

## Boko Haram and sexual terrorism: The conspiracy of silence of the Nigerian anti-terrorism laws

Christiana E Attah\*

Lecturer, Department of Jurisprudence and Public Law, Joseph Ayo Babalola University, Nigeria

### Summary

*Over the centuries rape has been used effectively by terrorist groups as a weapon of terror. In this context, women's bodies are used by terrorists as battlegrounds, serving the dual purpose of spoils of war and a means of terrorising the populace. The Nigerian fundamentalist group, Boko Haram, has employed sexual terrorism in its campaign of terror against the Nigerian state and its people. Boko Haram has since 2013 embraced this tactic, which has led to the abduction of hundreds of women and girls, the most outrageous being the abduction of 276 'Chibok girls' that has attracted global concern. The Nigerian government has responded to the upsurge of Boko Haram terrorism by enacting the Terrorism Prevention Act, 2011, amended by the Terrorism Prevention (Amendment) Act, 2013, aimed at criminalising terrorist activities. Unfortunately, this Act is silent on the use of rape to further the ends of terrorist groups. Relying on media reports and interviews, the article examines what appears to be a conspiracy of silence by Nigerian anti-terror legislation regarding the use of rape as a weapon in the hands of terrorists. By not making any reference to the use of rape as a terror tactic, the Act appears either to have glossed over the possibility of rape being used by terrorists, or chosen to ignore it in line with the culture of silence surrounding rape in Nigeria. The article concludes that the Terrorism Prevention Act urgently needs to be amended in order to criminalise sexual assaults targeted at women and young girls by Boko Haram and other terror groups in Nigeria, so as to adequately address the perception of acts of rape as extensions of terrorist activities.*

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\* LLB (Jos, Nigeria) LLM (Ile-Ife, Nigeria); [ējuata@yahoo.co.uk](mailto:ējuata@yahoo.co.uk). I wish to acknowledge the funding provided by the Association of African Women for Research and Development (AAWORD), which gave me the opportunity to present the first draft of this article at the 8th General Assembly and Symposium of AAWORD in Dakar, Senegal. The contribution of Prof PA Ocheme towards the development of this article is also appreciated.

**Key words:** *anti-terrorism law; Boko Haram; Chibok girls; rape*

## 1 Introduction

The end of World War II in 1945 was expected to herald the beginning of global peace. However, this was not to be, as it soon became clear that a new form of violence – ‘terrorism’ – had emerged to threaten the fragile global peace. Terrorism has become one of the hallmarks of international relations, although it is not a new phenomenon and dates back to the evolution of human society. An early manifestation of terrorism can be seen in the activities of the Zealot sect.<sup>1</sup> This sect evolved from the struggle of the Jews against their Roman rulers round about the year 4 BCE.<sup>2</sup> The Zealots tried to impose on the Jews a strict and pious religious practice<sup>3</sup> and wrest power from the Roman rulers in order to ensure the independence of the Jewish nation, using the tactic of terror.<sup>4</sup> In the eighteenth century, the French Revolution of 1793 similarly saw the deployment of terrorism by the Jacobin government which came to power in the course of the revolution.<sup>5</sup>

Throughout history, power appears to have been aided and wielded through the use of terror.<sup>6</sup> However, modern terrorism appears to be different due to its global visibility, aided by the availability of sophisticated weapons, money and the revolution in the information communication technology. Crenshaw explained the reason behind the evolution of terrorism as follows:<sup>7</sup>

Since the beginning of the modern wave of terrorism around 1968, terrorists have developed new and elaborate methods of hostage taking, including aircraft hijackings, seizure of embassies or consulates and kidnapping of diplomats and business executives. As these tactics became familiar to governments and corporations, they ceased to surprise ... Terrorism then shifted to bombings that were shocking in their massive and indiscriminate destructiveness and in the apparent willingness of their perpetrators to die with their bombs. The purpose of innovation in terrorism is to maintain the possibility of surprise because it is critical to success.

This was clearly demonstrated by the terrorist attacks on targets in the United States of America on 11 September 2001. The choice of targets and methods adopted towards achieving this end took the

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1 G Challiand & A Blin (eds) *The History of terrorism from antiquity to al-Qaeda* (2007) 55.

2 As above.

3 Challiand & Blin (n 1 above) 57.

4 As above.

5 B Forst *Terrorism, crime and public policy* (2009) 44.

6 Challiand & A Blin (n 1 above) vii.

7 M Crenshaw ‘Theories of terrorism: Instrumental and organisational approaches’ in DC Rapoport *Inside terrorist organisations* (2001) 15.

world by surprise. In the aftermath of that incident, various attempts have been made to conceptualise and define the term 'terrorism'.<sup>8</sup>

Terrorism at a general level may be associated with indiscriminate violence. In another context, terrorism may be conceived in terms of freedom fighting, revolution, rebellion, and so forth.<sup>9</sup> The foregoing shows that, besides the destruction of life and property that accompanies terrorist acts, terrorism also aims at instilling fear and psychological trauma in the target population. Acts of terrorism may take the form of missile attacks; suicide bombings; kidnapping or hostage taking; armed robbery; arson; and so on. Crenshaw notes that terrorism generally is a tactic that uses violence or the threat of violence as a coercive strategy to cause fear and political intimidation.<sup>10</sup> Terrorism also is a common feature within resistance movements, military *coups*, political assassinations and wars that have affected most African states at some point or other. Africa has been associated with a collection of ideologically-inspired violent non-state groups that have been perpetrating acts of terrorism. These groups include the Lord's Resistance Army in Uganda; al-Shabaab in Somalia; Al-Qaeda in the Islamic Maghreb in North Africa; Islamic State in Libya; and Boko Haram in Nigeria. Crenshaw further observes that terrorism is not peculiar to African states as it has for many decades been a global phenomenon.<sup>11</sup>

The history of acts of sexual violence against women committed during wars and conflicts is as old as the history of war. As in the case of rape generally, this form of sexual violence is subsumed in a conspiratorial culture of silence: The victims do not want to talk about it, while society pretends that it does not exist. The result of this conspiracy of silence is manifested in the low record of prosecution and conviction of men who sexually assault women in conflict situations. The global upsurge in terrorism has led to increasing reports of acts of sexual violence committed against women by members of various terrorist organisations.<sup>12</sup> This may be attributed to the incorrectly-held general belief that rape committed during wars and conflicts is pardonable and natural as 'a byproduct of wartime

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8 A Adesoji 'The Boko Haram uprising and Islamic revivalism in Nigeria' (2010) 45 *Africa Spectrum* 95; CC Ojukwu 'Terrorism, foreign policy and human rights concerns in Nigeria' (2011) 13 *Journal of Sustainable Development in Africa* 371.

9 W Enders & T Sandler 'Distribution of transnational terrorism among countries by income class and geography after 9/11' (2006) 50 *International Studies Quarterly* 367.

10 Crenshaw (n 7 above) 15.

11 As above.

12 Report of the United Nations Secretary-General on Conflict-Related Sexual Violence S/2016/361 submitted to the United Nations Security Council on 20 April 2016, [http://www.securitycouncilreport.org/atf/cf/%7B65BF9B-6D27-4E9C-8CD3-CF6E4FF96FF9%7D/s\\_2016\\_361.pdf](http://www.securitycouncilreport.org/atf/cf/%7B65BF9B-6D27-4E9C-8CD3-CF6E4FF96FF9%7D/s_2016_361.pdf) (accessed 12 September 2016).

activity, as “collateral damage” and “spoils of war”, not as a violation of humanitarian law’.<sup>13</sup> Terrorists have also realised that rape can be used effectively as a weapon of terror, without attracting any legal penalty, even in the midst of existing laws which criminalise and prescribe penalties for rape, as is the case in Nigeria.<sup>14</sup>

The Nigerian terror group Jama’atu Ahlis Sunna Lidda’awati Wat Jihad – people committed to the propagation of the Prophet’s Teachings and Jihad (more popularly known as Boko Haram) – has been engaged in a campaign of terror against the Nigerian state and its people, especially women in the north-eastern part of the country, the group’s theatre of operations. The name Boko Haram was derived from two separate words, *Boko* and *Haram*, which was born out of the sect’s anti-Western posturing, and which literally means ‘Western education (book)/civilisation is sin’.<sup>15</sup> The term *Boko* is described as the Hausa word for Western education,<sup>16</sup> while *Haram* is an Arabic word which figuratively means ‘sin’ but literally means ‘forbidden’.<sup>17</sup> Thus, when these words are used together in the Hausa language, what emerges is ‘Western education is forbidden’ or *Boko Haram*.

This group has embarked on the deliberate use of sexual violence against women as one of its tactics in the terror campaign against the Nigerian state. The sexual violence which humiliates the Nigerian state and its people and also destroys the social fabric of society, where a high premium is placed on the chastity of its women, has had a devastating impact on the victims – physically as well as psychologically. While some of the women rescued from the camps of Boko Haram militants have tested positive for HIV,<sup>18</sup> the majority of the rescued women were found to be pregnant – a situation which caused Kashim Shettima, the governor of Borno state, to publicly declare:<sup>19</sup>

The sect leaders make a very conscious effort to impregnate the women. Some of them, I was told, even pray before mating, offering supplications

13 These views were eloquently espoused by Brownmiller in her widely-read book, S Brownmiller *Against our will: Men, women and rape* (1975) where she described rape as a tool ‘of oppression that men use to establish their manhood’.

14 Sec 357 of the Criminal Code (applicable in Southern Nigeria) defines rape as, *inter alia*, ‘unlawful carnal knowledge of a woman or a girl without her consent’, while sec 358 provides for a penalty of life imprisonment with or without caning for the offence. The Penal Code (applicable in Northern Nigeria) defines rape in sec 282 and also provides for a penalty of life imprisonment for the offence.

15 SHO Alozieuwa ‘Contending theories on Nigeria’s security challenge in the era of Boko Haram insurgency’ (2012) 7 *Peace and Conflict Review* 1.

16 MP de Montclos (ed) ‘Boko Haram: Islamism, politics, security and the state in Nigeria’ (2014) 2 *West African Politics and Society Series* 3.

17 A Adesoji ‘The Boko Haram uprising and Islamic revivalism in Nigeria’ (2010) 45 *African Spectrum* 95 100.

18 A Nossiter ‘Boko Haram militants raped hundreds of female captives in Nigeria’ *The New York Times* 18 May 2015 [http://www.nytimes.com/2015/05/19/world/africa/boko-haram-militants-raped-hundreds-of-female-captives-in-nigeria.html?\\_r=0](http://www.nytimes.com/2015/05/19/world/africa/boko-haram-militants-raped-hundreds-of-female-captives-in-nigeria.html?_r=0) (accessed 5 August 2015).

19 As above.

for God to make the products of what they are doing become children that will inherit their ideology.

The general opinion regarding the high number of pregnancies among the rescued female victims of Boko Haram's sexual terrorism is that these pregnancies resulted from a deliberate plan by Boko Haram to ensure that the women produce offspring that will continue the insurgency. This viewpoint has been expressed at various fora by government officials and individuals who point at the 'organised nature of Boko Haram's sexual violence' which 'appeared to point to a deliberate self-perpetuation plan'.<sup>20</sup> Abba Mohammed Bashir Shuwa, a senior government official, was quoted as saying that '[i]t's like they wanted to have their own siblings to take over from them'.<sup>21</sup> Speaking along the same lines, Hadiza Waziri, a relief official at one of the camps for internally-displaced persons and who works closely with the abused women, said: 'We are going to have another set of Boko Haram. Most of these women now, they don't want these pregnancies. You cannot love the child.'<sup>22</sup>

One may never know the full extent of the sexual violence unleashed on Nigerian women by members of the Boko Haram terror group, due to the prevailing culture of silence on matters relating to rape in Nigeria. Most victims are not willing to talk about their ordeal because of a fear of stigmatisation by other members of society.<sup>23</sup> These mindless acts have taken their toll on society: Lives have been destroyed, marriages have broken down and the victims have been left in despair, leading the Zainab Bangura Special Representative of the Secretary-General of the United Nations on Sexual Violence in Conflict to declare:<sup>24</sup>

I am appalled by reports that hundreds of the recently released female captives were repeatedly raped by Boko Haram militias and compelled to 'marry' their captors. In order to give rise to a new generation raised in their own image, they [Boko Haram militants] are waging war on women's physical, sexual and reproductive autonomy and rights.

Although Nigeria has put in place anti-terrorism legislation, enacted to counter terrorist activities such as those of Boko Haram, regrettably the anti-terrorism legislation fails to address the issue of sexual terrorism, a situation aptly described as a conspiracy of silence.

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20 As above.

21 As above.

22 As above.

23 AO Awosusi & CF Ogundana 'Culture of silence and wave of sexual violence in Nigeria' *American Association for Science and Technology Journal of Education*, <http://www.aascit.org/journal/education> 34 (accessed 12 September 2016). See also E Mora 'Female victims of Boko Haram stigmatised by own communities' <http://www.breitbart.com/national-security/2016/04/25/victims-boko-haram-stigmatized/> (accessed 12 September 2016).

24 United Nations News Centre 'Condemning use of sexual violence, UN envoy warns Boko Haram aims to destroy family structures' 27 May 2015, [http://www.un.org/apps/news/story.asp?NewsID=50981#.V-o\\_9zV1yJc](http://www.un.org/apps/news/story.asp?NewsID=50981#.V-o_9zV1yJc) (accessed 26 September 2016).

Against this background, the article attempts to bring to the fore some of the activities of the group that constitute sexual terrorism, a situation brought to global attention by the case of the Chibok girls. The article goes further to examine the extent to which the anti-terrorism legislation covers or fails to cover the issue of sexual assault as a weapon of terrorism. After a critical examination of the above issues, a conclusion is drawn based on the inadequacies of the anti-terrorism legislation in matters relating to sexual abuse of which the Boko Haram group has been accused.

## 2 Conceptualisation of sexual terrorism

Sexual violence has variously been described as 'one of the most horrific weapons of war, an instrument of terror used against women';<sup>25</sup> 'the most intimate of violations';<sup>26</sup> and an opportunity for men to 'vent their contempt for women'.<sup>27</sup> Sexual violence during conflicts and wars historically evolved from the practice in ancient times when women were regarded as part of the 'spoils of war' to which soldiers are entitled.<sup>28</sup> As explained by Brownmiller, 'the body of the raped female becomes a ceremonial battlefield, a parade ground for the victors trooping of the colors'.<sup>29</sup> Against this background we intend to conceptualise sexual violence against women in the course of armed conflicts. Acts which constitute sexual violence include 'rape, sexual mutilation, sexual humiliation, forced prostitution, and forced pregnancy'.<sup>30</sup>

The rape of women has always been a much-favoured tactic adopted by members of conventional armies and insurgents in the course of wars and other forms of armed conflicts. In a special report by the United Nations (UN) Commission on Human Rights, war-time rape was described as 'a deliberate and strategic decision on the part of combatants to intimidate and destroy "the enemy" as a whole by

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25 W Storr 'The rape of men: The darkest secret of war' *The Guardian* 17 July 2011, <https://www.theguardian.com/society/2011/jul/17/the-rape-of-men> (accessed 20 September 2016).

26 P Kirby 'Rethinking war/rape feminism: Critical explanation and the study of wartime sexual violence, with special reference to the Eastern Democratic Republic of Congo' unpublished PhD thesis, London School of Economics, 2012 2, <http://etheses.lse.ac.uk/586/1/kirby-paul-2012-rethinking-warrape-thesis.pdf> (accessed 16 August 2015).

27 Brownmiller (n 13 above) 32.

28 Report of the United Nations Secretary-General (n 12 above).

29 Brownmiller (n 13 above) 38.

30 Sexual Violence and Armed Conflict: United Nations Response Published to Promote the Goals of the Beijing Declaration and the Platform for Action, April 1998 2, <http://www.un.org/womenwatch/daw/public/cover.pdf> (accessed 16 August 2015).

raping and enslaving women who are identified as members of the opposition group'.<sup>31</sup> The report stated further:<sup>32</sup>

'Rape' should be understood to be the insertion, under conditions of force, coercion or duress, of any object, including but not limited to a penis, into a victim's vagina or anus; or the insertion, under conditions of force, coercion or duress, of a penis into the mouth of the victim.

Sexual violence against women has been a common practice dating back to ancient times when the 'Greeks and Romans wholly accepted rape as a common practice in warfare and captive women came to expect this as a consequence of defeat'.<sup>33</sup> According to Strohmets:<sup>34</sup>

Documentation from the Wars of Religion in France outlines the rape and torture of Huguenot women. Records also detail rapes in the Scottish Highlands in 1746 and during the First World War where the German military raped Belgian and French women.

History is replete with examples of sexual violence on 'enemy' women. These include:

- (i) the rapes committed against Jewish women in the concentration and prison camps, as well as in brothels established by the Germans during World War II;<sup>35</sup>
- (ii) the rape of an estimated 80 000 Chinese women in the course of World War II during the Japanese occupation of Nanking in 1937 in seven weeks of wild carnage now commonly referred to as the Rape of Nanking;<sup>36</sup>
- (iii) the enslavement and rape of thousands of Chinese and Korean 'comfort women' in 'comfort stations' established by the Japanese Military High Command in the course of World War II;<sup>37</sup>
- (iv) the rape of Vietnamese women by United States (US) troops during the US war in Vietnam;<sup>38</sup>
- (v) the rape of an estimated 200 000 women during the battle for Bangladeshi independence from Pakistan in 1971;<sup>39</sup>

31 UN Sub-Commission on the Promotion and Protection of Human Rights, Systematic Rape, Sexual Slavery and Slavery-Like Practices during Armed Conflict: Final Report submitted by Gay J McDougall, Special Rapporteur, 22 June 1998, E/CN.4/Sub.2/1998/13 4-5 <http://www.refworld.org/docid/3b00f44114.html> (accessed 27 September 2016).

32 UN Sub-Commission (n 31 above) 8.

33 C Strohmets 'Rape, women and war' [https://www.usm.edu/gulfcoast/sites/usm.../rape\\_women\\_and\\_war](https://www.usm.edu/gulfcoast/sites/usm.../rape_women_and_war) (accessed 16 September 2016).

34 As above.

35 N Farwell 'War rape: New conceptualisations and responses' (2004) 19 *Affilia* 389, <http://aff.sagepub.com/content/19/4/389.refs.html> (accessed 5 September 2015).

36 Farwell (n 35 above) 390.

37 M Linehan 'Comfort women' in MD Smith (ed) *Encyclopaedia of rape* (2004) 47.

38 Farwell (n 35 above) 390.

39 KS Islam 'Breaking down the Birangona: Examining the (divided) media discourse on the war heroines of Bangladesh's Independence Movement' (2012) 6 *International Journal of Communication* 2131, <http://ijoc.org/index.php/ijoc/article/viewFile/874/787> (accessed 26 September 2016).

- (vi) the rape and sexual enslavement of Muslim Bosnian women by Serbian forces during the 1992-1995 Bosnia conflict in the former Yugoslavia;<sup>40</sup>
- (vii) the rape of women by soldiers on both sides during the Eritrean-Ethiopian War of 1998-2000;<sup>41</sup> and
- (viii) the state-sanctioned rape of thousands of women in the course of the 1994 Rwandan genocide.<sup>42</sup>

This list is by no means exhaustive. The foundations laid by the perpetrators of these heinous crimes, especially those committed in the course of World War II, have been built upon by the members of the modern day military, insurgent groups and terror organisations.

Several reasons have been advanced for the upsurge in sexual violence during conflicts. The first reason commonly advanced is that such rape is viewed as a routine and normal reward accruing to the victors.<sup>43</sup> In effect, the rape of women by members of the armed forces during wars and conflicts is regarded as one of the benefits which members of the victorious armies deserve as a reward for winning the war or overcoming the 'enemy'. This view point reduces an otherwise heinous crime to the level of a 'fringe' benefit for 'the boys' in the victorious army. The hapless female victims, humiliated and debased, become mere toys in the hands of the 'soldier boys'.

A second reason, allied to the first, is the belief by the military high command that such sexual violence is necessary to serve as morale booster for the troops and to keep the soldiers happy. In fact, this was one of the reasons advanced for the establishment of 'comfort stations' by the Japanese military high command.<sup>44</sup> Sexual violence during wars and armed conflict is also regarded as a deliberate act of terror, aimed at achieving the desired political goal of the group, and to humiliate and demoralise their opponents. In this context, the women become mere pawns in the hands of the perpetrators of the sexual violence and are used to send powerful messages to the opposing political leaders to accede to the demands of the group. This tactic becomes most effective because of the high premium placed on the chastity of women by most societies. The act of rape, therefore, humiliates not only the women but also the male members of society who are portrayed as incapable of protecting their women.

The use of rape as a tactic of terrorism is regarded by the terrorists as a relatively cheaper means of achieving their aim as it does not

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40 CS Snyder et al 'On the battleground of women's bodies: Mass rape in Bosnia-Herzegovina' <http://aff.sagepub.com/cgi/content/refs/21/2/184> (accessed 5 September 2015).

41 S Healy & M Plaut 'Ethiopia and Eritrea: Allergic to persuasion' Chatham House Africa Programme Briefing Paper 07/01 7 <https://www.chathamhouse.org/sites/files/chathamhouse/public/Research/Africa/bpethiopiaeritrea.pdf> (accessed 26 September 2016).

42 A Desforges 'Leave none to tell the story: Genocide in Rwanda' *Human Rights Watch* March 1999, 163-164.

43 JR Lilly 'Wartime rape' in Smith (n 37 above) 270.

44 Linehan (n 37 above) 46-48.



require the purchase or use of guns and bullets on enemy targets, yet its effects on the victims are no less devastating. Indeed, it has been said:<sup>45</sup>

In war there are many weapons that may be employed and while the Kalashnikov or Improvised Explosive Devices may be favoured arms in modern warfare, there is one weapon all men carry and more often use. Men are choosing to use their bodies as weapons - in fact their manhood - to attack. The victim is raped in an effort to dehumanise and defeat the enemy, leaving an entire society with long-term suffering as victims cascade across generational divides. The scourge of rape as a weapon, affects not only the individual lives of the victims, but the entire family and community in which they live. Leaving their lasting marks on the entire country's civil society, this in turn affects our globalised world.

Sadly, despite the widespread nature of and devastation caused by sexual violence in wars and armed conflicts, over the years the perpetrators have been able to get away with their crimes without any form of legal sanction to punish them for their crimes and to serve as deterrence to others. It is a big blemish on the conscience of the world that the rapes of hundreds of thousands of women over the years has gone unpunished, as though these rapes never took place.<sup>46</sup> It appears that the world was inflicted with collective amnesia in cases of sexual violence targeted at women during wars and conflicts, until the establishment of the International Criminal Tribunal for Rwanda (ICTR) and the International Criminal Tribunal for the Former Yugoslavia (ICTY). These tribunals finally established legal definitions and precedents for prosecuting perpetrators of war-time rape and defining war-time rape as a crime against humanity.<sup>47</sup>

### 3 Boko Haram and sexual terrorism

The origin of the Nigerian fundamentalist group Jammatal Ahlis Sunnah lid Daawa wal Jihad (otherwise known as Boko Haram) is mired in controversy. Although there is a general belief that the group was founded around 2001 or 2002 by Mohammed Yusuf, this has been challenged by some writers.<sup>48</sup> The more general belief, however, is that the group came into existence in 2002 when a group of young Islamic fundamentalists gathered in the northern city of Maiduguri and, having claimed that the city was sinful and corrupt,

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45 C Clifford 'Rape as a weapon of war and its long-term effects on victims and society' paper delivered at the 7th Global Conference Violence and the Contexts of Hostility, May 2008, Budapest, Hungary.

46 KA Koenig et al 'The jurisprudence of sexual violence' Working Paper of the Sexual Violence and Accountability Project, Human Rights Centre, University of California Berkeley, May 2011 6.

47 Koenig et al (n 46 above) 10.

48 Writers such as Madike believe that the group, then known as Sahaba, was founded in 1995 under the leadership of Lawan Abubakar. See I Madike 'Boko Haram: Rise of a deadly sect', [http://www.nationalmirroronline.net/sunday-mirror/big\\_read/14548.html](http://www.nationalmirroronline.net/sunday-mirror/big_read/14548.html) (accessed 21 September 2015).

moved to Yobe state and set up abode in the village of Kanama under the leadership of Mohammed Ali. After the death of Mohammed Ali in a confrontation with the military in December 2003, Mohammed Yusuf took over as leader of the group, recruited more members (largely from scions of the northern elite and unemployed youths and refugees from Chad), and returned the group to Maiduguri.<sup>49</sup> According to Oyeboode, on their return to Maiduguri, Mohammed Yusuf embarked on the construction of<sup>50</sup>

new structures, offering food, medicine and other benefits to the poor just like the Muslim Brotherhood in Egypt and other parts of the Middle East. The group had, more or less, become a state within a state with its own mosques, cabinet, religious police and farms. They now became known as 'the Nigerian Taliban' and reportedly received financial support from Salafist elements in Saudi Arabia as well as wealthy northern Nigerians. In addition, some of their members were known to have had military training in Al Qaeda training camps in Mauritania, Algeria, Mali and Somalia.

The group, which had hitherto conducted its affairs peacefully, resorted to violence in 2009 following the extra-judicial killing of its leader, Mohammed Yusuf, while in police custody, with its first terrorist attack in Borno in January 2010 at Dala Alemderi Ward in Maiduguri.<sup>51</sup> However, another version of the account has it that the group was initially a gathering of thugs used by politicians to further their own political interest. According to this version,<sup>52</sup>

some politicians in Bornu State who were apparently using the sect members as thugs became frightened when they suddenly became too powerful for them and therefore had to invite the government to deal with them. Former Bornu State Governor Ali Modu Sheriff has been linked to the sect in this narrative – which he has strongly denied.

Whatever may have led to the radicalisation of the group, what has not been in dispute is the fact that the group has turned into a murderous band of terrorists operating not only in Nigeria, but also in Niger, Chad and Cameroon.<sup>53</sup>

Boko Haram's reign of terror tragically culminated in the attack on 15 April 2014 on a girls' school, the Government Secondary School,

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49 A Oyeboode 'Legal responses to the Boko Haram challenge: An assessment of Nigeria's Terrorism (Prevention) Act, 2011' text of a paper delivered at the Oxford Round Table, Harris Manchester College, University of Oxford, England, 22-26 July 2012.

50 As above.

51 J Adibe 'What do we really know about Boko Haram?' in I Mantzikos *Boko Haram: The anatomy of a crisis* (2013) 9-15.

52 As above.

53 Tribune Wire Reports 'Boko Haram again attacks outside Nigeria, this time in Niger' <http://www.chicagotribune.com/news/nationworld/chi-boko-haram-niger-20150206-story.html> (accessed 20 September 2016); 'Boko Haram rampage in Cameroon after being hit by 3-nation offensive' <http://www.chicagotribune.com/news/nationworld/chi-boko-haram-nigeria-cameroon-20150205-story.html> (accessed 20 September 2016).

Chibok, Borno State in Northern Nigeria, and the abduction of an estimated 276<sup>54</sup> young school girls from their school dormitory. The audacious kidnapping of the 'Chibok girls' generated international uproar largely due to the number and ages of the girls who became victims of Boko Haram terrorism.<sup>55</sup> This incident, more than any other, has equally exposed the soft underbelly of Nigeria's anti-terrorism legislation.

The abducted girls, who were students from several schools in the area, had gathered at the Government Secondary School Chibok in Borno State to write their final examinations 'due to the closure of most schools in the state out of fear of Boko Haram attacks'.<sup>56</sup> Out of an estimated 276 girls who were kidnapped, 57 managed to escape over the next few days.<sup>57</sup> The resultant global outrage at and condemnation of the kidnapping of these girls led to a global movement – '#bringbackourgirls' – which has aroused and sustained global interest in this case. However, the kidnapping of the Chibok girls is not the only such instance by the Boko Haram.<sup>58</sup> A report by Amnesty International states that an estimated '2 000 women and girls have been captured and forced into slavery by Boko Haram fighters in a little over 12 months'.<sup>59</sup> The report recommended the prosecution of members of Boko Haram for 'rapes, sexual slavery and other forms of sexual violence'.<sup>60</sup>

At the height of the global outrage over the kidnapping of the Chibok girls, Boko Haram released a video recording showing about 100 of the girls, allegedly a part of the Chibok girls, reciting Koranic verses and stating that they had now converted to Islam. The leader of the Boko Haram group, Mohammed Shekau, stated in the video that he would sell off the girls in the slave market and marry some off.<sup>61</sup> Justifying these plans, he stated that they were sanctioned by

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54 Human Rights Watch 'Those terrible weeks in their camps: Boko Haram violence against women and girls in North-East Nigeria' 2 <http://www.hrw.org> (accessed 5 October 2015).

55 R Reeve 'The internationalisation of Nigeria's Boko Haram campaign' 5, [http://reliefweb.int/sites/reliefweb.int/files/resources/SpecialBriefingMayEn14\\_0.pdf](http://reliefweb.int/sites/reliefweb.int/files/resources/SpecialBriefingMayEn14_0.pdf) (accessed 20 September 2016).

56 NB Nti 'Silence of the lambs: The abducted Chibok schoolgirls in Nigeria and the challenge to UNSCR 1325' Kofi Annan International Peace-Keeping Training Centre Policy Brief 3, November 2014.

57 Human Rights Watch (n 54 above) 18.

58 As above.

59 T Batchelor 'Rape and sex slavery: Life as a girl under Boko Haram exposed a year on from mass kidnap' <http://www.express.co.uk/news/world/570401/Boko-Haram-exposed-year-mass-kidnap> (accessed 20 October 2015).

60 K Dutta 'Boko Haram has abducted, raped and enslaved 2 000 women in reign of terror' <http://www.independent.co.uk/news/world/africa/boko-haram-has-abducted-raped-and-enslaved-2000-women-in-reign-of-terror-10174152.html> (accessed 20 October 2015).

61 M Pérouse de Montclos 'Nigeria's interminable insurgency? Addressing the Boko Haram crisis' November 2014, research paper prepared by the Africa Programme, Chatham House 13.

the Koran.<sup>62</sup> The reported accounts by some girls and women who had once been abducted by Boko Haram before their escape from its grip, or rescue by the Nigerian army, have given insights into the horrors of life in the camps. These are reproduced below:

According to a report,<sup>63</sup> Asabe Aliyu, a 23 year-old mother of four children from Delsak, a village near Chibok town, was found vomiting blood (a possible indication of internal injury) at the time of her rescue from the Sambisa forest by men of the Nigerian army in May 2015. Giving an account of her ordeal while in the captivity of Boko Haram, she stated that the 'terrorists took turns having sex with her on a daily basis and ended up getting her pregnant. Then they forced her into an unwanted marriage.'<sup>64</sup> Another young lady who escaped from her Boko Haram abductors a few days after she had been kidnapped stated that 'she was raped 15 times a day by 15 men throughout the time she was with the Islamic insurgents before she could escape from their den'.<sup>65</sup> These examples reflect just a minute tip of the proverbial iceberg of Boko Haram's devastating use of rape as a tactic of terrorism.

These abductions and rapes are not only criminal offences but also violations of the human rights of the victims as guaranteed in Chapter 4 of the Constitution of the Federal Republic of Nigeria, 1999. Section 34(1) of the Constitution provides:<sup>66</sup>

Every individual is entitled to respect for the dignity of his person, and accordingly –

- (a) no person shall be subject to torture or to inhuman or degrading treatment;
- (b) no person shall be held in slavery or servitude; and
- (c) no person shall be required to perform forced or compulsory labour.

The abductions and rapes committed by members of Boko Haram have the effect of depriving the victims of dignity and also amount to torture, inhuman and degrading treatment. The victims are also, in violation of subsection 1(b), held in slavery and servitude by their captors. Similarly, the actions of Boko Haram towards their abducted victims contravene constitutionally-guaranteed rights such as (i) the right to personal liberty;<sup>67</sup> (ii) the right to freedom of thought,

62 As above.

63 'Boko Haram's rescued sex slaves tell their horror stories' <http://www.thedailybeast.com/articles/2015/05/06/boko-haram-horror-stories-told-by-rescued-girls-in-nigeria.html> (accessed 20 October 2015).

64 As above.

65 O Akukwe 'Chibok girls, Boko Haram and Jihad of the penis' <http://www.nigerianbulletin.com/> (accessed 20 September 2016).

66 Constitution of the Federal Republic of Nigeria 1999.

67 Sec 35 Constitution of Nigeria.

conscience and religion;<sup>68</sup> (iii) the right to freedom of expression;<sup>69</sup> (iv) the right to assemble freely and associate with others;<sup>70</sup> and (v) the right to freedom of movement.<sup>71</sup>

The victims of these human rights violations are entitled to protection under the law from these violations and from the sexual violence visited upon them by their captors, the Boko Haram terrorist group. These acts of sexual violence have left the victims, their families and communities devastated. Marriages have been destroyed and communal values have been left in tatters.<sup>72</sup> Most victims yearn for justice for the crass violation of their bodies by members of Boko Haram and, thereafter, closure. One of the victims of Boko Haram's sexual terrorism exclaimed after the arrest of the Boko Haram member who had sexually assaulted her: 'God, I thank you, even if I die today, I am a happy woman.'<sup>73</sup> Their demand for justice is supposed to be facilitated by the anti-terrorism legislation put in place by the Nigerian state to prevent terrorism, deter persons who would otherwise have engaged in acts of terrorism and punish persons who actually engage in acts of terrorism.

#### 4 Nigerian Terrorism (Prevention) (Amendment) Act, 2013 and conspiracy of silence

Prior to the enactment of the Terrorism (Prevention) Act, 2011 (as amended by the Terrorism (Prevention) (Amendment) Act, 2013) Nigeria had no specific law dealing with terrorism. What served as counter-terrorism laws were mainly provisions of the Criminal Code and the Penal Code germane to the specific acts complained about. The Criminal Code applies in the states of Southern Nigeria, while the Penal Code is applicable in the states of Northern Nigeria. The only law that made mention of terrorism then was the subsisting Economic and Financial Crimes Commission (Establishment) Act 2004,<sup>74</sup> which merely defined and prescribed penalties for acts of terrorism. The Terrorism Prevention Act, therefore, expressly provides the requisite legal framework for the prevention and punishment of terrorism in Nigeria. The Terrorism (Prevention) (Amendment) Act, 2013 amended certain aspects of the Terrorism (Prevention) Act, 2011.

The Terrorism Prevention Act (as amended) begins by prohibiting all acts of terrorism and the financing of terrorism.<sup>75</sup> The emphasis placed on the financing of terror has been informed by the key role

68 Sec 38 Constitution of Nigeria.

69 Sec 39 Constitution of Nigeria.

70 Sec 40 Constitution of Nigeria.

71 Sec 41 Constitution of Nigeria.

72 Human Rights Watch (n 54 above) 36.

73 Akukwe (n 65 above).

74 Sec 15 of the EFCC Act provides for offences relating to terrorism.

75 Sec 1(1) Terrorism (Prevention) (Amendment) Act of 2013.

played in terrorism by finance. The Act further provides that when a person or body corporate knowingly inside or outside Nigeria, directly or indirectly, willingly<sup>76</sup>

- (a) does, attempts or threatens any act of terrorism;
- (b) commits an act preparatory to or in furtherance of an act of terrorism;
- (c) omits to do anything that is reasonably necessary to prevent an act of terrorism;
- (d) assists or facilitates the activities of persons engaged in an act of terrorism or is an accessory to any offence under this Act;
- (e) participates as an accomplice in or contributes to the commission of any act of terrorism or offences under this Act;
- (f) assists, facilitates, organises or directs the activities of persons or organisations engaged in any act of terrorism;
- (g) is an accessory to any act of terrorism; or
- (h) incites, promises or induces any other person by any means whatsoever to commit any act of terrorism or any of the offences referred to in this Act

commits an offence under this Act and is liable on conviction to maximum of death sentence.

From this definition it should be noted that the commission of offences of terrorism includes preparation. For instance, the receiving of terror training on its own is a complete offence, once it is proved that such training was received in preparation for a terrorist act. This has been referred to as a 'catch-all offence', since committing any act in preparation for or planning of a terrorist attack amounts to an offence.<sup>77</sup> Thus, for this offence to be committed it is not necessary for an actual terrorist attack to take place.<sup>78</sup>

The Act comprises of 41 sections, in eight parts, and a schedule which provides a list of all relevant international statutes dealing with terrorism, including:

- (a) the Convention on Prevention and Punishment of Crimes against Internationally Protected Persons, including Diplomatic Agents, 1973;
- (b) the International Convention against the Taking of Hostages, 1979;
- (c) the Convention for the Suppression of Terrorist Bombing, 1997;
- (d) the Convention for the Suppression of the Financing of Terrorism, 1999;
- (e) the Convention on Offences and Certain Other Acts Committed on Board Aircraft, 1970;
- (f) the Convention for the Suppression of the Unlawful Seizure of Aircraft, 1970;
- (g) the Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation, 1971;

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<sup>76</sup> Sec 1(2) Terrorism (Prevention) (Amendment) Act.

<sup>77</sup> As above.

<sup>78</sup> As above.

- (h) the Protocol for the Suppression of Unlawful Acts of Violence at Airports Serving International Civil Aviation, 1988;
- (i) the Convention on the Making of Plastic Explosives for the Purpose of Detection, 1991;
- (j) the Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation, 1988;
- (k) the Protocol for the Suppression of Unlawful Acts against Fixed Platforms Located on the Continental Shelf, 1988; and
- (l) the Convention on the Physical Protection of Nuclear Material, 1980.

The Act equally strengthened the offences designated as terrorism, for example, (i) belonging to or attending meetings of groups designated as terrorist;<sup>79</sup> (ii) providing finance<sup>80</sup> or (iii) logistics to such group.<sup>81</sup>

Towards this end, the Act sets out measures intended to provide for the prevention, prohibition and countering of terrorist activities and their financing in Nigeria. It also provides for the effective implementation of conventions<sup>82</sup> on the prevention and combating of terrorism as well as the Convention for the Suppression of the Financing of Terrorism, and the appropriate punishments.

The Act has given wide powers to the Office of the National Security Adviser (referred to in the Act as ONSA) as the co-ordinating body for all security and enforcement agencies under the Act.<sup>83</sup> Specifically, the Office of the National Security Adviser has been empowered to:<sup>84</sup>

- (a) provide support to all relevant security, intelligence, law enforcement agencies and military services to prevent and combat acts of terrorism in Nigeria;
- (b) ensure the effective formulation and implementation of a comprehensive counter-terrorism strategy for Nigeria;
- (c) build capacity for the effective discharge of the functions of all relevant security, intelligence, law enforcement and military services under this Act or any other law on terrorism in Nigeria; and
- (d) do such other acts or things that are necessary for the effective performance of the functions of the relevant security and enforcement agencies under this Act.

Another office with wide powers under the Act is the Attorney-General of the Federation. This office has been conferred with powers as 'the authority for the effective implementation and administration of this

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79 Sec 4 Terrorism (Prevention) (Amendment) Act.

80 Sec 13.

81 Secs 5 & 12.

82 Sec 40.

83 Sec 1(A)(1).

84 As above.

Act'.<sup>85</sup> The office of the Attorney-General was further empowered to<sup>86</sup>

strengthen and enhance the existing legal framework to ensure -

- (a) conformity of Nigeria's counter-terrorism laws and policies with international standards and United Nations Conventions on Terrorism;
- (b) maintain international co-operation required for preventing and combating international acts of terrorism; and
- (c) the effective prosecution of terrorism matters.

Also relevant are the law enforcement agencies that have been given the responsibility of 'gathering of intelligence and investigation of the offences provided under this Act'.<sup>87</sup>

The Act sets out specific offences which are described as 'terrorist acts' and prescribes penalties for these offences. Some of the offences specifically mentioned in the Act include:

- (i) the murder or kidnapping of internationally-protected persons;<sup>88</sup>
- (ii) arranging, managing, assisting or participating in meetings concerned or connected with an act of terrorism or a terrorist group;<sup>89</sup>
- (iii) soliciting or giving support to terrorist groups or for the commission of terrorist acts;<sup>90</sup>
- (iv) harbouring terrorists or preventing the arrest of a terrorist;<sup>91</sup>
- (v) providing training and instructions to terrorists or terrorist groups;<sup>92</sup>
- (vi) the provision of devices to terrorists;<sup>93</sup>
- (vii) the provision of facilities in support of terrorist acts;<sup>94</sup>
- (viii) the provision of finance for terrorists;<sup>95</sup>
- (ix) hostage taking;<sup>96</sup> and
- (x) membership of a terrorist group or a proscribed organisation.<sup>97</sup>

Most of the offences enumerated above attract penalties ranging from ten years' to life imprisonment.

It is instructive to note that, while the Act specifically mentions kidnapping as an act of terrorism, it did not envisage a situation whereby terrorists would kidnap people not for ransom, but strictly for

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85 Sec 1(A)(2) Terrorism (Prevention) (Amendment) Act.

86 As above.

87 Sec 1(A)(3) Terrorism (Prevention) (Amendment) Act.

88 Sec 3.

89 Sec 4.

90 Sec 5.

91 Sec 6.

92 Sec 7.

93 Sec 9.

94 Sec 12.

95 Sec 13.

96 Sec 15.

97 Sec 16.



sexual exploitation, slavery and abuse. As a result of this lack of foresight, the Act did not make provision for acts of rape committed by terrorists against women. The implication of this *lacuna* becomes obvious and glaring when one considers the fact that under Nigerian laws, an act does not constitute a crime unless a law creates the offence and prescribes penalties or punishments for its breach. Although the offence of rape has been provided for under Nigerian criminal laws, these laws may not be adequate for the purposes of prosecuting those who have resorted to the use of rape as a tactic of terrorism. Section 282(1) of the Penal Code<sup>98</sup> provides:

A man is said to commit rape who ... has sexual intercourse with a woman in any of the following circumstances:

- (a) against her will;
- (b) without her consent;
- (c) with her consent, when her consent has been obtained by putting her in fear of death or of hurt;
- (d) with her consent, when the man knows that he is not her husband and that her consent is given because she believes that he is another man to whom she is or believes herself to be lawfully married;
- (e) with or without her consent when she is under fourteen years of age or of unsound mind.

Under this law, mere penetration is sufficient to constitute the sexual intercourse necessary to prove the offence of rape.<sup>99</sup> The Penal Code, which is applicable in Northern Nigeria, prescribes a maximum penalty of life imprisonment and the payment of a fine for anyone convicted of the offence of rape.<sup>100</sup> For its part, section 357 of the Criminal Code defines rape, providing:<sup>101</sup>

Any person who has unlawful carnal knowledge of a woman or girl, without her consent, or with her consent, if the consent is obtained by force or by means of threats or intimidation of any kind or by fear of harm, or by means of false and fraudulent representation as to the nature of the act, or, in the case of a married woman, by impersonating her husband, is guilty of an offence which is called rape.

For this offence, the Criminal Code prescribes a penalty of life imprisonment in addition to caning.<sup>102</sup> Similarly, the Violence Against Persons (Prohibition) Act, 2015 criminalises rape, which is defined as the intentional penetration<sup>103</sup>

of the vagina, anus or mouth of another person with any other part of his or her body or anything else ... the other person does not consent to the penetration; ... the consent is obtained by force or by means of threat or

98 CAP 89 Laws of the Federation of Nigeria (LFN).

99 SS Richardson *Notes on the Penal Code law* (1963) 186.

100 See generally sec 283 of the Penal Code.

101 Criminal Code Cap C38, Laws of the Federation of Nigeria 2004.

102 See sec 358 of the Criminal Code.

103 Art 1 Violence Against Persons (Prohibition) Act 2015.

intimidation of any kind or by fear of harm or by means of false and fraudulent representation as to the nature of the act or the use of any substance or additive capable of taking away the will of such person or, in the case of a married person, by impersonating his or her spouse.

The offence of rape, when committed in the course of terrorism and as a tactic of terrorism, should attract a penalty as severe as the penalties prescribed for acts specifically mentioned in the anti-terrorism legislation. The nature of the offence and the need to deter others from committing the same offence make it imperative for the legislation to be amended to make such rape a capital offence, punishable by the death penalty. The existing laws on rape in Nigeria appear insufficient to serve as deterrence for those who rape women as a tactic of terrorism.

Under the existing criminal laws in Nigeria, proof of the allegation of rape may be a difficult task for the prosecution in the trial of those accused of committing rape in the course of terrorist activities. One difficulty that may be experienced by the prosecution involves the requirement that the evidence of the victim has to be corroborated. The evidence required in corroboration must be independent testimony which involves the accused by connecting or tending to connect him with the crime. It is important that this evidence must implicate him by confirming in some material way not only the fact that the crime has been committed, but also that the accused was the person who committed the crime. Corroborative evidence is considered necessary because<sup>104</sup>

in the higher interest of justice and acceptable level of certainty, certain situational testimonies could be so unreliable and, in such circumstances, the court ought to be very wary in convicting an accused person of rape on the evidence of that witness alone.

This rule appears to be hinged on a latent disbelief regarding the account of events as narrated by the female victim of sexual assault. The practice also appears to cast doubt on the ability of women and girls to tell the truth on matters relating to sexual assault. Nowhere is an attempt to protect an accused as obvious as in a rape trial. A victim who cannot supply corroborative evidence is unlikely to be believed.

The rule has over the years received much attention, with some arguing that the rule is relevant, while others argue that in this time and age the rule has lost its meaning. The requirement of corroboration has become a rule of practice in rape cases in Nigeria. It is an established practice in criminal law that, although corroboration of the evidence of the victim in a rape case is not essential in law, in practice it is always sought, and the practice is also for the judge to warn himself against the danger of acting upon uncorroborated testimony.

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104 PA Ocheme *The Nigerian criminal law* (2012) 177.

Although this rule has been abolished in England,<sup>105</sup> it still holds sway in Nigeria. In the case of *Igbine v The State*,<sup>106</sup> the court stated that '[c]orroboration means confirmation, ratification, verification or validation of existing evidence coming from another independent witness or witnesses'. The question then arises as to what may be regarded as corroboration sufficient to ensure conviction. This question becomes relevant when one considers the fact that rape rarely takes place in the presence of witnesses. In the case of *R v Kufi*,<sup>107</sup> the accused allegedly had carnal knowledge of a ten year-old girl without her consent. There was no witness to this incident. The unsworn evidence of the ten year-old victim was to the effect that she had not consented to the act, while her father stated that the accused, when confronted, had admitted to the act and offered him a promissory note in the sum of 20 pounds as compensation. The accused was convicted on the rape of the young girl on the ground that<sup>108</sup>

[t]here is ample corroboration of the complainant's evidence by the evidence of her father. I accept the father's evidence that the accused admitted that he had intercourse with the complainant and handed him the note, Exhibit 2, in an attempt to settle the matter and keep it out of the hands of the police.

In this case, the promissory note given to the victim's father by the accused provided the much-needed corroboration without which the accused would have been acquitted.

Similarly, in the case of *Olaleye v The State*,<sup>109</sup> the accused allegedly raped a 14 year-old girl. The corroborative evidence was supplied by the medical examination conducted on the girl after the rape. The medical examination revealed that the girl had been infected with gonorrhoea of the same species found on the accused when he was subjected to a similar medical examination. The court held that the presence of the same type of gonorrhoea in both the accused and the victim was sufficient to serve as circumstantial corroborative evidence. In the case of the rape victims of Boko Haram, as captives of the terrorist group, these victims do not have the opportunity of undergoing medical examinations immediately after having been raped. As a result, the possibility of providing corroborative evidence through immediate medical examination is most unlikely.

In the absence of medical and other corroborative evidence, and in light of the foregoing precedents, it may prove difficult for a victim of sexual terrorism by Boko Haram to convince a court, on the basis of her evidence alone, that she had been raped by the accused member of the Boko Haram terrorist group. However, had rape been included

105 See sec 32 of the Criminal Justice and Public Order Act, 1994.

106 (1997) 9 NWLR (Pt 519) 101(a) 108.

107 (1960) WNLR 1.

108 As above.

109 (1970) 1ALL NLR 300.

among the acts that constitute 'acts of terrorism' under the Nigerian anti-terrorism legislation, courts may not have insisted on the strict, unwritten rule on corroboration of the testimony of the victim, thereby making it easier for such victims to see justice done. Unfortunately, the Nigerian anti-terrorism legislation does not specifically mention the issue of 'sexual terrorism' – an omission which, regrettably, has led to a situation that can only be described as a conspiracy of silence on the part of the drafters of the anti-terrorism legislation. Since the upsurge of terrorism in Nigeria, no aspect has elicited national and international attention more than sexual terrorism, which has been watered down and only described in terms of 'the Chibok girls': The abduction of the Chibok girls was necessary to raise awareness and discourse by scholars in Nigeria and the Nigerian state on the issue of sexual terrorism. It is important to note that, prior to the abduction of the Chibok girls, Boko Haram terrorists had abducted and sexually assaulted hundreds of women and girls without attracting the type of media scrutiny as much as the abduction of the Chibok girls did.<sup>110</sup> The abduction of the Chibok girls changed this position and created public awareness about the use of rape and sexual enslavement by Boko Haram as a tactic of terrorism, and drew attention to its absence from the list of acts constituting terrorism under the anti-terrorism legislation in Nigeria.

While the legislation is silent on the issue of penalties for sexual violence committed against women as a tactic of terrorism, it has made reasonably adequate provision for other acts considered as 'terrorism' – for instance, participating in a meeting of a terrorist group attracts a penalty of twenty years' imprisonment.<sup>111</sup> Another example is membership of a proscribed organisation, which attracts imprisonment for a maximum term of 20 years. Taking a cue from this, therefore, it will not be inappropriate to canvass for the imposition of the death penalty for terrorists convicted of rape and other forms of sexual violence committed in the course of their terrorist campaigns because of the havoc their actions wreck on their victims. The harrowing experiences of the victims of this depravity are a pointer to the fact that this is a fitting punishment for the offence of rape committed as a tactic of terrorism. The silence of the Nigerian anti-terrorism legislation in the face of the realities of rape as a tactic of terrorism appears to be a case of conspiracy, which should be addressed by the Nigerian state. There is, therefore, an urgent need to review the anti-terrorism legislation to include rape as one of the offences of terrorism and to prescribe appropriate penalties.

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110 A Nossiter 'Boko Haram militants raped hundreds of female captives in Nigeria' *The New York Times* 18 May 2015.

111 See, generally, sec 4 of the Terrorism (Prevention) (Amendment) Act, 2013.

## 5 Conclusion

The focus of this research article has been the increased resort to sexual violence on women by members of the Nigerian fundamentalist group Boko Haram. The use of sexual violence as an increasingly important and integral part of the group's terrorist operations and tactics since 2012 has led to the kidnapping of hundreds of girls and women, the most notorious being the abduction of the Chibok girls. Age appears not to be a barrier, as girls as young as nine years old have been kidnapped and forced into sexual slavery by members of this group. These abductions and sexual assaults have left indelible marks on the victims. Some victims have become pregnant; some have developed vesico vaginal fistula (VVF); some have been infected with sexually-transmitted diseases, especially HIV; and nearly all have been psychologically affected by the traumatic experience.

The Federal Government of Nigeria, with the support of the international community, has taken steps aimed at combating the great threat posed to the unity of the country by the terrorist activities of Boko Haram. One such step is the military response. A second and equally important step is the enactment of anti-terrorism legislation. This legislation has criminalised certain actions as terrorism. Such acts include an attack upon a person's life leading to bodily harm or death; kidnapping for ransom; destruction of public infrastructure, public places or private property likely to result in major economic loss; the possession and manufacture of weapons and explosives; and the dissemination of views aimed at destabilising the polity. Regrettably, it did not expressly include sexual violence perpetrated by members of a terrorist group. This *lacuna* has been exploited by Boko Haram by unleashing a campaign of sexual terror on women of the north-eastern part of Nigeria, an area which has borne the brunt of the terrorist activities of Boko Haram.

While the victims and society demand justice for the demeaning violation of their bodies, the law on prevention of terror has not been able to give them succour: No provision for the offence committed against them is made in the law. The law and society have also not made provision for the maintenance of the children born out of the sexual violence visited on their mothers. Nigeria's anti-terror laws appear to have assumed that sexual violence cannot be used as a tactic by terrorists to intimidate the populace, pollute bloodlines and destroy society. The reality is that sexual violence against women is a most favoured tool of terrorists and has been widely used by Boko Haram, who have been described as 'the worst sexual abusers in the world' after the ISIS by the UN spokeswoman, Zainab Bangura.<sup>112</sup> With such a vicious and unflattering reputation, therefore, it is

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112 Special Representative of the Secretary-General of the United Nations on Sexual Violence in Conflict.

imperative for Nigeria to review its anti-terror legislation so as to include sexual violence as an act of terrorism, and also to prescribe appropriate penalties for the offence. This, apart from ensuring justice for the victims, would also serve as a deterrent and hopefully eliminate or reduce to the barest minimum incidents of sexual violence against women during wars and other forms of armed conflicts.