours and social exclusion, putting their rights at stake.¹⁵ Belonging to a minority and disadvantaged group, or being part of an unacceptable moral standard in a society, can contribute to the experience of societal stigma.¹⁶ All these fit into the basis of the experience of female victims / survivors of Boko Haram sexual violence. Originally, Burt¹⁷ articulated re-victimization regarding victims / survivors of sexual violence as encompassing prejudicial and stereotyped views about its victims, which often attribute blame to the survivors for their victimization. In a more recent conceptual framework, Hine and Murphy¹⁸ characterize re-victimization as a broad “cognitive schema” that formulates negative attributions about the survivors within a specific cultural context, as in the case of female victims / survivors of Boko Haram’s sexual violence in northeast Nigeria.

Feminist legal theories can be used to examine the rejection, re-victimization and human rights abuses of female victims / survivors of Boko Haram’s sexual terrorism. Feminist legal theories question established legal frameworks and support changes that take into account the particular circumstances faced by women and other marginalized genders.¹⁹ Although there are different perspectives on these theories, an intersectional feminist legal theory developed from Crenshaw’s²⁰ concept of intersectionality is most germane to this article. It criticizes how laws fail to address the experiences of women who face multiple forms of discrimination, in this case, the non-enforcement of relevant national and international laws that protect women’s rights. This study also considers the theories of restorative justice and transformational justice, which are based on transitional justice theories. Zehr²¹ offered a fundamental paradigm for restorative justice that emphasized community healing, truth-telling and victim-offender mediation. It thus provides the legal grounds to argue for the healing and integration of female survivors of Boko Haram-related sexual violence who faced stigmatization and exclusion from their communities, even after escaping captivity.

The theory of transformative justice, which was popularized by Morris,²² builds on restorative justice but seeks deeper structural changes to dismantle systems of injustice to prevent future injustices. It emphasizes that justice must go beyond repairing harm to empowering victims against discrimination and re-victimization, as experienced by Boko Haram survivors. It challenges deeply ingrained, deeper societal inequalities, such as gender-based violence, weak legal protections for women and harmful traditional norms. To address the gender-based discrimination, stigma and lack of justice faced by Boko Haram’s female victims, these survivors need not only recognition and accountability but also long-term legal, social and economic support to rebuild their lives.

14 Id at 5.

15 Ibid.

16 L Dumke et al “Patterns of conflict-related trauma exposure and their relation to psychopathology: A person-centred analysis in a population-based sample from Eastern DRC” (2021) 1 *SSM-Mental Health* 5 at 8.

17 MR Burt “Cultural myths and supports for rape” (1980) 38/2 *Journal of Personality and Social Psychology* 217 at 230.

18 B Hine and A Murphy “The impact of victim-perpetrator relationship, reputation and initial point of resistance on officers’ responsibility and authenticity ratings towards hypothetical rape cases” (2017) 49 *Journal of Criminal Justice* 1 at 13.

19 MA Fineman “Feminist legal theory” (2005) *American University Journal of Gender, Social Policy & the Law* 13 at 13.

20 KW Crenshaw “Mapping the margins: Intersectionality, identity politics, and violence against women of colour” in MA Fineman and R Mykitiuk (eds) *The Public Nature of Private Violence* (1994, Routledge) 93.

21 H Zehr “Commentary: Restorative justice: Beyond victim-offender mediation” (2004) 22 *Conflict Resolution. Quarterly* 305.

22 R Morris *Stories of Transformative Justice* (2000, Canadian Scholars’ Press).

The failure of institutional support for victims / survivors and the challenges of reintegration

Drawing on the impact of conflicts on women in Timor-Leste and Cambodia, Nakaya²³ pointed out three important issues, namely, the rule of law, transitional justice and the peacebuilding economy. Women and children who survived conflict-related sexual violence run the risk of further marginalization and victimization if these important issues are not implemented or are absent.²⁴ In this context, the failure of the Nigerian Government to put in place or failure to implement these issues in line with existing, if any, appropriate post-conflict institutional arrangements for female victims of Boko Haram terrorism has, therefore, helped to sustain existing gender relations of power in many post-conflict societies. This further subjects victims / survivors to continuous trauma, which negates the spirit of fundamental human rights.

In addressing the intricate social issues surrounding the protection of female victims / survivors and their children born of sexual violence, Schulz²⁵ noted that in the case of northern Uganda, the rights of these victims / survivors and their children need to get more attention. This is in addition to the urgent need by global and national communities to confront the complexities of societal taboos concerning reproductive or sexual violence, which often lead to stigmatization and re-victimization.²⁶ In northeast Nigeria, the epicentre of Boko Haram terrorism, some of these complex societal challenges are venerated in the name of tradition and, sometimes, religion. The existence of such societal issues, based on patriarchy, continues to stand in the way of victim / survivors and their rights after their escape or release from captivity in the hands of Boko Haram terrorists.

Freedom for some of the victims / survivors came at a huge personal cost as some of the women and girls returned to their families and communities with pregnancies or babies they had delivered while in captivity.²⁷ What should have been occasions for joy turned to sorrow, shame and anguish, due mainly to the cultural background of the victims / survivors, which placed a great premium on chastity for girls and for whom pre-marital sex was regarded as an abomination or taboo. Children are regarded as belonging to their fathers' communities, and as such, the children they bore for their captors were not seen as belonging to their mothers' communities because of the patriarchal nature of the society.

There were also fears that, while in captivity, they may have been indoctrinated and radicalized by their captors and become sympathetic to their cause. This was similar to the situation in Uganda,²⁸ where community members, in some cases, refused to accept the women and girls released from the Lord's Resistance Army (LRA)'s captivity.²⁹ Thus, while reintegration is intended "to reconnect the individual with the community's structural and cognitive elements, facilitate the re-establishment of familial / kinship ties, and regenerate community networks"³⁰ it sometimes misses the mark as a result of the reaction of some members of the community towards the once-abducted women who had returned to their communities.

23 S Nakaya "Victimization, empowerment, and the impact of UN peacekeeping missions on women and children: Lessons from Cambodia and Timor-Leste" in A Tabyshalieva and A Schnabel (eds) *Defying Victimhood: Women in Post-Conflict Peacebuilding* (2012, United Nations) 96 at 116.

24 JN Clark "Beyond a 'survivor-centred approach' to conflict-related sexual violence?" (2021) 97/4 *International Affairs* 1067 at 1069.

25 P Schulz "'To me, justice means to be in a group': Survivors' groups as a pathway to justice in Northern Uganda" (2019) 11/1 *Journal of Human Rights Practice* 171 at 178.

26 KB Sandvik and L Julieta "Beyond sexual violence in transitional justice: Political insecurity as a gendered harm" (2014) 22/3 *Feminist Legal Studies* 243 at 250.

27 Attah "Opinion piece – Terrorism, human trafficking and conflict-related sexual violence" above at note 7 at 129.

28 A Kiconco and M Nthakomwa "Wartime captivity and homecoming: Culture, stigma, and coping strategies of formerly abducted women in postconflict northern Uganda" (2022) 46/3 *Disasters* 654, available at: <<https://doi.org/10.1111/disa.12505>> (last accessed 3 April 2024).

29 Ibid.

30 Ibid.

The returnee victims / survivors soon discovered that they had become objects of scorn and fear in their families and communities. International Alert and UNICEF, in a 2016 report on their predicament, remarked thus:

“Some are returning with their children who were born as a result of sexual violence. As they return, many face marginalisation, discrimination and rejection by family and community members due to social and cultural norms related to sexual violence. There is also the growing fear that some of these girls and women were radicalised in captivity. The children who have been born of sexual violence are at an even greater risk of rejection, abandonment and violence.”³¹

The rejection of the children took several forms, including referring to them in derogatory terms³² such as “hyenas among dogs”, implying that they will eventually eat the innocent dogs, because they may have the blood of Boko Haram, from their fathers, and, therefore, constitute a risk to the communities.³³ This line of reasoning resonates with the belief that children tend to inherit and exhibit the traits and behaviour of their fathers.³⁴ This is not peculiar to communities in Nigeria, as Joseph Kony of Uganda’s LRA, who fathered about 200 children with his abducted wives, did so with the aim that they would become the next generation of fighters.³⁵ This was also accentuated by reports of some of the girls who allegedly killed their parents upon return to their communities from Boko Haram’s captivity.³⁶

Rejection, social exclusion and the crisis of identity for returnees

The freed victims / survivors are thus caught in a crisis of identity – neither belonging to the communities where they were born and from where they were abducted, nor to Sambisa Forest where they were forcefully taken. Their treatment can also be attributed to the large-scale violence the communities experienced at the hands of Boko Haram. Their ordeals, which have implications for their fundamental rights, are painful reminders of the past they wish to forget.³⁷ There is, therefore, a growing acknowledgement of the need to address the intricate set of specific rights for both female victims / survivors of conflicts and their children.³⁸ In the general lack of adherence to specific and targeted legal frameworks, the risks of female victims / survivors supporting Boko Haram in any form, and their children becoming terrorists, are likely to be high as they grow into precarious adulthood. The key to addressing this issue, therefore, starts with identifying the rights of female victims / survivors

31 International Alert / UNICEF Nigeria *Bad Blood*, above at note 8.

32 Ibid; M Goodhart “Sins of the fathers: War rape, wrongful procreation, and children’s human rights” (2007) 6 *Journal of Human Rights* 307 at 308.

33 See generally H Onapajo “Children in Boko Haram conflict: The neglected facet of a decade of terror in Nigeria” (2020) 13/2 *African Security* 195.

34 International Alert / UNICEF Nigeria *Bad Blood*, above at note 8 at 9.

35 B Maiangwa and OB Amao ‘Daughters, brides, and supporters of the jihad: Revisiting the gender-based atrocities of Boko Haram in Nigeria’ (2015) 12/2 *African Renaissance* 117 at 122.

36 International Alert / UNICEF Nigeria *Bad Blood*, above at note 8 at 14.

37 J Sarkin and S Ackermann “Understanding the extent to which truth commissions are gender-sensitive and promote women’s issues: Comparing and contrasting these truth commission roles in South Africa, Guatemala, Peru, Sierra Leone and Liberia” (2018) 50 *Georgia Journal of International Law* 463 at 473.

38 Swaine “Addressing the gendered interests of victims / survivors of conflict-related sexual violence”, above at note 2 at 146; J True “Women, peace and security in Asia Pacific: Emerging issues in national action plans for women, peace and security” (2016) *UN Women* at 10, available at: <<https://asiapacific.unwomen.org/en/digital-library/publications/2016/12/emerging-issues-in-naps-on-wps>> (last accessed 5 March 2024).

of Boko Haram and their children. This includes enforcing their legal rights and changing negative socio-cultural attitudes against them, which have been largely overlooked by policymakers.³⁹

Though the number of women and children concerned is not certain, it can be estimated from the comment in Maiduguri by the UN Secretary General's Special Representative on Sexual Violence in Conflicts in 2017, thus: "I met with 200 girls and 162 babies and I was disturbed by the fact that these young girls and their babies were not only rejected by their families and communities but also by the very people they were living with at the camp".⁴⁰ The severe stigmatization faced by victims of abductions can be best understood through the lived experiences of individuals like Khadijat. When Khadijat was 17 years old, she was abducted and forced into marriage with a Boko Haram fighter. During her time in captivity, she gave birth to a baby boy before being rescued by the Nigerian military. However, upon her arrival at the internally displaced people's (IDP) camp in Maiduguri, she experienced discrimination from some women due to her past. The women refused to share the water pump, buckets and bowls with her because, according to them, she was a "Boko Haram wife".⁴¹ The action of some of these women is sometimes influenced by fear of the unknown – what are they capable of doing? Do they still regard themselves as part of us, or have they changed allegiance to "the other side"? One family member who hosted some returnee victims / survivors, for instance, said that "Nobody slept the first night they were here ... before they were in such a calamity, we trusted them", the host family nevertheless felt extremely uneasy about sharing a room with former Boko Haram prisoners.⁴²

In another case, after being held captive in Sambisa Forest by Boko Haram insurgents, a girl became pregnant and returned home. She successfully delivered at the Red Cross Maternity Hospital. Still, regretfully, the first person in the community to see her called the infant "Shekau" in an offensive manner, referring to the notorious Boko Haram leader, Shekau.⁴³ Reports also state that several female victims / survivors were subjected to sexual violence, threats and insults at the hands of security personnel in the camps. These personnel even went so far as to demand "survival sex" from women and girls in exchange for minor favours and privileges.⁴⁴ Additionally, in some of the camps in Dalori, which housed thousands of displaced persons on the outskirts of Maiduguri, women who willingly married Boko Haram insurgents suffered greater social marginalization. These militants' wives were denied cooking in the kitchen among other IDP camp residents, and other displaced people shunned them and did not allow their children to play with the militants' children.⁴⁵

In one of the camps in Adamawa State, parents warned their children not to play with youngsters whose fathers are insurgents or children who are parentless, because these children are thought of as "little terrorists".⁴⁶ The shame associated with children fathered by Boko Haram militants has

39 N Quéniwet *Sexual Offences in Armed Conflict and International Law* (2005, BRILL); S Doan-Minh "Corrective rape: An extreme manifestation of discrimination and the state's complicity in sexual violence" (2019) 30/1 *Hastings Women's Law Journal* 167 at 167.

40 "UN tasks Nigeria on stigmatisation of 'Boko Haram wives, children'" (20 June 2018) *Punch*, available at: <<https://punchng.com/un-tasks-nigeria-on-stigmatisation-of-boko-haram-wives-children/>> (last accessed 10 February 2024).

41 UNICEF "Beyond Chibok: Over 1.3 million children uprooted by Boko Haram violence" (2016) at 4.

42 Deutsche Welle "Former Boko Haram captives face stigmatisation, rejection in Nigeria" (23 May 2016) *reliefweb*, available at: <<https://reliefweb.int/report/nigeria/former-boko-haram-captives-face-stigma-rejection-nigeria>> (last accessed 10 February 2024).

43 A Akinkuotu, NS Amalu and AE Adjah "Double tragedy! Stigmatisation and social exclusion of women and children returnees from Boko Haram captivity: Raising the new 'Shekaus'" (2023) 20/4 *LWATI: A Journal of Contemporary Research* 92 at 101.

44 International Crisis Group "Returning from the land of Jihad: The fate of women associated with Boko Haram" (2019) 275 *Africa Report* 9 at 29.

45 F Wilson et al "Women in peacebuilding in northeast Nigeria: Roles, challenges and prospects" (2024) 5/1 *MAT Journals* 1.

46 Akinkuotu, Amalu and Adjah "Double tragedy!", above at note 43 at 101.

caused many pregnant women victims / survivors to seek abortions, although it is illegal in Nigeria.⁴⁷ In public areas like boreholes, where women mostly congregate in IDP camps to obtain water, they are frequently socially marginalized. Many women victims / survivors experienced verbal abuse or harassment while collecting water from public boreholes, which occasionally prompted them to collect water at odd hours, like midnight.⁴⁸ One of the reports included a victim / survivor who stated that she frequently remains in her tent to keep away from gossip and verbal abuse.⁴⁹ In response to these worries, authorities in one of the Maiduguri camps constructed a separate borehole so that victims / survivors could obtain water.⁵⁰ Though commendable, this approach runs the risk of sustaining their exclusion.

The story of 17-year-old Zara is another tragic example of the stigma and re-victimization faced by survivors of Boko Haram. After her nine-month-old son, born of sexual violence, died from a snake bite, her family felt relieved and thanked God, seeing it as a sign that the “blood of Boko Haram” had left the family.⁵¹ This reaction deepened Zara’s sense of alienation and made her feel like she did not belong in her community. She sometimes even wished she were back with the Boko Haram members in the forest. The experiences of Khadijat and Zara illustrate Arkin’s⁵² observation in the 1990s that many surviving “comfort women” of World War II complained of continuous rejection for the atrocities committed against them “over 50 years ago”. A similar fate befell the female survivors of conflict-related sexual violence during the Rwandan and Yugoslavian genocides.⁵³ However, it would amount to oversimplification to work on the assumption that they were all innocent victims of the terror groups. Research has shown that several women and girls voluntarily lived with, and in some cases got married to, members of terror groups, with some actively participating in military exercises with the group.⁵⁴

The United Nations frameworks and fundamental human rights of women victims / survivors

Legal rights for women during and after armed conflicts are essential, as the UN has long acknowledged. However, the application and enforcement of these safeguards continue to be controversial. According to principles set by the 1968 International Conference on Human Rights in Tehran and the 1974 UN General Assembly Declaration on the Protection of Women and Children in Emergency and Armed Conflict, women’s rights must be protected.⁵⁵ The experiences of female survivors of sexual terrorism by Boko Haram in Nigeria and Joseph Kony’s LRA in Uganda demonstrate that, despite these efforts, there are still large legal gaps in resolving post-conflict human rights crimes.⁵⁶ Articles 1 and 2 of the Universal Declaration of Human Rights (UDHR) expressly forbid sex-based discrimination.⁵⁷ Whether Nigeria has successfully integrated these rules into domestic law and whether it has given female victims / survivors of sexual abuse committed by Boko Haram sufficient judicial remedies is the legal question that emerges. Discriminatory actions that breach the

47 GA Arowolo “Protecting women from violence through legislation in Nigeria: Need to enforce anti-discrimination laws” (2020) 20/4 *International Journal of Discrimination and the Law* 270 at 288.

48 Akinkuotu, Amalu and Adjah “Double tragedy!”, above at note 43 at 101.

49 Ibid.

50 International Crisis Group “Returning from the land of Jihad”, above at note 44 at 29.

51 A Leithead “Boko Haram abductions: Freed ‘bride’ tells of stigma ordeal” (14 April 2016) *BBC News*, available at: <<https://www.bbc.com/news/world-africa-36041860>> (last accessed 9 March 2024).

52 KD Askin “Comfort women – Shifting shame and stigma from victims to victimizers” (2001) 1/1-2 *International Criminal Law Review* 5 at 25.

53 Id at 32.

54 H Matfess *Women and the War on Boko Haram: Wives, Weapons, Witnesses* (2017, Zed Books) at 101.

55 AMA Hamad, J Jannial and R Indriyani “Mechanisms of the legal protection of human rights in global regulation” (2022) 1/2 *Human Rights in the Global South (HRGS)* 143 at 148.

56 CG Adeyanju “The gender-based violence as an instrument of warfare in armed conflicts” (2020) 6/2 *Journal of Liberty and International Affairs* 57 at 59–60.

57 UDHR, above at note 10.

non-discrimination principles of the UDHR include stigmatizing and excluding these returnee victims from their communities. Nonetheless, Nigeria's inability to uphold these rights at home raises grave questions regarding adherence to its international human rights commitments.⁵⁸

The CEDAW and the UDHR offer a strong framework for addressing discrimination against women, particularly survivors of sexual abuse in conflict.⁵⁹ The necessity to address the intersecting forms of discrimination that women encounter in conflict situations is emphasized in the Committee on the Elimination of Discrimination Against Women's General Recommendation No 30.⁶⁰ This is particularly pertinent for children born out of rape during conflicts, who face compounded stigma and identity challenges.⁶¹ However, in post-conflict situations like Nigeria, where Boko Haram returnee victims experience social exclusion and rights denial, these frameworks are frequently not sufficiently implemented. Articles 1 and 2 of the UDHR, which require equality and non-discrimination, are violated when female survivors are stigmatized and excluded because of their experiences.⁶² Likewise, the definition of discrimination in article 1 of CEDAW emphasizes the necessity of addressing systemic injustices that support this kind of marginalization.⁶³ The execution of these prohibitions is still lacking because of things like ingrained sexism, a lack of political will and social practices that support discrimination.

It is legally required for state parties to eradicate discrimination against women under the CEDAW. Post-conflict abuses experienced by women are included in the broad definition of discrimination provided by article 1 of CEDAW.⁶⁴ According to General Recommendation No 30, states need to be proactive in defending women's rights in post-conflict environments.⁶⁵ Nonetheless, systemic shortcomings are exposed by Nigeria's poor application of CEDAW's provisions. In violation of its international commitments under CEDAW, the Nigerian Government has not yet taken concrete action to address the post-conflict violations and the legal and social repercussions of sexual violence experienced by Boko Haram victims.

The Rome Statute of the International Criminal Court (ICC), which primarily deals with international criminal law (ICL), focuses on the prosecution of individuals for the most serious crimes of concern to the international community.⁶⁶ These crimes include genocide, crimes against humanity, war crimes and the crime of aggression.⁶⁷ It, however, uses international human rights law (IHRL) and international humanitarian law (IHL) as frameworks to define and prosecute crimes rather than

58 M Makau "Savages, victims, and saviours: The metaphor of human rights" (2001) 42 *Harvard International Law Journal* 201 at 201.

59 CEDAW; IF Gomez "The Optional Protocol for the Convention on the Elimination of All Forms of Discrimination Against Women: Strengthening the protection mechanisms of women's human rights" (2003) 20/2 *Arizona Journal of International & Comparative Law* 291 at 291.

60 UN Committee on the Elimination of Discrimination Against Women General Recommendation No 30 on women in conflict prevention, conflict and post-conflict situations (1 November 2013) UN Doc CEDAW/C/GC/30; BE Hernández-Truyol "Out of the shadows: Traversing the imaginary of sameness, difference, and relationalism – A human rights proposal" (2002) 17 *Wisconsin Women's Law Journal* 111 at 145.

61 R Holtmaat "Potential added value of the CEDAW" in A Hellum and HI Aasen (eds) *Women's Human Rights: CEDAW in International, Regional and National Law* (2013, Cambridge University Press) 100.

62 CEDAW, art 1.

63 CE Ajayi, K Chantler and L Radford "The role of cultural beliefs, norms, and practices in Nigerian women's experiences of sexual abuse and violence" (2022) 28/2 *Violence Against Women* 465 at 467–68.

64 UN Committee on the Elimination of Discrimination Against Women General Recommendation No 30, above at note 60.

65 "Guidebook on CEDAW GR 30 and UNSC Resolution on Women, Peace and Security" (2015, United Nations Entity for Gender Equality and Empowerment of Women (UN Women)).

66 See generally I Haenen "Classifying acts as crimes against humanity in the Rome Statute of the International Criminal Court" (2013) 14/7 *German Law Journal* 796.

67 C Davidson "How to read international criminal law: Strict construction and the Rome Statute of the International Criminal Court" (2017) 91/1 *St John's Law Review* 37.

directly applying them.⁶⁸ The plights of the female victims / survivors of sexual violence committed by Boko Haram in Nigeria necessitate the application of international criminal law (ICL), IHL and IHRL. These legal frameworks are essential because they define and address the crimes committed, such as rape and sexual slavery, which are human rights violations and war crimes under IHRL and IHL, and potentially crimes against humanity under ICL.

A precedent concerning states' culpability for neglecting to address sexual violence associated with conflicts was established by the historic case *SH v Bosnia and Herzegovina* (2020) under CEDAW's Optional Protocol.⁶⁹ Nigeria is directly affected by this case since the long-term marginalization of Boko Haram survivors is similar to what happened in Bosnia and Herzegovina. Nigeria still lacks a strong judicial system to hold offenders accountable and give victims justice, despite these precedents. Conflict-related sexual violence is specifically acknowledged as a type of gender-based violence that necessitates state action before, during and following conflicts under General Recommendations Nos 30, 28 and 35 under CEDAW. *SH v Bosnia and Herzegovina* serves as an example of how states can be held responsible for their failure to protect conflict-related sexual violence victims through international processes under CEDAW.⁷⁰ This is especially pertinent to Nigeria, where comparable neglect trends involving Boko Haram victims are noted. Nigeria has demonstrated a disconnect between international legal norms and domestic enforcement by delaying the implementation of transitional justice measures and the prosecution of conflict-related sexual violence offenders until 2023.

The ICC case *Prosecutor v Dominic Ongwen* sets a significant precedent by interpreting forced marriage as an "other inhumane act" under article 7(1)(k) of the Rome Statute. A commander in the LRA named Ongwen was found guilty under article 7 of the Rome Statute of crimes against humanity, such as forced marriage and sexual enslavement.⁷¹ This interpretation broadens the scope for prosecuting crimes against humanity related to conflict-related sexual violence. Despite some differences, especially jurisdictional, a similarity can be drawn between *Prosecutor v Dominic Ongwen* and the prosecution of Boko Haram's sexual crimes. The systematic use of sexual assault as a component of larger control and terror tactics is present in both cases. While sexual violence is a tactic used by Boko Haram to achieve its operational and ideological objectives, it was an essential part of the LRA's tactics in *Prosecutor v Dominic Ongwen*.⁷² There are aspects of enslavement in both situations, including sexual slavery. In *Prosecutor v Dominic Ongwen*, sexual and reproductive control is included in the charges of enslavement as a crime against humanity. Similarly, Boko Haram's actions include forced marriages and sexual slavery, which are prosecuted under domestic terrorism laws in Nigeria.⁷³

The argument can be made that the sexual terrorism perpetrated by Boko Haram falls within this category of "other inhumane acts", given its nature and gravity.⁷⁴ Therefore, similarity is not by definition, but by "nature and gravity".⁷⁵ Hence, it is not required that the relevant offence bears *actus reus* similarities to the other types of crimes against humanity listed in the Rome Statute's

68 R Bartels "The interplay between international humanitarian and human rights law when applied during international criminal trials" (2022) *Human Rights in War* 197.

69 *SH v Bosnia and Herzegovina* (Admissibility and merits) (2020) UN Doc CEDAW/C/76/D/116/2017, IHRL 3984, available at: <<https://opil.ouplaw.com/display/10.1093/law-ihrl/3984cedaw20.case.1/law-ihrl-3984cedaw20>> (last accessed 25 June 2024).

70 Joint statement by CEDAW and CRC "Ensuring prevention, protection and assistance for children born of conflict-related rape and their mothers", available at: <<https://www.ohchr.org/sites/default/files/2021-12/Joint-CEDAW-CRC-joint-Statment-on-Children-Born-of-Rape.doc>> (last accessed 25 June 2024).

71 M Lukáš "ICC: Prosecutor v. Dominic Ongwen" (2023) 7/1 *Bratislava Law Review* 125 at 126.

72 C Dowd and A Drury "Marginalisation, insurgency and civilian insecurity: Boko Haram and the Lord's Resistance Army" (2017) 5/2 *Peacebuilding* 136.

73 Ibid.

74 Lukáš "ICC: Prosecutor v. Dominic Ongwen", above at note 71 at 128.

75 Ibid.

expressis verbis.⁷⁶ This provides a legal basis for holding perpetrators accountable under ICL. As a state party to the ICC, Nigeria is, therefore, legally obligated to look into and bring charges of sexual terrorism against Boko Haram members for crimes against humanity. However, despite the creation of a specialized court to investigate and prosecute incidents of conflict-related sexual violence, the country has largely failed to punish offenders, as seen by the fact that trials of such cases did not begin until 2023. Concerns about Nigeria's commitment to upholding its responsibilities under the Rome Statute are raised by the lack of prosecutions in cases like these.

UNSC Resolution 1325 emphasizes the need for women's inclusion in peace and security governance, as well as the protection of female victims in post-conflict situations.⁷⁷ Paragraph 8(a) urges parties to take into account the special needs of women and girls, including their reintegration into society.⁷⁸ However, Nigeria's failure to implement policies aligned with Resolution 1325 underscores its lack of political will to address gender-based discrimination effectively. The country's lack of action in educating communities on the rights of female victims and ensuring their legal protection further reflects a breach of its international commitments. The Beijing Declaration and Platform for Action (1995) and UNSC Resolution 1325 underscore the importance of protecting women's rights during and after conflicts, including their participation in peacebuilding processes. Despite Nigeria being a signatory to these instruments, there is little evidence that their provisions have been effectively applied. For instance, UNSC Resolution 1325 calls for educating communities about survivors' rights – a step largely absent in Nigeria's response.

The protection of female survivors of sexual assault associated with conflicts is clearly outlined in the UN legal frameworks, such as the Rome Statute, UDHR, CEDAW and UNSC Resolution 1325. Nigeria's inability to successfully implement protections and incorporate these frameworks into its legal system, however, is a serious weakness. *Prosecutor v Dominic Ongwen* and other legal precedents provide avenues for responsibility, but they also call for more robust domestic enforcement systems. The pervasive social isolation of survivors and the tardy prosecution of Boko Haram criminals are prime examples of the difficulties in translating international legal commitments into real justice, which the Nigerian Government should look into. To close these legal gaps and guarantee that the rights of female victims / survivors are protected in real-world situations by international law, political will, judicial changes and community-based interventions must be enforced by the government.

Governments are required by the Geneva Conventions and their Additional Protocols to provide certain services to victims / survivors of sexual violence associated with conflicts who face stigmatization and prejudice. Governments are mandated by article 27 to protect victims / survivors' physical and emotional health and their dignity. In this sense, the Nigerian Government has not done enough for the victims / survivors. As evidenced by their experiences in the IDP camps located throughout northeastern Nigeria, there is a significant lack of access to medical care and psychological support, as stipulated in article 24.⁷⁹ Under articles 2, 24 and 3, it is the government's responsibility to guarantee that victims / survivors of sexual assault resulting from armed conflict get protection and respectful treatment. To fulfil these responsibilities and guarantee the protection of victims / survivors' rights and well-being, the Nigerian Government must act decisively.

According to article 7 of the International Covenant on Civil and Political Rights (ICCPR),⁸⁰ the government must protect all individuals, including female victims, from cruel, inhuman and humiliating treatment as well as physical and mental torture. Governments were also required under

76 Ibid.

77 Adopted by the UN Security Council at its 4213th meeting (31 October 2000) UN Doc S/RES/1325.

78 Preamble to UNSC Resolution 1325.

79 S Abdulkarim et al "Health seeking behaviour among the internally displaced persons in the North East Nigeria: Case study of tuberculosis patients" (2024) 4 *Journal of Immunology Research & Reports* SRC/JIRR-143 DOI: doi.org/10.47363/JIRR/2024 1 at 3.

80 International Covenant on Civil and Political Rights (1966), UN Treaty Series vol 999 (ICCPR).

articles 2, 6 and 26 to guarantee that victims / survivors get equal protection under the law without gender discrimination. The CEDAW also imposes obligations on governments towards victims / survivors of sexual assault linked to conflicts who are subjected to discrimination and stigma. Governments are obligated, among other things, to create and carry out policies and initiatives that protect women from sexual violence related to conflicts, train and strengthen the legal system, the judiciary and healthcare providers, and guarantee that women have access to safe housing and living conditions.

Protocol to the African Charter on Human and Peoples' Rights and protection of returnee female victims / survivors of Boko Haram

A strong legal foundation for the defence, advancement and upholding of women's rights throughout the African continent is offered by the Maputo Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa (the Maputo Protocol).⁸¹ It lays out explicit requirements for state parties to implement institutional, social and legislative measures to stop gender-based violence, discrimination and abuses of women's dignity.⁸² Nigeria has not, however, adequately implemented and enforced these requirements despite being a signatory, especially regarding the returnee female victims / survivors of the Boko Haram conflict. State parties are required by article 2 of the Maputo Protocol to take institutional, legislative and remedial action to end all forms of discrimination against women.⁸³ States must specifically "enact and effectively implement appropriate legislative or regulatory measures" that forbid discrimination in all its manifestations, including that which endangers the health and welfare of women, as required by article 2(1).⁸⁴ Although discrimination against women is already prohibited under Nigeria's legal framework, which includes the 1999 Constitution and the National Gender Policy, these legal protections have not been effectively implemented in situations involving female victims / survivors of Boko Haram's activities.

The unfair treatment these women experienced upon returning to their communities has not been challenged through the courts or other legal means. Instead, without much help from the government, they have been stigmatized, rejected and shunned by society. Article 2(1)(d) of the Maputo Protocol, for instance, mandates that states take "corrective and positive action in those areas where discrimination against women in law and practice continues to exist". Such corrective action was not taken by Nigerian authorities to shield the female returnee victims from verbal abuse, rejection by the community and denial of reintegration assistance. Nigeria's duties under the Maputo Protocol have been directly violated by this failure, which shows that gender-based discrimination persists in practice despite the existence of legal frameworks on paper.

The African Commission on Human and Peoples' Rights has reaffirmed that human dignity is "the soul of the African human rights system" and that when it is violated, it undermines the very essence of human rights.⁸⁵ The returnee female victims / survivors of Boko Haram experienced multiple violations of their right to human dignity, including being called "Boko Haram wives", "*annoba*" (meaning plague or curse) and "Sambisa women", which dehumanizes them and exposes them to personal suffering and humiliation. Reintegration was challenging for many survivors since they were rejected by their families and communities, which exacerbated their suffering. These ladies were

81 Maputo Protocol, above at note 10.

82 Id, art 2(1)(b).

83 Id, art 2(1)(d).

84 DL Sichel "Giving birth in shackles: A constitutional and human rights violation" (2007) 16 *American University Journal of Gender, Social Policy & the Law* 223; Id, art 2(1).

85 *Open Society Justice Initiative v Côte d'Ivoire* Communication 318/06 African Commission on Human and Peoples' Rights 17th extraordinary session (2015), para 139 cited by C Kreuser "Right to dignity" in A Rudman, CN Musembi and TM Makunya (eds) *The Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa: A Commentary* (2023, Pretoria University Law Press) at 74.

left to deal with their trauma alone since the Nigerian Government failed to put in place sufficient psychosocial support programmes for them. Social discrimination and verbal abuse are specifically recognized as types of degrading treatment under the Maputo Protocol. Nigeria has breached article 3 of the Protocol by neglecting to stop or prosecute these abuses, depriving these women of their basic right to dignity.⁸⁶

The rights to life, integrity and personal security are the main topics of article 4 of the Protocol, which also highlights the necessity of administrative, social, legal and financial measures to stop, punish and eradicate violence against women.⁸⁷ Nigeria has violated multiple provisions of article 4 by failing to take action against the stigmatization and discrimination of female returnee victims. For instance, article 4(2)(b)⁸⁸ demands that individuals who commit acts of violence and prejudice against women be held accountable through the judicial system. Nevertheless, no judicial action has been taken against the communities or individuals who marginalized, verbally abused or rejected these returnee women. States are required by article 4(2)(e)⁸⁹ to offer reintegration and rehabilitation to victims of gender-based violence. At the cost of victims / survivors, the Nigerian Government has instead prioritized offering amnesty packages to former Boko Haram terrorists. This has produced a twisted situation in which victims are ignored while offenders are shielded by the state. States are urged by article 4(2)(d)⁹⁰ to stimulate social communication to eradicate negative cultural norms and stereotypes that support violence against women. Nonetheless, societal reactions to returnee women are still dominated by patriarchal views, which serve to further victimize rather than protect them. In addition to highlighting a larger systemic failure to prioritize the rights of female survivors of violence, this inaction directly violates Nigeria's commitments to the Maputo Protocol.

The equality of men and women before the law is acknowledged in article 8 of the Protocol, which also ensures that women have effective access to legal and judicial services.⁹¹ These assurances have been broken by the Nigerian Government in several ways. States are required by article 8(b)⁹² to make legal aid services available to women. Nonetheless, no noteworthy endeavours have been made to offer free legal counsel to female victims who have returned and are seeking justice. Law enforcement agencies are required to interpret and uphold the rights of gender equality under article 8(d).⁹³ However, the Nigerian legal and security institutions have mostly disregarded the suffering of victims of returnees, not holding those responsible for their mistreatment or discrimination accountable. The modification of current legislation that discriminates against women is required by article 8(f).⁹⁴ However, no legislative changes have been made to particularly address the gender-based prejudice that returnee women experience after a conflict.

Article 10 of the Maputo Protocol highlights women's participation in post-conflict peacebuilding and rehabilitation initiatives as well as their right to live in peace.⁹⁵ Article 10 has been directly violated by Nigeria's refusal to offer sufficient reintegration programmes for Boko Haram-victimized women who have returned home. Returnee women are further excluded from decision-making processes due to the lack of explicit legislation guaranteeing their inclusion in peacebuilding and post-conflict governance structures. A systemic disdain for gender justice is demonstrated by the Nigerian Government's refusal to implement the Maputo Protocol's obligations in the instance of Boko Haram returnee female victims / survivors. In addition to violating its international

86 Maputo Protocol, art 3.

87 Id, art 4.

88 Id, art 4(2)(b).

89 Id, art 4(2)(e).

90 Id, art 4(2)(d).

91 Id, art 8.

92 Id, art 8(b).

93 Id, art 8(d).

94 Id, art 8(f).

95 Id, art 10(1).

commitments, the state's silence upholds the patriarchal systems that oppress and marginalize women.

The Nigerian State must put in place safeguards for these groups of women who face heightened vulnerabilities, including gender-based violence, economic deprivation and social ostracization. Without taking these actions, Nigeria continues to violate the Maputo Protocol and inflict injustice on Boko Haram survivors and returnee women. The absence of a robust, gender-sensitive reintegration policy further exacerbates their suffering, making them susceptible to continued marginalization and discrimination. Nigeria's systematic disregard for female Boko Haram survivors highlights a larger inability to put the safeguards of the Maputo Protocol into practice. As a signatory to this crucial African human rights instrument, Nigeria must meet its obligations to protect, empower and provide justice for women affected by conflict. The Maputo Protocol explicitly mandates that states take all necessary measures to eliminate discrimination against women, ensure their security and provide comprehensive protection for victims of violence. Therefore, Nigeria must ensure that survivors of the Boko Haram insurgency, particularly women and girls, are protected from stigmatization, inadequate medical and psychological trauma, and limited economic opportunities.

Female survivors of Boko Haram atrocities are often perceived as complicit in terrorism rather than as victims of abduction, sexual violence and forced participation in insurgent activities. Many communities reject these women upon their return, branding them with injurious names and treating them with suspicion. This deep-seated stigma not only affects their ability to reintegrate into society but also restricts their access to critical social services, including healthcare, education and employment. Although the Protocol offers a thorough framework, its effectiveness depends on tearing down patriarchal systems, guaranteeing accountability and placing survivors at the centre of post-conflict justice. Legal and institutional reforms are essential to ensure that female survivors receive justice and reparations. Nigeria must establish specialized mechanisms to investigate and prosecute sexual violence crimes committed during the conflict. Perpetrators, including both state and non-state actors, must be held accountable through transparent judicial processes that centre on the rights and dignity of survivors.

The Nigerian Government must also give these women's economic empowerment top priority by giving them access to credit facilities, job possibilities and vocational training. Survivors are still susceptible to more abuse and exploitation if they are not financially independent. Reintegration programmes must also incorporate psychosocial assistance, including trauma-informed therapy to aid in their recovery and life reconstruction. To end cycles of pain and inequality, education is essential. The government ought to fund educational programmes designed to address the needs of women and young girls impacted by the conflict. Those who have been denied formal schooling or driven into early marriage as a result of prolonged migration need special consideration.

If urgent changes are not made, Nigeria faces the danger of perpetuating cycles of trauma and inequity for women who have been sexually abused during conflicts and re-victimized in violation of both regional and international law. In addition to its responsibilities under the Maputo Protocol, Nigeria is obligated by international human rights treaties and instruments, such as the UNSC Resolution 1325 on Women, Peace and Security and the CEDAW. Nigeria's reputation abroad is damaged by breaking the obligations in these laws, which also feeds cycles of injustice and instability that last for generations. To solve the predicament of female survivors, Nigeria must move beyond talk to action. A holistic, survivor-centred approach must be adopted, integrating legal reforms, economic support, psychosocial care and community sensitization programmes. By doing so, Nigeria can take meaningful strides toward fulfilling its obligations under the Maputo Protocol and ensuring justice, dignity and protection for all women affected by conflict.

The inclusion of returnee victims / survivors in peace-building efforts by the government is an important and strategic issue that has been pointed out by Budoo-Scholtz, which "implies that the Maputo Protocol recognizes that women in these situations require additional support to reintegrate

into society”.⁹⁶ The active participation of returnee victims / survivors of Boko Haram’s terrorist activities in the reintegration process in their different communities should be vigorously pursued by the government to eliminate or minimize the rejection, isolation or stigmatization, which most of them face. An example of such involvement in the reintegration process can be seen in the experiences of former abductees of the LRA in northern Uganda. Acknowledging the challenge of persuading communities to welcome these victims / survivors who have returned, De Vries⁹⁷ correctly noted that “reintegration cannot be imposed or centralized; one cannot ‘programme’ people into accepting one another after years of violent conflict”.

Articles 9 and 15 of the International Covenant on Economic, Social and Cultural Rights (ICESCR)⁹⁸ require governments to guarantee social stability and safety, as well as the freedom to engage in cultural activities and reap the rewards of scientific advancement. These are significant rights that have been violated by stigmatization and discrimination against Boko Haram’s sexual terrorism female victims / survivors. Articles 9 and 15 thus bring to the fore the need for all parties (returnee victims / survivors, communities and the government) to be involved in efforts leading to reintegration. Some communities in Uganda caught in similar situations ensured that the returnee victims / survivors went through a traditional cleansing ceremony to set them free “from the retribution of the spirit world” before being reintegrated into society to resume their pre-conflict life. Also, some Bosnian rape survivors, instead of facing stigma, received assistance from their husbands, which helped their reintegration and healing.⁹⁹ Similarly, Utas¹⁰⁰ offers compelling findings from Sierra Leone, where customary integration rituals have played a significant role in lessening the stigma attached to rape survivors. This approach can be replicated in the affected communities in the northeastern part of Nigeria. The Nigerian Government has several legal and moral obligations toward female victims / survivors of Boko Haram’s conflict-related sexual violence, particularly those who face rejection, re-victimization and discrimination. These obligations stem from national laws, international treaties and human rights frameworks. Some key responsibilities will now be discussed.

Nigeria legal frameworks and the fundamental human rights of women and victims / survivors of Boko Haram

A strong legal basis for the defence of fundamental human rights, particularly those of women and victims / survivors of abuse, is provided by the 1999 Nigerian Constitution (as amended).¹⁰¹ However, the enforcement of these rights is still largely ineffective, especially for returnee female Boko Haram victims / survivors, despite the clear provisions of chapter IV, which guarantee rights like dignity, personal liberty, freedom from discrimination and private and family life. The incapacity of victims / survivors to adequately utilise constitutional rights is a significant problem. Although sex-based discrimination is expressly forbidden by section 42 of the Constitution,¹⁰² there have not been any significant court cases where this clause has been used to contest the social rejection and post-conflict prejudice that these women have experienced. The legal system’s failure to give restitution renders the constitutional tenet of *ubi jus ibi remedium* – where there is a right,

96 A Budoo-Scholtz “Article 10: Right to peace” in A Rudman, CN Musembi and TM Makunya (eds) *The Protocol to the African Charter on Human and Peoples’ Rights on the Rights of Women in Africa: A Commentary* (2023, Pretoria University Law Press) 226.

97 H De Vries and N Wiegink “Breaking up and going home? Contesting two assumptions in the demobilization and reintegration of former combatants” (2011) 18/1 *International Peacekeeping* 38 at 40.

98 International Covenant on Economic, Social and Cultural Rights (1966), UN Treaty Series vol 993 (ICESCR).

99 I Skjelsbaek “Victim and survivor: Narrated social identities of women who experienced rape during the war in Bosnia-Herzegovina” (2006) 16/4 *Feminism and Psychology* 373 at 379.

100 M Utas *Sexual Abuse Survivors and the Complex of Traditional Healing: (G)local Prospects in the Aftermath of an African War* (2009, Nordiska Afrikainstitutet) at 48.

101 CFRN, ch IV.

102 Id, s 42.

there is a remedy – ineffective. In addition, section 34(1)(a)¹⁰³ forbids cruel or humiliating treatment. According to legal interpretation, this type of treatment includes verbal and psychological injury in addition to physical abuse, such as the stigmatization endured by returnee victims / survivors.

The absence of judicial enforcement of these provisions reveals a disconnect between legal theory and real-world implementation. Although it makes terrorist acts like kidnapping and sexual assault illegal, the Terrorism (Prevention and Prohibition) Act of 2022 offers no guidelines for post-conflict justice.¹⁰⁴ The act ignores the particular risks faced by returnee victims / survivors who nonetheless experience secondary victimization and social exclusion. Even though it creates a special trust fund to provide compensation to terrorist victims, no instance of female victims / survivors receiving reparations has been documented.¹⁰⁵ This absence demonstrates how Nigeria's anti-terrorism system does not incorporate global best practices for victim-centred justice.

There is a trend in recent court cases to acknowledge conflict-related sexual violence as a separate offence. A precedent was established in 2018 when a Boko Haram member was found guilty of kidnapping the Chibok girls. In 2019, *Federal Republic of Nigeria v Umar Suleiman* included accusations of forced marriage, forced pregnancy and sexual slavery.¹⁰⁶ The 2023 trial at the Federal High Court in Abuja of Suleiman Garba Mohammed, a Boko Haram suspect, took this strategy a step further by using the 2022 Terrorism Prevention Act (as amended) to classify sexual violence as terrorism.¹⁰⁷ Prosecutors have been successful in their argument that conflict-related sexual violence offences are terrorist acts because they help Boko Haram achieve its goals. This approach could be expanded to address the societal stigma suffered by female returnees as an extension of terrorism-related harm. But rather than being the rule, these instances continue to be the exception, underscoring the necessity of more extensive systemic implementation. Cases like *Federal Republic of Nigeria v Umar Suleiman* focus on high-profile incidents such as the Chibok kidnappings but fail to address systemic abuses faced by other survivors.

Under national and international legal frameworks about women's rights, the National Human Rights Commission (NHRC) Act of 1995 (as amended) requires the protection and enforcement of human rights.¹⁰⁸ Some actions have been taken by the NHRC, including calling for the prosecution of those responsible and drawing attention to the government's shortcomings in protecting women in IDP camps.¹⁰⁹ Judgement delays and bureaucratic bottlenecks, however, limit its impact. In violation of their fundamental human rights, the NHRC has not adequately addressed the psychological and social prejudice experienced by female returnee victims / survivors. In addition, the NHRC's involvement in sexual violence prosecutions has shown structural flaws in Nigeria's judicial system. The prosecution of Boko Haram-related sexual offences is still slow, and cases are frequently put on hold because of corruption and ineffective procedures. The legitimacy of Nigeria's human rights

103 Id, s 34(1)(a).

104 Terrorism (Prevention and Prohibition) Act 2022, above at note 10.

105 Id, s 91(4)(a).

106 A Babington-Ashaye, T Mehra and MO Una "The tide turns: The prosecution of SGBV crimes as a terrorist offence in Nigeria" (12 July 2024) *ICCT*, available at: <<https://www.icct.nl/publication/tide-turns-prosecution-sgbv-crimes-terrorist-offence-nigeria>> (last accessed 13 August 2025).

107 Ibid.

108 National Human Rights Commission Act, 1995, part II: These include CFRN, Child Rights Act 2003, Violence Against Persons Prohibition Act 2015, Sexual Offences Act 2003, Administration of Criminal Justice Act 2015, Criminal Code 2004, Penal Code 2004, African Charter on Human and Peoples' Rights 1981, African Charter on the Rights and Welfare of the Child 1990, Maputo Protocol, AU Solemn Declaration on Gender Equality in Africa 2004, UDHR, CEDAW, ICESCR, ICCPR, International Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (1984) UN Treaty Series vol 1465 and Convention on the Rights of the Child (1989) UN Treaty Series vol 1577.

109 National Human Rights Commission Federal Republic of Nigeria "Inputs into the report of the Special Rapporteur on Torture", available at: <<https://www.ohchr.org/sites/default/files/documents/issues/torture/sr/cfis/cfi-ga79/subm-identifying-documenting-investigating-nhri-nigeria-national-hr-commission.docx>> (last accessed 15 June 2024).

framework is weakened by this ineffective enforcement, which also feeds impunity for those who commit sexual violence.

The failure to protect returnee victims / survivors under current anti-discrimination legislation is a significant legal shortcoming. In 2017, the NHRC frowned at the Nigerian Federal Government alleging that it failed to protect the rights of returnee women and children residing in camps for internally displaced people.¹¹⁰ The NHRC also asserted in 2019 that the Nigerian military had failed to protect civilians, particularly women and children as they were raped in the IDP camps.¹¹¹ These cases demonstrate the NHRC's efforts to prosecute those who violated the rights of women victims / survivors of the Boko Haram insurgency. However, no specific legal action has been taken by the NHRC to hold communities responsible for the rejection and stigma experienced by returnee victims / survivors. The state has violated its treaty responsibilities by failing to use legal tools to protect the rights of female victims / survivors of Boko Haram terrorism. However, rather than giving priority to the rehabilitation and reintegration of female victims / survivors, Nigeria's post-insurgency programmes have mostly concentrated on reintegrating former Boko Haram terrorists. The government's amnesty programmes for former insurgents contrast sharply with the lack of reparative measures for survivors of sexual violence, highlighting a legal and policy imbalance that exacerbates gender injustice.

Although women's fundamental human rights are ostensibly strongly protected by Nigerian legal frameworks, enforcement of these laws is nevertheless woefully insufficient. The systematic disregard for gender-based violence in conflict situations is highlighted by the failure to protect and rehabilitate returnee female victims / survivors through the use of international legal commitments, the Terrorism Act and constitutional safeguards. Despite Nigeria's ratification of various international human rights treaties, such as the CEDAW and the African Charter on Human and Peoples' Rights, practical implementation remains significantly flawed. The lack of effective enforcement mechanisms has left many women, particularly those affected by Boko Haram terrorism, vulnerable to continued exploitation, stigma and marginalization.

To guarantee that the rights of female victims / survivors of Boko Haram terrorism are not only acknowledged by the law but also effectively upheld in reality, the Nigerian Government must immediately review its institutional and legal frameworks. A comprehensive approach should be adopted to bridge the gap between policy and practice. This includes strengthening legal enforcement mechanisms, ensuring access to justice through special courts or tribunals for gender-based crimes in conflict settings and enhancing collaboration between government agencies, international organizations and civil society groups. Additionally, sustainable rehabilitation programmes, including psychological support, economic empowerment initiatives and community reintegration strategies, should be prioritized. Without immediate and sustained action, the cycle of gender-based violence and systemic neglect will persist, undermining Nigeria's commitment to human rights and justice.

Conclusion

Some key issues have been examined about the re-victimization and the human rights of returnee female victims / survivors of the terrorist activities and abduction by Boko Haram in Nigeria. It began by examining the abduction of women and girls by Boko Haram and how some were forced into marriages and pregnancies, while others were raped. Also discussed were the issues of discrimination, stigmatization and re-victimization that these women and girls suffered after they regained their

110 The United States Department of State "2018 Country reports on human rights practices: Nigeria" (2018), available at: <<https://www.state.gov/reports/2018-country-reports-on-human-rights-practices/nigeria/>> (last accessed 6 June 2024).

111 Amnesty International "Nigeria: Girls failed by authorities after escaping Boko Haram captivity" (2024), available at: <<https://www.amnesty.org/en/latest/news/2024/06/nigeria-girls-failed-by-authorities-after-escaping-boko-haram-captivity-new-report/>> (last accessed 7 June 2024).

freedom from Boko Haram captivity. The above issues were examined against the background of relevant legal provisions adopted under the auspices of the UN, the AU and the Nigerian Constitution, among others.

The rejection of some of the returnee women and girls is also a direct breach of article 16 of the Maputo Protocol, which guarantees their right to adequate housing.¹¹² The discrimination against women and girls prevented them from enjoying their rights to “housing and acceptable living conditions in a healthy environment”.¹¹³ The victims of this rejection were either accommodated in the IDP camps, where they were also discriminated against, or returned to the forests in unhealthy environments, where they were further abused. Their denial of housing also rubs on their rights to food security as enshrined in article 15.¹¹⁴ In the absence of conducive housing, it becomes difficult for them to have access to food, potable water and the means of producing nutritious food. However, the means, namely, competent judicial, administrative or legislative authorities, to remedy these women’s fundamental human rights abuses as contained in article 25, have been compromised.¹¹⁵ Although the African Court on Human and Peoples’ Rights as contained in article 27 has been put in place to hear and adjudicate on these abuses, there is no evidence that any application has been brought before it, despite the roles of groups such as “Bring Back Our Girls”.¹¹⁶

The legal frameworks used in examining the re-victimization and violations of the human rights of the victim / survivor women and girls, no doubt, complement each other. However, considering that women are particularly victims during and after conflicts because they are disadvantaged and discriminated against, they can be made less vulnerable to the effects of such conflicts, by enforcing the provisions of human rights laws that seek to protect them.¹¹⁷ It has been shown that the legal frameworks on fundamental human rights provide some useful legal protection for women during conflicts, which can be appropriated in post-conflict right violations, but there remains much more to be done in enforcing these rights through deliberate political will, which appears to be absent.

The Nigerian Government should consider engaging professional counsellors, psychologists and other mental health experts to talk to the victims listen to their fears, concerns and experiences and offer necessary reassurances. The victims’ / survivors’ families and communities should be included in these sessions so they can realize that they (the victims / survivors) are also victims of the conflict and that they require acceptance rather than rejection and re-victimization. Mechanisms should also be put in place to educate the communities that their actions against the returnee female victims / survivors of the atrocities of Boko Haram constitute violations of the victims’ fundamental human rights. They should also be informed of the consequences of the law on their actions in re-victimizing the returnee women and girl victims / survivors. The government at all levels, international and local humanitarian actors, and civil societies should equally ensure that these victims / survivors have access to legal counselling / aid in reporting violations against their rights. This will increase their access to the criminal justice system.

Finally, the children born out of the conflict should also be accepted by their mothers’ families and communities rather than being ostracized and treated as outcasts. If the government and society fail to accept these children as part of the communities, they may be laying the foundation for a future crisis that would be more devastating than we presently have on our hands.¹¹⁸ Alternatively, these children may be put up for adoption or placed in orphanages far away from their communities, while

112 African Union Protocol to the African Charter, art 16.

113 Ibid.

114 Id, art 15.

115 Id, art 25.

116 Id, art 27.

117 N Bueno and C Bright “Implementing human rights due diligence through corporate civil liability” (2020) 69/4 *International & Comparative Law Quarterly* 792.

118 UNICEF “Silent shame: Bringing out the voices of children caught in the Lake Chad crisis” (2017), available at: <<https://www.unicef.org/wca/reports/silent-shame>> (last accessed 6 March 2024).

their mothers are placed on full government scholarships to acquire formal education or engage in business activities. Pressure groups, civil society and non-governmental organizations have a greater role to play in ensuring that victims / survivors are accepted into their families and communities. If the “Bring Back Our Girls” movement had morphed into a “Take Back Our Girls” movement, it would have created enough awareness among the families and communities and made them realize that the women and girls were not only victims but should have been treated as heroines who had also suffered at the hands of the terrorists.

Competing interests. None