THE IMPACT OF FEDERALISM AND LEGAL PLURALISM ON THE ENFORCEMENT OF INTERNATIONAL HUMAN RIGHTS LAW AGAINST CHILD MARRIAGE IN AFRICA

Abstract
Some African states possess federal constitutions whereby the central and regional authorities share power of governance and lawmaking. Intuitively, sequel to the presence of legal pluralism where customary and/or Islamic systems of law exist and operate side by side with the more formal statute-based system of laws, central governments are bedeviled with the herculean task of legislating on issues they lack exclusive legislative competence despite being recognized and empowered by international law to make and ratify international treaties to which such regional authorities/states subscribe i.e Nigeria, Ethiopia, Sudan and South Sudan, etc. Child marriage invariably suffers a great deal from this in the sense that international human rights law obligates central governments to prohibit or criminalize child marriages by implementing international obligations. In this respect, it is not out of place for legislative and regulatory competence over child marriage to be given to other authorities by the national law. Taking into cognizance the Nigerian legal system, this paper unravels the impact federalism and legal pluralism have on the domestic enforcement of international human rights obligations in respect of child marriage. Inferences would be made from non-African federal states in an attempt to put in place possible measures to conquer the perceived impact.

Key words: Child Marriage, International Human Rights Law, Federalism, Legal Pluralism.

1. Introduction
Child marriage has become a topical issue in Africa. From a global perspective, it denotes a union whereby at least one of the parties involved is below the legal age of majority and invariably conducted without the prior valid consent of one or both parties, underscoring possibilities of physical or emotional duress. Child marriage may be formalized with or without formal registration, and under civil, religious or customary laws. However, it inures against boys and girls, but girls are disproportionately affected as they are the majority of victims.

International Human Rights Law views child marriage as illegal. This is borne out of article 16 of the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) 1979 (otherwise known as the most comprehensive international bill of rights for women), which states that the betrothal or marriage of a child should not

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have any legal status. Quite a number of other human rights instruments, namely, Convention on the Rights of a Child (CRC), African Union Charter on the Rights and Welfare of the Child (CRCW), etc, abhor child marriage and have set the minimum age for marriage to be 18 or when they have attained full majority and capacity to act.3

Nevertheless, the African Continent has witnessed the proliferation of child marriages, which has constituted a menace. Africa is seen to have the highest rate of child marriages globally. 14 out of the 20 countries with the highest global child marriage prevalence rates are in Africa. Sub-Saharan Africa is one of the regions’ most affected by cases of child marriage with 1 in 3 girls married off by the time they are 18 years old.4 According to the 2014 UNICEF State of the World’s Children, child marriage before 18 is highest and common in Africa. It is 57 per cent in West and Central Africa, 52 per cent in sub-Saharan Africa and 59 per cent in Nigeria.5

Notably, African States with the highest rate of child marriage are bedeviled with pluralist legal systems in the sense that customary and/or Islamic systems of law exist and operate side by side with the more formal statute-based system of laws. After colonization, these African countries were desirous and determined to restore and preserve their culture. Striking the delicate balance between preservation of culture and protection of children’s human rights has proved to be tricky. Generally, this paper seeks to answer the questions: What contestations exist in African States with pluralist legal systems and statute-based system of laws against child marriages? What effect do these contestations have on the reception of international law provisions against child marriages?

Firstly, this paper tends to conceptualize how colonization in Africa metamorphosed into legal pluralism and federalism in African States and how these pose as formidable challenge to the eradication of child marriage. It consequently argues that sequel to CEDAW, African States have been making frantic efforts to improve the status of

children. There have been constant changes in African constitutions and legal framework to incorporate principles that negate child marriage. Despite these institutional and legislative frameworks, challenges posed by multiplicity of legal orders within a single legal system make it extremely cumbersome to give effect to the provisions of the Convention and other relevant human rights instruments adopted by these African States.

Moreover, federalism has played a complicating role in the proliferation of child marriage in these states. It has been widely regarded as the best governmental principle for these countries based on the existence of multiple legal orders. It is believed that the operation of federal institutions can accommodate a country’s diverse custom/culture and religion and nurture a sense of unity. These notwithstanding, the features of a true federal state whereby governance is shared among the central government and her regions and the fact that international law recognizes the central government in terms of the fulfilment of treaty obligations pose challenges for the enforcement of international human rights law against child marriage. Difficulties are likely to arise in federal systems where the international norm intrudes on areas of protected regional authority.6 Worse still, international law holds central government under a federal structure responsible for attendant violations while regional/state violators are absolved under international law.7 The corollary is a lack of respect for and complication of domestic practice by federalism and legal pluralism in these African states. Consequently, it has leap-frogged the incessant proliferation of child marriages and has led to the suffering of child brides from educational and psychological factors.

Secondly, using Nigeria as a case study, where governance is ultimately shared among the three tiers of government: federal/central government, state/regional government and local government, derivable from her federal constitution,8 this paper further argues that despite her obligations under international and regional human rights instruments to proscribe the practice of child marriage, religious/customary law practices, which arguably seem to have been given a nod under the Nigerian Constitution, stand side by side with international human rights law at the state tier of government to justify the practice of child marriage. The federal practice ensures that international law must go through the process of municipal transformation before the international treaty can become an internal law, a responsibility of the central government.9 Hence, there is no direct reception of an international treaty at the state level, even if the said treaty falls under the domain of the state to administer i.e child marriage.

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7 Ibid.
Thirdly, in order to circumvent the challenges posed by federalism, pluralism and international human rights law against child marriage, lessons from federal states outside of Africa, which include, amongst others, highlighting how regions’ responsibility within a federal state can be endowed with international legal personality, whereby the regions might be held to play an important role in the making and implementation of international human rights law against child marriage; holding regional states responsible for the violation of international human rights law; and inculcating a multi-faceted agenda through state action in an attempt to support and preserve existing customary law systems while modifying them to eliminate the worst human rights abuses. Finally, in the conclusive section that follows, this paper wraps up the discourse.

2. Contextualizing Child Marriage in Africa: From Colonialism, Legal Pluralism to Federalism
Legal pluralism otherwise known as the presence of two or more systems of law permeates nearly all African countries.\(^\text{10}\) It is ‘the presence in a social field of more than one legal order.’\(^\text{11}\) Most commentators refer to it as ‘legal pluralities’ as opposed to legal pluralism basically because it depicts ‘the fluid, multilayered, contradictory and transnational forms of legal ordering that shape women’s life prospects today.’\(^\text{12}\) Today, most African countries are saddled with multiple, overlapping and competing legal and normative orders, including codified statutory law, transnational norms and procedures and various forms of informal norms and rules, many of which are often ambiguous and difficult to ascertain.\(^\text{13}\) This is mostly due to colonization by a number of European and/or western countries which resulted to the super imposition of the laws of the colonial masters which stood side by side with indigenous laws and the imposition of foreign laws based on the impact of western influences.\(^\text{14}\)

Legal pluralism was used as an avenue to checkmate the African indigenous peoples. Colonial regimes in Africa permitted local law and traditional legal institutions to prevail under their rule for the purpose of managing local society.\(^\text{15}\) One commentator stated thus:

\(^{10}\) O Agbede Legal Pluralism (1991).  
\(^{13}\) Ibid, 1.  
\(^{15}\) Boaventura de Sousa Santos ‘The Heterogeneous State and Legal Pluralism in Mozambique (2006) 40 Law and Society Review 39, 47 - 63
The recognition of African Customary Law was paramount to the colonial enterprise. With limited resources and incongruent policy objectives, it was highly unlikely that the governance of the colony could be achieved without the help of the indigenous communities. Moreover, implementation of the principles of indirect rule necessitated the maintenance of traditional rules and regulation so as to eliminate active dissent to the British occupation.\textsuperscript{16}

Consequently, at the turn of decolonization, African political leaders and her elites within the indigenous society have used it as a political tool to propagate their own power and influence which attitude has given rise to religious groups, for example, Islam perpetuating child marriage. This practice is seen as affecting the girl child particularly and women generally coupled with the fact that it violates generally recognized human rights norms. The concern here is that legal pluralism inherently encourages child marriages arguably because it strengthens customary and traditional regimes that undervalue women’s rights and interests.\textsuperscript{17}

Worse still is the fact that International Human Rights Law creates human rights standards in respect to marriage generally. Provisions in respect to the equality of the sexes in the enjoyment of rights are made in all major human rights covenants of the United Nations. The right to ‘free and full’ consent to a marriage is recognized in the Universal Declaration of Human Rights.\textsuperscript{18} The recognition that consent cannot be ‘free and full’ when one of the parties involved is not sufficiently mature to make an informed decision about a life partner is a violation of the Universal Declaration of Human Rights. In addition, CEDAW;\textsuperscript{19} Convention on the Rights of a Child 1989;\textsuperscript{20} Convention on the Consent to Marriage, Minimum Age for Marriage and Registration of Marriage 1964;\textsuperscript{21} International Convention on Civil and Political Rights (ICCPR) 1966;\textsuperscript{22} International

\textsuperscript{17} J E Bond ‘Constitutional Exclusion and Gender in Commonwealth Africa’ (2008) 31 Fordham International Law Journal 289
\textsuperscript{18} Art 16 Universal Declaration of Human Rights 1948
\textsuperscript{19} Art 16 Convention on the Elimination of Discrimination Against Women(CEDAW) 1979
\textsuperscript{21} Arts 1,2,3 Convention on the Consent to Marriage, Minimum Age for Marriage and Registration of Marriage 1964
\textsuperscript{22} Art 23 International Convention on Civil and Political Rights (ICCPR); Human Rights Committee Comment 28
Convention on Economic and Cultural Rights (ICESCR) 1966;\textsuperscript{23} the Supplementary Convention on the Abolition of Slavery, the Slave Trade and Institutions and Practices 1956;\textsuperscript{24} African Union Charter on the Rights and Welfare of the Child (CRCW) 1990; abhor child marriages. These notable human rights provisions have led and are leading African countries to constantly change their constitutions and legal frameworks in an effort to incorporate the principles against child marriage. These attempts have transformed into institutional and legislative reforms; however, the challenges posed by legal pluralism make it extremely cumbersome to give effect to the provisions of International Human Rights Instruments adopted by African countries.\textsuperscript{25} Emerged African States from colonization are experiencing tension and sometimes contradiction between human rights standards and state law and policies to the extent that certain principles of customary law are offensive to constitutional and human rights norms:

The challenge for many new nations has been how to strike the delicate balance between individual human rights standards guaranteed by the state and group claims to cultural rights. Implicit in this is the tension and sometimes contradictions between national policies on one hand, and the objective socio-cultural orientations of peoples on the other. One instance of this is the apparent conflict between the guarantees of gender equality and non-discrimination in national constitutions and the traditional status of women in many cultures.\textsuperscript{26}

The complexity of the conflict in this context over human rights is obvious, pitting the collective right of a community to draw on its own cultural values and to apply its own customary law, against the rights of the individual within that group who may suffer the traditional regime. This is more pronounced on issues affecting women and particularly children, who are subject to customary and religious law. This in turn creates gaps in implementing, monitoring and enforcement of instruments against child marriages.

Further complexities arise in African States practising federalism, especially where the international norm on proscription of child marriage intrudes on areas of protected sub-

\textsuperscript{24} Art 1(c) Supplementary Convention on the Abolition of Slavery, the Slave Trade and Institutions and Practices 1956
national or regional authority. In this regard, as a matter of constitutional law, federal executive branch may in fact be powerless to change regional practices of child marriages. It is not the federal government’s business on the region’s practice of child marriage even in the face of international human rights concerns. The Nigerian perspective gives a vivid example of the aforementioned challenges in Africa.

3. Enforcing the Proscription of Child Marriage in Africa: Nigeria’s Perspective to the Dilemma of Federalism and Legal Pluralism

Nigeria consists of over two hundred and fifty ethnic groups and inherited a federal system from Britain in 1960. Successive governments have made several attempts to operate federal institutions in a bid to accommodate Nigeria’s ethnic, cultural, religious and linguistic diversities for the purpose of national unity. Considering Nigeria’s diversity in religion, culture and language and the impact of colonialism, federalism is seen as the appropriate governmental principle suited for the country.27

A sound and stable legal system ordinarily should reflect the tenets of basic human rights and incorporate larger values for the protection of child brides. Accordingly, for the purpose of this discussion, what role has legal pluralism and Nigeria, being a federal state from a post-colonial influence, played in the eradication of child marriage? The state of affairs in Nigeria derivable from her federal constitutional practice questions the illegality of child marriage.

The Constitution of the Federal Republic of Nigeria 1999 (as amended) enshrines a governmental structure that puts in place three tiers of government (federal/central government, state government and local government) for the purpose of governance. Each of this structure possesses a legislative power to make laws within the confines of the legislative list for the peace, order and good government of the federation.28 For instance, the federal government through the National Assembly makes laws in respect to matters within the Exclusive Legislative List exclusively. In respect to the Concurrent List, the National Assembly and the State government through the State Houses of Assembly can make laws on the items thereof. Impliedly, matters outside the Concurrent List fall under the residual list which is within the confines of the State House of Assembly exclusively.29

Issues in respect of child marriage are not within the exclusive or concurrent legislative list which the Federal government through the National Assembly can legislate on. The

28 Sec 4 & 7 Constitution of the Federal Republic of Nigeria 1999(as amended) (The Nigerian Constitution);
29 Sec 4(2) & (3); Part I Second Schedule of the Nigerian Constitution; Sec 4(4) Part II Second Schedule of the Nigerian Constitution; ; Lagos State v. Federation of Nigeria (2003) vol. 35 W.R.N. 1.S.C.
challenge this can pose for the eradication of child marriage is vividly captured in Part I, item 61 of Second Schedule of the Nigerian Constitution; ‘The formation, annulment and dissolution of marriages other than marriages under Islamic law and customary law including matrimonial causes relating thereto.’ This provision gives a nod to Nigeria being a legal pluralist country whereby the legal system encourages the practice of civil, customary and Islamic law side by side, thereby encouraging customary and Islamic marriages. The effect of the foregoing is that a person subject to customary and/or Islamic law in Nigeria is legally permitted to engage in child marriage despite its proscription under international human rights law.

Another challenge that the above constitutional provision poses is in the area of the implementation of international laws in respect of child marriage in Nigeria. Basically, the prerogative of signing, adopting and enforcing international treaties is that of the federal government. Nigeria belongs to the dualist school of thought in terms of reception of international law into internal law. The view is held that international law must go through legislative enactment by the Nigerian National Assembly in order to become binding.30 Since child marriage is within the exclusive matters of the States, domesticated international laws in respect to child marriages are of no binding force in states whose customary and Islamic practices encourage child marriages. For instance, Nigeria has signed and ratified international and regional treaties which regulate the rights of children. These treaties have been domesticated in the form of the Child Rights Act (CRA) 2003. The CRA transforms into internal or national law Nigeria’s obligations under the Universal Declaration of Human Rights 1948; Convention on the Elimination of Discrimination Against Women 1979; Convention on the Consent to Marriage, Minimum Age for Marriage and Registration of Marriage 1964; International Convention on Economic and Cultural Rights; International Convention on Civil and Political Rights; Supplementary Convention on the Abolition of Slavery, the Slave Trade and Institutions and Practices 1956; World Health Organization Constitution; Africa Charter on Human and People’s Rights and Welfare of the Child 1990 and Convention on the Rights of the Child 1989. The federal government of Nigeria through the National Assembly enacted the CRA to provide and protect the rights of the Nigerian Child and other related matters. The CRA prohibits child marriage and betrothal of children in Part III Section 21: ‘No person under the age of 18years is capable of contracting a valid marriage and accordingly, a marriage so contracted is null and void and of no effect whatsoever.’ Pursuant to this, ‘no parent, guardian or any other person shall betroth a child to any person.’31

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31 Part III Section 22 CRA
In contravention of same, the CRA provides for punishment in Part III Section 23 and views same as criminal in nature.\(^\text{32}\)

The problem here is that despite its being enacted at the National level, the CRA is still not binding on the States. The States require to formally adopt and adapt the CRA for domestication as State laws. This is because issues of children rights protection are on the residual list of the Nigerian Constitution, giving States exclusive responsibility and jurisdiction to make laws relevant to their specific situations. States’ laws iminical to the rights of the child are also expected to be amended or annulled as may be required to conform to the CRA.\(^\text{33}\) Unfortunately, since the CRA was enacted in 2003, out of 36 states in Nigeria, 12 states are yet to domesticate the CRA.\(^\text{34}\) The implication is that, within these states, the practice of child marriage will go on unpunished, especially in respect to states whose religion and custom allow child marriage (eg Islam and Shari’a in the Northern States of Nigeria).

The foregoing justifies an acknowledgement of the framers of the Nigerian Constitution of the existence of customary and Islamic law in Nigeria prior to the enactment of the Constitution. Part 1, item 61 of Second Schedule of the Nigerian Constitution therefore makes customary and Islamic law operate side by side the Nigerian Constitution rather than bring it into conformity with its provisions. Customary law and Islamic law continue to operate in their pure form since they are not affected by the ratification and subsequent domestication of various international instruments in Nigeria against child marriage. This is further compounded by Nigeria’s subscription to the principle of constitutional supremacy, which basically provides that the Nigerian Constitution is the supreme law of the land and therefore all laws enacted should be in accordance with its provisions. This arguably seems to have made the CRA’s prohibition of child marriage ineffective and useless. In the first place, since child marriage is not within the legislative competence of the federal government, it lacked the required competence to enact the CRA for the Nigerian federation, which restricts the application of the CRA only to the Federal Capital Territory, Abuja. At best, the CRA can only be seen as an act carried out by the Federal government for the purpose of implementing treaties against child marriage.\(^\text{35}\)

Moreover, as a plural legal system, Nigeria ultimately struggles to strike a balance between guaranteeing the right to cultural/religious practices and the application of

\(^{32}\) ‘A person; (a) who marries a child or (b) to whom a child is betrothed or (c) who promotes the marriage of a child or (d) who betroths a child, commits an offence and is liable on conviction to a fine of N500,000 or imprisonment for a term of five years or to both such fine and imprisonment.’


\(^{34}\) Enugu, Zamfara, Adamawa, Kano, Kaduna, Bornu, Yobe, Gombe, Bauchi, Katsina, Kebbi, and Sokoto.

\(^{35}\) Sec 12(2) of the Nigerian Constitution
international human rights law towards the protection of human rights. While the CRA is seen as protecting the rights of children in Nigeria by proscribing child marriage on one hand, on the other hand, the CRA proscription seem to be infringing on cultural/religious practices such as child marriage under Islam in Northern Nigeria where it is legal. This legality is fortified by section 38(1) of the Constitution that entitles persons to freedom of thought, conscience and religion. This implies that the CRA is at variance with express rights of group of persons to cultural/religious practices. Nigeria and the CRA have failed to set a standard of justice or equity to which the exercise of cultural/religious practices may be subject. Consequently, Nigeria as a modern nation, which has committed herself to upholding universal human rights, continues to ignore her international obligations towards the eradication of child marriage.

Furthermore, the creation of states courts outside federal courts for the entertainment of disputes arising from customary/Islamic law constitutes a great obstacle to the application of international human rights law against child marriage. In Nigeria, Sharia and Customary courts are created by states to adjudicate over matters bordering on customs and cultural practices. The challenge here is that as long as these courts remain the sole guardians of customary law, cultural/religious practices legitimizing child marriage will be retained. In fact, customary law continues to exude an important force in the community, as a reflection of its culture, and public confidence is easily preserved. The greatest challenge is the complete independence accorded to customary courts, which has in turn opened the door to human rights violations. For instance, the continuous application of customary laws runs afoul of guarantees in the international human rights conventions and treaties to which the federal state is a party and subsequent domestica tions such as the CRA. To avoid child marriage practices, customary courts should be made to comply with basic principles of human rights that arbor child marriage.

It is important to ask whether states within a federal structure can be sanctioned for violating international law or international human rights treaties against child marriage. This is one challenge that poses the smooth implementation of international treaties generally. International law recognizes the central/federal government as her subject in order to observe her obligations and not states or regions under federalism. There is no direct enforcement of international law at the state level even if it is within the residual list. Consequently, the state government is not also held liable for violation of international treaties against child marriage. As a matter of constitutional law, the federal executive branch may in fact be powerless to change state practices of child marriage despite its violation of international human rights. Is it not possible for states directly affected by international treaties within a federal structure to begin to ratify such treaties?

4. Rethinking Child Marriage in Africa: Lessons from Non-African States
The Canadian experience presents a model for African federal states to emulate. Initially, in Canada’s federal structure in relation to human rights treaties, the provinces or regions
were granted exclusive jurisdiction in certain areas which ordinarily are subject of a number of international entitlements; like health, education, housing etc similar to how issues of custom/cultural practices have been granted to states within a plural legal order in an African federal structure that have encouraged child marriage. Division of powers within Canada’s federal structure with respect to the implementation of human rights treaties required federal legislation, provincial action or both. Consequently, it was possible for the federal government not to enter into a treaty if the treaty would not be performed. On the other hand, the provinces could decide to abide by an international treaty, though not placed under a legal duty as a matter of domestic constitutional law to do so. 36

Subsequently, to overcome the above challenge, Canada resorted to the exercise of ratification and enforcement of international human rights treaties through the process of consultation, co-operation and negotiation between the federal government and the provinces - what has been described as ‘co-operative federalism’ or ‘executive federalism.’ This process is more or less, a kind of relationship between the various tiers of government. This process has been built in into the Canadian tradition which runs through the gamut of quite a number of issues affecting the federal government and the provinces, including the ratification and implementation of human rights treaties. This process has been employed to solve differences between the federal government and her provinces and have been held to be effective in the breaking of deadlock where there is divided jurisdiction under the Canadian constitution.37

Cameron argued that in absence of co-operation and negotiation between the Canadian federal government and other levels of government, Canadian’s participation in human rights treaties would have been circumscribed severely. He, however, traced the commencement of this process with the Federal-Provincial Ministerial Conference on Human Rights in 1975, which later led to the establishment of a permanent mechanism for federal, provincial and territorial consultation on human rights. The effect of this process is that upon the ratification of human rights treaties by Canada, this singular action carries the express agreement of the provinces, as well as the federal government. This process has made Canada to be seen as a model for the ICCPR and ICESCR’s direction in such a way that the covenants’ provisions apply without adjustments for federalism. Cameron summed up the Canadian experience as follows:

The executive branch in parliamentary systems has the authority to conclude international agreements without the legislature’s participation. Although the Prime Minister and

37 Ibid.
Cabinet can normally count on Parliament to enact whatever laws are necessary to incorporate treaty obligations into domestic law, it is the legislature’s choice, as a matter of domestic prerogative, to do so or not. The complication in Canada’s case is the federal system and its division of powers. There, co-operative federalism facilitated a process of consultation with the provinces and territories, which overcame the constitutional obstacles of treaty-making and implementation in the area of human rights, and avoided the prospect of the federal government undertaking obligations without a mandate to do so from the provinces.38

The Canadian process is a veritable tool for African federal states to cure the obstacle currently bedeviling the implementation of international human rights treaties against child marriage. This will involve constitutional and legislative reforms based on human rights approach. A human rights based approach is ‘a conceptual framework for the process of human development that is based on international human rights standards and operatively directed to promoting and protecting human rights.’39 Changes to the constitution requires co-operation and near unanimous agreement between the various levels of government in respect of the proscription of child marriage. It promotes the involvement and empowerment of the most vulnerable and marginalized in the society, enables them to participate in policy formulation and holds accountable those who have a duty to act. Based on this approach, legislation and importantly the constitution will address cultural practices and traditions that encourage child marriage. Cultural/religious laws will be tested against the standards of human rights as espoused in the amended constitutions and other legislations.

Moreover, African regional states within a federal structure should be held responsible for the violation of international human rights law against child marriage. This argument might sound awkward because of the entrenched doctrine of nations/states responsibility in international law. However, realities on ground point towards a new international dynamic wherein regions’ international capacity has grown exponentially.40 Entrenching as a matter of international law the responsibility of regions would not be seen as the first breach in the idea of state responsibility. Historically, Nuremberg’s innovation of individual responsibility for genocide and crimes against humanity is apt in this regard.41 Holding regions responsible for violation of international human rights law will

38 Ibid.
41 Agreement for the Prosecution and Punishment of the Major War Criminals of the European Axis, 8 August 1945
guarantee the enforcement of international human rights against child marriage because the law would be applied directly against the entities seen to be actually responsible. Regions will not deny the relevance of international law; rather it would raise the consciousness of the nature and gravity of international law in general. Further basis for this argument can be drawn from the international legal order where regions have been allowed to incorporate international convention on human rights directly in a federal structure without recourse to the federal government. If this is the case, arguably, regions should also be held accountable for human rights violations.

It must be recalled that after the United Nations’ Fourth World Conference on Women, held in Beijing, China in 1995, agitations for the incorporation of women’s rights heightened globally. Within this period, despite the United States of America’s quest to protect the rights of women, CEDAW was not ratified, irrespective of being the main treaty guaranteeing women’s rights. Considering the delay by the USA federal government’s implementation of international standards concerning women’s rights, some regions decided to incorporate CEDAW directly into their local law. For instance, the City of San Francisco made CEDAW part of her local law in 1998, three years after the Beijing conference. This justifies the fact that in case of violation, San Francisco and not USA ought to be held responsible internationally, in the absence of USA ratification.

The USA experience above presents a platform for regions within African federal states encouraging the perpetration of child marriage on ground of culture/religious practices to be held accountable directly especially where there is evidence of ratification of international human rights treaties proscribing child marriage by the federal government.

5. Conclusion
This paper has attempted to justify how African pluralistic legal system, where statutory law operates side by side with customary and religious law within a federal state, affects the application of international human rights law against child marriage. This is complicated by the desire of these states to recognize various legal cultures while drafting post-colonial constitutions which invariably exempted the application of human rights provisions against child marriage on the basis of customary/religious laws. The experiences from Canada and USA have been espoused as better deals for African federal states, highlighting how regions’ responsibility within a federal state can be endowed with international legal personality, whereby the regions might be held to play an important role in the making and implementation of international human rights law against child marriage; holding regional states responsible for the violation of

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international human rights law; inculcating a multi-faceted agenda through state action in an attempt to support and preserve existing customary law systems while modifying them to eliminate the worst human rights abuses.