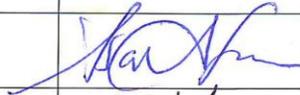
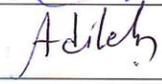


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<u>Unvanı, Adı ve Soyadı</u> :	<u>Kurumu</u> :	<u>İmzası:</u>
(Başkan) Yrd. Doç. Dr. İsa Afacan	Zirve Üniversitesi	
Yrd. Doç. Dr. Oğuz Dilek	Zirve Üniversitesi	
Yrd. Doç. Dr. Selin Akyüz	Zirve Üniversitesi	


Doç. Dr. Abdullah DEMİR
Enstitü Müdürü

T.C.
ZIRVE UNIVERSITY
INSTITUTE OF SOCIAL SCIENCES

INTERNATIONAL RELATIONS
POSTGRADUATE PROGRAM

MASTER THESIS

COUNTERING BOKO HARAM: PRESERVATION OF NIGERIA'S SECURITY
OR VIOLATIONS OF HUMAN RIGHTS?

By

Mukhtar BELLO

Advisor

Asst. Prof. Dr. Isa AFACAN

Gaziantep

May 2014

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DEDICATION

I dedicated this thesis to the victims of human rights violation in Northern Nigeria as a result of JTF counterterrorism operations against Boko Haram.

AUTHOR DECLARATIONS

The material included in this thesis has not been submitted wholly or in part for any academic award or qualification other than that for which it is now submitted.

Mukhtar Bello

May, 2014.

ABSTRACT

Mukhtar Bello

May, 2014.

Countering Boko Haram: Preservation of Nigeria's Security or Violations of Human Rights?

The aim of this thesis is to assess and analyze the effects of Nigeria's offensive counterterrorism measures against Boko Haram on the rights and freedoms of the people living in the areas affected by the violence in northern Nigeria from June 2011 to November 2013. Since the inception of Boko Haram crisis in 2009, Nigeria is facing the most serious security challenges in its modern history. Deadly and indiscriminate attacks have resulted the killing of thousands of people while unestimated worth of properties have been destroyed. The era of who is safe has long been vanished especially in the northeastern part of the country. However, Nigeria's response to this serious security threat is the imposition of heavy-handed military offensive measures which represent the country's counterterrorism tool box in fighting Boko Haram. The declaration of emergency rule in Borno, Yobe and Adamawa states has intensified the militarization of the region. Security operatives under the JTF were conferred with extra-constitutional powers to their mandate of restoring order in the areas affected by emergency rule. Unfortunately, the effects of these measures are unsounding. In many instances, JTF operatives have evidently resorted to brutality against the hostile population and perpetrated serious cases of human rights abuses in the form of extra-judicial killings and summary executions, enforced disappearance, force eviction, arbitrary arrest, unlawful detention and inhumane treatment of detainees. In framing the context of these problems therefore, the thesis utilized the theoretical assumptions of two models – constitutional emergency theory and balancing model. Finally, the thesis recommended the need for Nigeria to review the current counterterrorism measures and proposed the adoption of effective and comprehensive approach that will cater the need of both offensive and preventive measures in addressing Boko Haram's terrorism.

Key words:

Terrorism, Counterterrorism, Offensive Measures, Boko Haram and Human Rights Violations

KISA ÖZET

Mukhtar Bello

Mayıs 2014

BAŞLIK

Boko Haram'a Karşı Koymak: Nijerya'nın Güvenliğini Korumak ya da İnsan Hakları İhlalleri?

Bu tezin amacı, Haziran 2011 il3 Kasım 2013 arasında Kuzey Nijerya'da gerçekleşen şiddet ve Boko Haram'a yönelik devletin uyguladığı sert terörle mücadele teknikleri neticesinde bölgedeki halkın hak ve hürriyetlerini analiz etmek ve değerlendirmektir. Boko Haram krizinin 2009 da başlamasından beri, Nijerya yakın tarihinin en önemli güvenlik sorunuyla karşı karşıyadır. Fark gözetmeksizin ve ölümlerle sonuçlanan saldırılar sonucu binlerce insane hayatını kaybetmiş, değeri tam tesbit edilememiş mülk yok edilmiştir. Öellikle ülkenin kuzeyinde kimin güvende olduğu hissi ortadan kaybolmuştur. Bununla birlikte, Nijerya'nın bu çok ciddi güvenlik tehlikesine karşı, Boko Haram'la mücadele için çok sert askeri tedbirler terörle mücadelenin en önemli unsuru olarak benimsemiştir. Borno, Yobe ve Adamawa eyaletlerinde ilan edilen olağanüstü hal, bölgenin askerileştirilmesini artırmıştır. JTF komutasındaki güvenlik birimleri, olağanüstü hal bölgesinde düzeni tekrar sağlamak için anayasayı da aşan yetkilerle donatılmıştır. Fakat etkileri malesef kusurlu olmuştur. Bir çok olayda, JTF güçleri şiddete başvurmuş, muhalif bölge halkına, hukuk dışı öldürmeler, infazlar, falili meçhul ortadan kaybolmalar, zorla tahliye, keyfi gözaltılar, hukuk dışı alı koymalar ve tutuklulara insanlık dışı muameleler şeklinde tezahür eden insane hakları ihlalleri yapmışlardır. Bu problemlerin çerçevesini belirlemek için, bu tez iki teorik model yaklaşımından faydalanmaktadır: Anayasal acil durum teorisi, ve dengeleme modeli. Son olarak bu tez, Boko Haram terörünü önleme ve engellemeye yönelik tedbirlerin yeniden değerlendirmesi için bir yaklaşım geliştirilmesini önerir.

Anahtar Kelimeler:

Terörizm, Terörle Mücadele, Ofansif Tedbirler, Boko Haram ve İnsan Hakları İhlalleri

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LIST OF ACRONYMS AND ABBREVIATIONS

BOYANA-----	Borno, Yobe and Adamawa states under emergency rule
CBRN-----	Chemical, Biological, Radiological and Nuclear
CDS-----	Chief of Defence Staff
CID-----	Criminal Investigation Department
CJM-----	Criminal Justice Model
CSI-----	Crime Scene Investigation
DIA-----	Defence Intelligence Agency
DSS-----	Department of State Security
FRN-----	Federal Republic of Nigeria
GDP-----	Gross Domestic Product
GOC-----	General Officer Commanding
ICCPR-----	International Convention for Civil and Property Rights
ICESCR-----	International Covenant on Economic and, Social and Cultural Rights
IEDs-----	Improvised Explosive Devices
IMF-----	International Monetary Fund
JIT-----	Joint Investigation Team
JTF-----	Joint Task Force
LGA-----	Local Government Area
MNJTF-----	Multinational Joint Task Force

NBS-----National Bureau of Statistics

NIA-----National Intelligence Agency

NIS-----Nigeria Immigration Service

NP-----Nigeria Police

NSA-----National Security Adviser

SARS-----Special Anti-Robbery Squard

UN-----United Nation

VAR-----Vector Auto Regression

WMD-----Weapons of Mass Destruction

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CHAPTER ONE

1.0: Introduction

Nigeria's response to the upsurge of Boko Haram attacks in the north is very drastic, aiming for the swept elimination of the group threats, its members and restoration of the dwindling peace especially in the northeast region since 2009. The intense resurgence of Boko Haram attacks in 2011 and its fierce resistance against the security operatives in the northern region were the factors which prompted the Nigerian government to adopt offensive counterterrorism measures to curb this increasing security menace. However, Nigeria's failure to strike balance between the need to counter Boko Haram and the protection of human rights have resulted in making the measures dysfunctional causing numerous cases of human rights abuses alleged to be perpetrated by the Nigerian security forces under the Joint Task Force (JTF). Therefore, the thesis is aimed at analyzing the impacts of Nigeria's offensive counterterrorism measures against Boko Haram on the rights and freedoms of people living within the hostile areas of the violence in Northern Nigeria. It covered the period from June 2011 to October 2013.

Counterterrorism as a measure involves both defensive measures which states use to minimize vulnerability to terrorist acts, and offensive measures to contain, deter, and respond violently to terrorism, in complementary with any contingency measures such as emergencies that have the ability to respond to terrorist attacks and limit their space of operation (Steven and Gunaratna, 2004, 102). In other words, offensive measures are usually proactive designed purposely to target terrorists and their supporters with the sole aim of weakening the terrorists' operational capabilities, subsequently minimizing the number of their attacks and eventually lead to their complete defeat (Sandler, 2005, 75).

However, Boko Haram as a name can be semantically translated from Hausa and Arabic to mean "western education is forbidden." Although its adherents do not call

themselves “Boko Haram,” but it is a label applied to them by the government and the media. Officially the group is called “Jama`at Ahl-as-sunna Li-adda`await wa al- Jihad” an Arabic phrase which can be translated to mean “Association of Sunnis [adherents to the teachings of the Holy Prophet Muhammad S.W.A] for the Propagation of Islam and for Holy War” (Campbell, 2013b, 215 and Guidere, 2012, 62). Boko Haram is based in Nigeria but it has been designated among international terrorist organization by the United States in November 2013. It seeks to rigorously enforce Islamic Sharia and establish an Islamic state particularly in its strongholds in Northern Nigeria (Campbell, 2013b, 215 and Guidere, 2012, 62).

The group which was originally pioneered by late Muhammad Yusuf in 2004 became popular during the July 2009 uprising which resulted the death of its founder who was subsequently succeeded by Abubakar Shekau. Members of Boko Haram are drawn primarily from the Kanuri tribe (roughly 4 percent of the population of Nigeria), who are concentrated in the northeastern states of Nigeria like Bauchi, Borno and Yobe; and the Hausa and Fulani (29 percent of the Nigerian population) spread more generally throughout most of the northern states. Boko Haram is very much a locally-oriented movement; the group has not yet attracted a significant following among Nigerians of other tribal or ethnic backgrounds. Further, it has thus far proven difficult for the group to find sympathizers who would help them to facilitate attacks further south, thus the majority of attacks have taken place within the north (and primarily northeastern corner) of the country (Forest, 2012, 1).

Initially the modus operandi of Boko Haram was limited to gun attacks on security personnel and clergy, the group however had become more radical and took violent campaign after the death of Muhammad Yusuf in 2009. Since then the group has attacked various security formations such as military barracks, police stations, prisons, immigration offices and JTF patrols; politicians (including village chiefs and members of parliament), religious leaders (both Christian and Muslim), and individuals whom they deemed to be engaged in un-Islamic activities, like drinking beer and gambling.

Boko Haram has also carried out several mass casualty attacks at bus stations, media offices, telecommunication outlets, schools and was responsible in the 2012 bombing of UN headquarters in Abuja. It is the first militant group in Nigeria to embrace the use of suicide bombings (Forest, 2012, 1 and The Report: Nigeria 2012, 18-21). The group also had made significant leaps in its operational capability, and there are indications that members of the group have received weapons and training in bomb-making and other terrorist tactics from al-Qaeda affiliates in the north and/or east of Africa (Forest, 2012, 3).

Although terrorism in Nigeria was considered as a crime but it has not been clearly addressed by law until June 2, 2011 after Anti-Terrorism Prevention Act was signed by the Nigerian President. Since the inception of Boko Haram violence in 2009, Nigerian government has addressed it as a security problem. However, it has responded to Boko Haram violence in many ways. Initially, it considered the violence as temporary security problem, similar to previous experiences across Nigeria which could be solved through traditional police measures. Unfortunately, the crisis persisted despite the engagement of the military (Umar, 2013, 38).

On 12 June 2011, President Goodluck Jonathan inaugurated the Joint Task Force (JTF) in Borno state, codenamed “Operation Restore Order” mandated to restore law and order to the North Eastern part of the country with emphasis on Borno state. It comprises personnel from the Nigerian Armed Forces, the Nigeria Police (NP), the Department of State Security (DSS), the Nigerian Immigration Service (NIS) and the Defence Intelligence Agencies (DIA). The JTF commander was chosen from the military, due to its dominance in the operation (Amnesty International, 2012, 9).

Thus, the ongoing security operations by BOYANA and the subsequent one under the JTF in Borno, Yobe, and Adamawa States in the northeast region were considered as not only stability operations but as offensive military crackdowns on the sect members and its supporters. Henceforth, the Joint Task Force primary responsibility was aimed at subduing the group capabilities. The JTF operations were mostly aimed at

limiting the operating space for the sect and eliminating or arresting members of the group and their supporters. The strategies designed by the JTF to achieve this aim were military-oriented which included roadblocks, checkpoints, arrests; and cordon and search. It also entails guarding of key points, surveillances, protection of very important persons and offensive military raids among others (Umar, 2013, 41).

With the establishment of new military division in Borno, the JTF mandate elapsed in August 19, 2013 and Nigerian Army took over control of the federal government's counterterrorism drive against Boko Haram. The new division codenamed BOYONA represented the three states of Borno, Yobe and Adamawa under emergency rule. According to the defense headquarters, the creation of BOYONA was in line with the plans laid out for the conduct of the operations to execute the mandate spelt out in the State of Emergency declaration by the President Goodluck Jonathan (Premium Times, August 19, 2013).

The declaration of the state of emergency by the President on two occasions – in January, 2012 in fifteen local governments areas mostly affected by Boko Haram attacks and that of May 2013 in Borno, Yobe and Adamawa states – have conferred additional powers to the JTF under the Emergency Powers Regulations which were published on 27 April 2012 and 20 May, 2013. Among the provisions are : the detention of any person either within the emergency area or elsewhere, removal and exclusion of any person from the emergency area; the taking of possession or control of any property in the emergency area; the entry and search of any premises; the payment of compensation and remuneration to people affected by the order, the application of any law (with or without modification such as the imposition of curfew and blockage of telecommunication network services for certain periods) in relation to that area, and the apprehension, trials and punishment of persons offending against the order (Amnesty International, 2012, 8, Emergency Powers (General) Regulations, May 20, 2013 and Weekly Trust, May 25, 2013).

However, the combination of these counterterrorism measures had consequently compounded to create a collateral damage, where JTF operatives have allegedly perpetrated numerous cases of human rights violations. Extra-judicial killings and summary executions have been systematically carried-out against people suspected to be members of Boko Haram outside the frame of law. Enforced disappearances, force evictions and house burning, as well as arbitrary arrests, unlawful and incommunicado detentions were among the atrocities committed by the JTF under the auspice of countering terrorism. Many people were forced to abandon their respective houses, whereas many houses and shops have been destroyed or set ablaze by JTF operatives. Those arbitrarily arrested were detained in inhumane conditions at Giwa barracks in Maiduguri, SARS or SSS detentions facilities in Abuja. These situations have caused the death of many detainees as a result of suffocation, torture and diseases. Many of those arrested also stayed in custody for long period without access to their families, lawyers or relatives. Access to proper legal procedure as required by the law were proved difficult, where in many occasions security operatives deliberately refused to adhere with the detention guidelines prescribed in the Anti-Terrorism Prevention Act of 2011 and the provisions of Nigerian constitution, as well as other relevant articles of international conventions which the country ratified.

Therefore, the thesis utilized the theoretical assumptions of two relevant models in analyzing the context of the research problem. These models include: the constitutional emergency theory and balancing model. In the constitutional emergency power theory, Jules Lobel's argument on "liberal" as well as Alexis Keller's assertion on "neo- Harringtonians' republican" ideas of executive prerogative of states have provided the relevant framework in understanding the Nigerian government position with regard to the imposition of emergency rules in areas worse affected by Boko Haram violence.

Whereas in the balancing model, the positions of Adrian Vermeule, Eric Posner and David Cole have provided the thesis with the epistemology in comprehending the basic trade-off between security and human rights and to what extent Nigeria applied

this trade-off while addressing its protracted security problem with regard to Boko Haram. Similarly, Paul Wilkinson` three models (peace process, the use of military to aid the civil powers in combatting terrorism, criminal justice and war models) have provided the hints on how to address the crisis through democratic means.

However, Crelinsten analyses on criminal justice and war models have also highlighted the importance of adherence to due process when dealing with suspects of terrorism. The models emphasized the need for Nigeria to consider adherence to strict limits on those who can be subjected to its violent crackdowns in countering the threats of Boko Haram. He concluded that state officials who failed to follow the rules of war should be indicted as criminals and their gross atrocities should be considered as human rights violations.

1.1: The Purpose of the Thesis

The primary objective of this thesis is to assess and analyze the effects of Nigeria`s offensive counter-terrorism measures on the rights and freedoms of the people living in the areas affected by Boko Haram terrorism in Northern Nigeria from June 2011 to November 2013.

Specifically, while juxtaposing on the divides among various scholars on the importance of national security vis-à-vis the protection of Human Rights, freedom and liberty in countering the threats posed by terrorists; this research therefore seeks to scientifically explain the significance of human rights which is seriously overwhelmed by Nigeria`s offensive counterterrorism approach against Boko-Haram and adversely impacted on the well beings of people. Although Nigerian Government has in various occasions defended its stand on safeguarding its national security when countering Boko-Haram, many international and local human rights organizations have faulted that position and called for the adoption of new strategies that will minimize the tendency of Human Rights violations.

1.2: Significance of the Thesis

This thesis is important especially at this contemporary time where there is increasing concern about the security challenges which terrorism posed and the way and manner states across the world responded to it. Thus there is a growing concern on the implications of various counterterrorism measures against rights, freedom and liberty of both the victims of the violence as well as the suspected terrorists in various countries all over the world. As Nigeria is not an exception, writing a thesis on this problem is inevitably significant, because many academic works that cover issues concerning Boko-Haram in Nigeria are relatively silent on this issue.

Many of the atrocities committed by the Nigeria's security forces while countering Boko Haram have directly or indirectly affected the livelihood of many people, therefore writing a thesis of this nature will not only be useful to the states where the victims live in particular, but also to Nigeria and the government as well.

Furthermore, it will also add to the academic data bank for future researches and references to those interested in the topic, as well as those that will look into it for other purposes not only in Nigeria or Zirve University but also the world over. Finally, it will also propose a number of policy recommendations for Nigeria that will assist in minimizing the tendencies of human rights violations and ensure its protection in the course of countering terrorism in the future.

1.3: Scope and Limitations of the Thesis

The scope of this thesis is primarily to analyze the effects of Nigeria's offensive counterterrorism measures on human rights in Northern Nigeria. Exclusively, it focuses on the resulting violations of human rights of people living in the affected states alleged to be perpetrated by the JTF. Hence, the thesis covered the period of two and a half years (from June 2011 when the Joint Task Force (JTF) was established by the Federal Government of Nigeria in Maiduguri, Borno state to the first phase of emergency rule

which lasted for six months from May 2013 to November 2013), and the subsequent operation of the newly established military division in Maiduguri under operation BOYANA within this stipulated period.

Despite of this, the thesis is limited to study the cost of Nigerian counterterrorism measures on human rights. Henceforth, lack of adequate time and finance has restricted the thesis to rely almost on the available reports published by Amnesty International and Human Rights Watch within the stipulated period which the thesis covered. The ongoing security challenges especially in the Northeast have also made it viably impossible to conduct a field research that will provide firsthand information about the problem under study. Another limitation is associated with the fact that, there is relative absence of official, reliable and accurate data from the Nigerian government that cover the cases of human rights abuses with regard to JTF operations against Boko Haram.

1.4: Statement of the Research Problem

As argued by Hoffman, states often faced the fundamental challenge of safeguarding human rights while countering small groups of interrelated non-state terrorists who operate in separate networks and have the capability to plot massive attacks with minimal resource. However when states failed to ensure positive trade-off between human rights and security in the context of countering terrorism, they risk abridging the very rights they supposed to protect (Szurleg, 2011, 2).

Taking the above argument into consideration, countering terrorism has become a top priority for the Nigerian Government since the outbreak of Boko-Haram violence in Maiduguri in July 2009. Violent attacks by suspected members of the group have resulted the killing of thousands of people. The group had targeted security and government officials, traditional rulers, religious cleric and clergy men, as well as non-sympathetic civilians, public and religious buildings, communication and other media outlets across Northern Nigeria. Suicide attacks and road-side explosions had become no longer strange in the region (Amnesty International Report, 2012, 18-38).

The security challenges posed by Boko-Haram have expanded to include international targets such as the United Nations building in Abuja. Its attacks capabilities have become more sophisticated and there were indications that members of the group have received training in bomb-making and other terrorist tactics from al-Qaeda-affiliated groups in sub-Saharan Africa (Forest, 2012, 15). In June 2011, President Goodluck Jonathan signed into law the Terrorism (Prevention) Act 2011 which criminalized terrorism. However, key provisions of the Act have been out-raggedly questioned by many international and local human rights organizations for being incompatible with Nigeria`s international human rights obligations.

The Federal Government since that period had addressed the situation as serious security problem and offensive military approach was adopted which relied heavily on the use of Mobile Police, the Army and the State Security Service personnel. As an early response the Federal Government established a special Joint Task Force (JTF) in Maiduguri in June 2011 (which later covered the whole of the affected states in Northern region); consisting of the Army, Navy, Air force, the Department of State Security, the Nigeria Police and Nigerian Immigration Service. The JTF was charged with the responsibility to counter the activities of Boko Haram and restore the order in the affected states. The calmness restored as a result of counterterrorism measures taken by the JTF have not lasted much, although, they were successful in minimizing the scope and spread of the violence, but recently there is a resurgence of terrorist activities especially in Borno, Yobe and Adamawa states.

In a quick response, Nigerian President Goodluck Jonathan declared six month state of emergency in fifteen local governments in January 2012 and May 2013 in three northern states of Borno, Yobe and Adamawa; and ordered the immediate deployment of more troops to drastically deal with Boko Haram which posed a "very serious threat" to Nigeria's territorial integrity (VOA, May 15, 2013). Accordingly the heavy presence of security operatives in these areas has become dysfunctional. There are increasing cases of soldiers resorting to brutality amongst vulnerably hostile population (Campbell,

2013a, 141). There were several reports regarding the security forces in Boko Haram strongholds in Borno and Yobe states and other spreading states of Adamawa, Kano, Kaduna, and Niger resorting to unlawful killings, dragnet arrests, arbitrary and unlawful detentions; extortions and intimidations, enforced disappearances, forced evictions and house burning and other forms of abuses (Amnesty International Report, 2012, 18-38).

Despite the ongoing state of emergency, information received by Amnesty International suggested that violations and abuses of human rights in north-eastern Nigeria have not reduced. In October 2013, Amnesty International revealed that over 950 people have reportedly died in detention facilities run by the Joint Task Force (JTF) in the first six months of 2013 alone. Others have simply disappeared. Amnesty International also reported that dead bodies in military vehicles are delivered on a daily basis at the respective hospital mortuaries in Borno and Yobe states (Sahara Reporters, November 11, 2013).

The extension of the state of emergency accordingly has further restricted people's human rights, including the rights to livelihoods for thousands of people who cannot go about their normal business as a result of the security restrictions imposed by the JTF under the emergency powers. As a state, Nigeria has acceded to several regional and international human rights instruments. Therefore, Nigerian government has an obligation to ensure the security and safety of all the people in Nigeria. It also has the duty to address the wanton killings and violent attacks by Boko Haram, while at the same time minimize the tendency of human rights violations by security forces, and ensure adherence to due process when dealing with suspected members of the group.

1.5: Research Questions

This thesis analyzed the consequences of Nigeria's offensive counterterrorism measures against Boko Haram on how they facilitated the deprivation of rights, freedom and liberty of the people living in the affected communities in northern Nigeria. Therefore, the thesis seeks to answer the following questions:

1. As some parts of Nigeria are still under emergency rule in an effort to counter Boko Haram`s threats, to what extent this facilitates the deprivation of human rights by the security operatives against the people in those areas?
2. As a trade-off between security and respect for human rights while countering terrorism, in what manner Nigeria balanced?
3. Finally, what policy recommendations will best suit the current situation in Nigeria with regard to countering Boko Haram and its terror attacks?

1.6: Research Hypotheses

Although this thesis is exclusively qualitative, however the following two hypotheses are going to be tested by the available substantive data generated from the published reports of Amnesty International and Human Rights Watch.

- 1- The security threats posed by Boko Haram to Nigeria`s security had prompted the government in taking decisive measures to counter it which consequently lead to numerous cases of Human Rights abuses in the affecting communities.
- 2- The emergency rule declared by the Nigerian President in the states affected by Boko Haram crises have given the Nigerian security forces under the Joint Task Force (JTF) an enormous power while executing counterterrorism measures which further deprived the very well beings of the people in those states.

In the first hypothesis the interaction between the two variables Boko Haram threats to Nigerian security (independent variable) and government measures to counter it (dependent variable) have resulted human rights violations (outcome). Whereas in the second hypothesis, the relationship between the declaration of emergency rule (independent variable) which derogates some provision of the Nigerian constitutions and conferred additional powers to the Joint Task Force (JTF) to implement counterterrorism measures against Boko Haram (dependent variable) have combinely further the violations of human rights of people in the affected states. Therefore, in both hypotheses, the relationships between the two variables are direct; meaning an increase

in one will lead to corresponding increase in the other and vice-versa if other factors remain constant.

1.7: Research Methodology

This thesis is qualitative based research. It uses deductive method of logical reasoning where conclusion follows logically from theoretical premises. The method for data collection is documentary. Therefore the secondary data collected are presented and analyzed qualitatively. Data are collected from various sources such as internet (online academic research websites and other relevant archives), international and local journals, text books and other academic writings; Nigeria`s government publications and issued communiqués, various reports published by both local and international human rights organizations pertaining the problem, newspapers as well as other electronic media reports on the issue.

These methods are important, because they made the thesis to be accurate and objective; and minimized the influence of sentiment. Secondly many of those affected will not be readily available to provide vital information concerning their privacy due to a number of security restrictions if other methods are chosen. Whereas the thesis will be very costly because the amount of finance needed is very high and time consuming; as the target population is very large and the geography of Northern Nigeria is also very vast. Fortunately, almost all the data relevant for this thesis were readily available as the situation is widely covered by the various sources I mentioned and which are considerably reliable and less costly.

However, Amnesty International and Human Rights Watch reports from 2012 to 2014 and their respective various press releases are the important sources of data concerning the cases of human rights violations in relation to JTF because they covered the relevant cases and period under study. The authenticity, legitimacy, reliability, and accuracy of these sources are recognized the world over. They provide the thesis with independent data bank that is free from Nigerian government influence. As Nigerian

security forces are the alleged perpetrators of these human rights violations, it is very difficult to find any officially published report of this nature from the authorities concerned in the country.

1.8: Outline of Chapters

This thesis is divided into five main chapters and subchapters. Chapter one covers the general introduction. Its subsections covered thesis background, purpose of the thesis, significance of the thesis, scope and limitation of the thesis, statement of the research problem research questions, thesis hypotheses, research methodology and outline of chapters. Chapter two was divided into two sections; the first section is entirely devoted to the review of various works and views from academic scholars and practitioners on terrorism, counterterrorism and human rights. Whereas, section two deals with the theoretical framework in which two different theories are used and served the thesis need for theoretical assumptions in analyzing the way and manner the Nigerian Government is countering Boko Haram violence. These theories include the constitutional emergency theory and balancing model. The combination of these theories had given us the direction which served as a framework of the thesis.

Chapter three covers the historical background of the thesis. Its subsections include brief history of Nigeria, brief overview on Boko Haram and the profile of its attacks; and Nigerian counterterrorism measures. Chapter four is devoted to presentation and analysis of data in relation to the effects of Nigeria's offensive counterterrorism measures against Boko Haram on people living in the states affected by the violence in Northern Nigeria. And finally chapter five covers the conclusion, recommendations and bibliography.

CHAPTER TWO

2.0: Literature Review and Theoretical Framework

2.1: Introduction: Terrorism, Counter Terrorism, and Human Rights

Any counterterrorism measures that do not comply with human rights law may ultimately be declared unlawful, and therefore bound to be ineffective and dysfunctional (Jonathan, 2007, 20). Although it is very imperative to understand that, counting only on counter terrorism as it relates with human rights will not give us the true pictures of the concepts and context of this thesis. Therefore, it is very important to analytically and briefly review the concept of terrorism first because of its relevance.

Given the lack of internationally accepted definition and relative absence of concrete, agreed-upon theories of terrorism as a phenomenon, it is perhaps not surprising that there is similar shortage of theories on how to combat it. Furthermore, due the increased complexity and wider threat of the terrorist phenomenon vis-à-vis the influx of actors, range of motivations, strategies and tactics, assessing the available means on how to counter such threats are essential in guiding counterterrorism policy-making.

In essence, it will be very significant to review different but relevant perspectives and other works from various academic works and practitioners as they related to the conceptual framework of this thesis. Also by conceptualizing the key concepts of the thesis, it will enable me to relate them in line with the context of Nigeria.

2.2. Terrorism

Although the term “Terrorism” is a vogue concept, any definition attached to it carries various connotations. Academically there is absence of universally accepted definition of the term. States all over the world interpret it to suit their prescribed laws that affect their respective domestic security issues. William J. Cunningham in his remark believes that

If you are familiar with the literature on this subject, then you realize that this is a fool’s errand. There is little agreement on what constitutes and who practices terrorism even among academics; never mind the myriad of

intelligence agencies, militaries, judicial systems and governmental decision making bodies that deal with this subject at the sharp end (Cunningham, 2003, 3).

On the vogue nature of the term terrorism, Alex P. Schmid in his book: *Political Terrorism* (1983), reviewed more than 140 definitions of terrorism written between 1936 and 1981; from which he identified 22 elements and 20 purposes or functions of terrorism. The five most frequently identified elements were: (1) violence or force, (2) political purpose, (3) terror or fear, (4) threat, and (5) anticipated psychological effects or reactions by third parties.' The five most frequently identified purposes or functions were to: (1) terrorize or put the public in fear, (2) provoke indiscriminate repression or countermeasures by established authorities, (3) mobilize the forces of terrorism or immobilize the forces of the established authorities, (4) affect public opinion in a positive or negative way, and (5) seize political power or overthrow regimes (Ericson, 1989, 20).

What were found from Schmid review were very accurate, almost all of the contemporary terrorist organizations the world over are using violent or forceful strategies in carrying out their various attacks which include suicide attacks, open fire confrontation, road side detonation of Improvised Explosive Devices (IEDs) and kidnapping. However, after the September 11 attacks in America, al-Qaeda and its affiliates like Boko Haram have declared religion as their main motive of their attacks. Although most of what they are clamoring is connected with religion their primary purpose is political in nature. For instance, al-Shabab in Somalia, Ansaru in Mali and Boko Haram in Nigeria all share the mission of establishing an Islamic state within their respective countries.

In essence, Steve and Gunaratna however defined the concept of terrorism as:

...a unique form of political violence, a political campaign backed by threats and acts of violence. It must be systematic and deliberate; it seeks to influence a wide audience by generating fear. Primarily it targets civilians to gain political control of the public. Other forms of political violence include attacks against infrastructure (sabotage), against political leaders (assassination), against military (guerrilla warfare), and genocide (ethnic

cleansing). Although attacks against civilians (so-called soft targets) are the most common in the initial wave of terrorist operations, subsequently terrorist groups develop the capability to attack security forces (hard targets). Today, about 45 percent of all attacks staged by terrorist groups are against security forces personnel (Steven and Gunaratna, 2004, 4).

One important area about the above definition is the assertion that, as a form of political violence, an act of terrorism must be systematic; in essence it should be gradual process which requires well designed game plan before execution. As a means to an end, it process must be continuous in as much as the truce is not reach with the opponent in question (i.e. between Nigerian government and Boko Haram fighters), or in a case one side defeated the other. It is should be deliberate in the sense that, there must be a designated target, and the intensity and the desire to generate fear into the minds of the public. Boko Haram is also known for carrying-out specifically three of the above forms of political violence; however, it does not squarely aim at ethnic cleansing. Although, it does target Christians and their places of worship, but such attacks are not meant to target specific ethnic group in Nigeria. Boko Haram also targets civilians, especially those who are openly criticizing its mission. However, it also carries out indiscriminate attacks which often involve many civilian casualties especially in schools, motor parks and market places.

Jill McCaffrey strongly supported the above argument. She stated that, terrorists may target governments, political parties, ethnic or religious groups, corporations, or even members of the news media. Sometimes, individuals, but most often the violence is directed at random victims. The randomness of an attack serves an important terrorist goal: bringing fear to, and undermining the sense of security of large numbers of people, who realize that simply by virtue of being in the wrong place at the wrong time, they too could be victims. Indeed terrorism is more about affecting the audience than about harming the actual victims (McCaffrey, 2001, 12-13). All of those mentioned by Jill were often targeted by Boko Haram. Its random series of attacks have undermined the sense of safety of those living in the affected states of the violence. It has succeeded in

inserting fear to the extent that, people felt as if they will fall to the trap of its attacks at any time.

Similarly Paul Wilkinson corroborates the above assertions, as he too sees terrorism to be systematic use of coercive intimidation, which he presumed to be mainly for political ends. He conceived that, most of the times terrorists use terrorism to create and exploit a climate of fear among wider target group than the immediate victims of their attacks. The rationale is to publicize a cause as well as to force or coerce the target to accede to their aims. Like other scholars, he believes that terrorists often use terrorism as only means to achieve an end or as part of a wider unconventional war. Why because, terrorism to him is a tool by desperate and weak minorities like Boko Haram who are within the shadow of the majority within a country (Wilkinson, 2006, 15-16). One area where he disagrees with Steven and Gunaratna is his position on civilian casualties, though he himself conceded that the target on innocent civilians, form a common feature in terrorist attacks but stressed that, this situation is not so often. Although Boko Haram is not known for any form of hijacking, but it does use other typical methods employed in modern terrorism as mentioned by Wilkinson which include “explosive and incendiary bombings, shooting attacks and assassinations, hostage taking and kidnapping” (Wilkinson, 2006, 15-16).

William J. Cunningham rightly believes that, these acts are often executed by a small handful of fighters who are supported by active organization that mostly comprised less than 100 active participants. Although, occasionally terrorist groups may have support from sympathizers to their cause, especially if they claim to be representing a particular ethno-religious group, he stresses that “it is still regarded as relatively minor political activity and not reflective of mass political movements that are capable of changes at the systemic levels” (Cunningham, 2003, 10). This assertion is a true reflection of how the Boko Haram situation began; a small and undefined organization with small handful of operatives which claimed to represent the Muslims of Northern Nigeria against the corrupt and western influenced central government. As a

result it gained significant number of sympathizers for its course. Although the group had expanded to involve foreign mercenaries among its fighters, still Boko Haram activities cannot be seen as reflective of mass political movement in Nigeria.

2.3. Counterterrorism

Having briefly reviewed the concept of terrorism in relation to Boko Haram despite of the absence of universal consensus of the term from academic point of view, it is very imperative to review some important academic works on how the threats posed by terrorists can be converted. How relevant are the measures prescribed to counter the evil of terrorism fit the Nigeria scenario; and what limitations they caused to the safeguard of fundamental human rights. Therefore the answers to these questions will assist comparing and analyzing the arguments given by the scholars and practitioners under review.

However, the reemergence of international terrorism on a grand scale after September 11, 2001 had caused democracies and the international community to mobilize new policy toolboxes at their disposal suitable to face such threat. In the past few years, “the response has consisted of panoply of policies and specific measures of different origin and content which are described, increasingly, as ‘counterterrorism’. The conciseness of the term barely hides its underlying complexity; and heterogeneous nature” (Bianchi and Keller, 2008, vii). Counterterrorism in essence includes laws, policies, tactics and techniques used to fight terrorism at the national and international level. It is “an oddity of sorts that the fuzzy term coined to encapsulate responses to national and international terrorism mirrors the way in which terrorism itself blurs our traditional legal and political categories” (Bianchi and Keller, 2008, vii).

Ronald Crelinsten however highlighted the heated debates on the use of either defensive or offensive measures. He argues that, since the events of September 11, and the ensuing “war on terror” counterterrorism has caused emotional and polemical debates about the very fundamentals of democratic life as it relates to the nature of terrorists threat and how to deal with it. According to him those who criticized the use of

force or military approach in countering terrorism are often met with “disdainful reproach” that they are so “September 10,” because of their stand toward the respect of the rule of law and protection of human rights (Crelinsten, 2009, 8).

Although he does not believe that counterterrorism before September 11 is mainly a domestic law enforcement problem. For him the terminology that “we are at war” reflects the new terrorism thesis which suggests that the contemporary terrorism is greatly different from that of the past. Before, it was considered as a crime but now it has been transformed into a new form of warfare. Thus, war thinking according to Crelinsten is termed as “September 12 thinking.” With the emergence of this new school, “September 10 thinking” was considered to be “passé, obsolete, and out of date” (Crelinsten, 2009, 9).

“September 10 thinking” however, gave significance to legal approaches to counterterrorism, where primacy is given squarely to the rule of law and due process, the root causes of terrorism; and the need to achieve international cooperation in dealing with the problem. Military option is considered to be the last resort and must be legitimized and drastically controlled. Terrorist threats were viewed as wide and diverse and that, there is need to recognize the local context of terrorism. In the case of international terrorism, diplomacy and negotiations are regarded as important tools for counterterrorism; whereas, containment and deterrence in the case of state sponsored terrorism were considered to be more effective strategy (Crelinsten, 2009, 9).

In contrast, however, “September 12 thinking” gave emphasis to the use of force and military approach for counterterrorism. Unilateral action against state sponsored terrorist groups is necessary, if others refused or are incapable of cooperating. Those who believed in this thinking are to a greater extent convinced that, terrorists either local or international if capable, can use Weapons of Mass Destruction (WMD) and Chemical, Biological, Radiological and Nuclear (CBRN) terrorism; especially with the existence of failed states. The doctrine of preemptive defense to supplement deterrence and containment is indispensable. Terrorism is considered as a globalized form which

operates under the platform of Salafist-jihadists of al-Qaeda in a network of other affiliated groups like Boko Haram all over the world (Crelinsten, 2009, 13-14).

Both positions taken alone can give us a sense of the contending differences between “Hard-liners” and “Soft-liners” perceptions on terrorism and counterterrorism. Both of these approaches make sense in certain contexts and situations. For instance, in Nigeria, there are many among scholars and other powerful local groups and individuals who advocated the adoption of offensive military approach against Boko Haram and were very successful in convincing the federal government. Although, most of the people living in the crisis ridden areas unanimously believed that military option alone will not solve the problem due to its devastating consequences on their well beings. However, even with the establishment of the Amnesty and Dialogue Committee in early 2013 by the Nigerian government, the military option was given greater priority.

However, counterterrorism is a difficult concept to define just like the concept of terrorism, especially for western democracies. Paul Wilkinson argues that there is relative absence of universally viable and applicable counterterrorism strategy for democracies because every conflict or violence involving terrorism has its own unique nature and characteristics. Hence the differences in the context of the conflicts therefore require different application of policies (Wilkinson, 2006, 203). Graeme and Gunaratna argued that, counterterrorism as a measure involves both defensive measures which states use to minimize vulnerability to terrorist acts, and offensive measures to contain, deter, and respond violently to terrorism, in complementary with any contingency measures such as emergencies that have the ability to respond to terrorist attacks and limit their space of operation (Steven and Gunaratna, 2004, 102).

Here these scholars viewed counterterrorism as a combination of defensive and offensive measures to deal with the problem of terrorism on one hand, and that of the terrorists on the other hand. Usually, defensive measures are preventive; and are employed as domestic law enforcement measures and bear very little complains of human rights violations. While offensive measures are usually militaristic in nature,

where terrorism is considered as an act of warfare and that terrorists are designated as foes to the nation. Here there is minimal consideration for human rights and the rule of law.

Cunningham however, highlighted four predominant models on how terrorism is conceived as they relate to drafting counterterrorism measures: (1) a crime that should be handled by law enforcement and the judicial system; (2) a form of warfare best suited for a military response; (3) a liberation struggle conducted by oppressed minority, political or religious groups whose desires for self-determination or power should be accommodated; and (4) a violent reaction to a complex set of socio-economic, political, cultural and possibly religious variables that have both long term preconditions and short term precipitant causes that need to be addressed with a multifaceted intervention to eliminate underlying causes and cycles of violence (Cunningham, 2003, 7). Here, the first two models deal with terrorism as a criminal or military problem which often reflects most of the approaches of governmental counterterrorist policies. The third model assumes identification with the terrorists and those who seek to change the status quo. By contrast, the first two models seek to maintain the status quo. The fourth model reflects an understanding of the political and socio-economic variables that interact to create the complexity of political violence and terrorism (Cunningham, 2003, 7).

Hence, counterterrorism measures are usually designed by respective governments as they relate to the context and nature of their laws in an effort to curb the menace of terrorism and curtail its consequences. By looking at these two types of counterterrorism policy (offensive and defensive measures), Todd Sandler elaborated that offensive measures are usually proactive designed purposely to target terrorists and their supporters with the sole aim of weakening the terrorists' operational capabilities, subsequently minimizing the number of their attacks and eventually lead to their complete defeat (Sandler, 2005, 75). Whereas, defensive measures, seemed to be very preventive as they are designed to protect potential targets and seek to reduce the amount of casualties which can be resulted by an attack (Sandler, 2005, 78).

Furthermore, Boaz Ganor categorizes three distinctive objectives of counterterrorism policies; *first* to eliminate terrorism, *second* to minimize the damages that can be caused by terrorism; and *third* to prevent the escalation of terrorism. To eliminate terrorism, counterterrorism measures must be designed and accomplished with the primary goal of off-rooting the terrorist organizations from existence or force them to denounce their violence, by eliminating any ground incentive to and demoralize them from committing further terrorist acts. To minimize the damages that can be caused by terrorism, governments should try to reduce the number of potential and future attacks, or to prevent the occurrence of certain forms of attacks such as suicide bombings and indiscriminate mass killings. A decrease in the amount of damage done to property and infrastructure may also be of relevance. To prevent the escalation of terrorism, Boaz finally recommends that governments should ensure that, the violence does not spread to the areas that are not affected by crisis on one hand; and contain the scope of the attack from escalating further (Ganor, 2005, 25-26).

In her essay: "The Organization of Terrorism" Martha Crenshaw precipitated that governments should "think beyond conventional measures" when formulating counterterrorism policies (Crenshaw, 2007, 25). Due to dynamic nature of terrorism and the absence of one single and consistent model of terrorism, and with terrorist organizations always thinking ahead to develop new tactics and adapt new strategies; she recommended that, different forms of terrorism required different policy measures (Crenshaw, 2007, 27). Crenshaw suggested that, there is need for cooperation between local police and intelligence agencies. Crenshaw believes in the "September 10 thinking" because of her position that, while formulating counterterrorism policies, democratic governments should put priority in understanding the motivations and processes of radicalization. Furthermore, she strongly posited that when governments are drafting counterterrorism policies, they have to bear in mind that, the threats posed by terrorists cannot be eliminated entirely. This is due to the fact that, despite the volume of information and intelligence surveillance, gaps in detecting the terrorists next target will persist providing an incomplete picture for disrupting them entirely. Hence, there is

need for strategies to be flexible because of her believe that, assumptions are often tested against reality (Crenshaw, 2007, 25-26).

Crelinsten however elaborated further on the available policy choices for governments while countering terrorism. He postulated what he called five different types of counterterrorism. They include: coercive, proactive, persuasive, defensive, and long-term counterterrorism. *Coercive counterterrorism* concerned with the conventional counterterrorism toolbox that relies on the coercive capability of the state (Crelinsten, 2009, 48). *Proactive counterterrorism* primarily concerned with preventing terrorist groups from taking action in the first place or their plots from coming to success (Crelinsten, 2009, 89). Proactive tools include policing, the privatization of security, the tracking and freezing of terrorists' finances, and state surveillance program. *Persuasive counterterrorism* deals with psychological operations which are classified according to whether they promote or prevent certain opinions and attitudes, and their constituencies, or the counter terrorists' constituencies. In other words, it deals with "propaganda and 'hearts and minds' aspects of counterterrorism" (Crelinsten, 2009, 122).

Similarly, *defensive counterterrorism* deals with those measures designed to minimize the likelihood that terrorist attack will occur in a certain place or at a particular time in a specific context (Crelinsten, 2009, 158). Finally, *Long-term counterterrorism* deals with "initiatives that do not hold out promise for quick returns on the investment of time, money, resources, man power, or training" (Crelinsten, 2009, 195). It focuses on handling the root causes of terrorism and gradual application of measures. Crelinsten concluded by corroborating Crenshaw's position that, for states to be more effective in dealing with terrorism, their policy must be flexible to accommodate the dynamics of terrorists' tactics, hence each of those types are equally important and can be applied at the same time depending on the nature and context of the situation (Crelinsten, 2009, 235).

All of the above literatures focused on public policy choice for governments. We can clearly see that offensive counterterrorism belong to the War model whereas

defensive counterterrorism falls under the assumptions of Criminal Justice model. Since the beginning of Boko Haram violence in 2009, the Nigerian government responded with the enactment of Terrorism Prevention Act 2011 which was signed by the president in June 2011. It empowered the Federal Government to deal decisively with any act of terrorism as criminal act. With the establishment of the Joint Task Force in 2011, and the subsequent declaration of state of emergency in May 2013 in Adamawa, Borno and Yobe states; and the recent establishment of new military division in Borno state under operation BOYANA, security forces were assigned with excessive powers to counter Boko Haram threats with the primary aim of eliminating the group or forcing it to surrender and denounce its violent campaign.

Although the Nigerian government assumed to be acting within the jurisdiction of criminal justice, but it keeps primacy to the use of coercive measures, which have attracted many condemnations from both local and international human rights advocates. However, with the relative success of offensive policies, the government was able to minimize the space of the Boko Haram attacks but that do not prevent them from carrying out major attacks that cause heavy casualties. Therefore it requires a major review of the current policies for Nigerian government to successfully eliminate Boko Haram and its threats. As argued by all of the scholars, relying on one policy tool box will not bring a successful result, therefore it is very significant for the Nigerian government to be very flexible in the choice and implementation of its counterterrorism measures in order to match the dynamism of Boko Haram tactics and minimize the negative effect of coercive measures on hostile communities.

It is significant to diagnose the causes of terrorism while countering its symptoms. In essence there need to use effective measures that both deter and prevent terrorism, in complementary with appropriate legislations and other mechanisms. Henceforth, every mechanism needs to be used (or have the capability to be used) and coordinated together to work successfully. Therefore, consideration has to be given to the mechanisms most appropriate to each case, treating each case as unique and tailoring

different policies to different challenges (as there are different motivations for terrorism as well as various aims). As certain measures may take some time to organize or mobilize, it is important to have interim “quick” measures until other measures are in place. One cannot generalize over terrorism due to the diversity of factors involved, thus tailor-made policies are often more effective than legislation, which is better suited to general rules than specific applications (Steven and Gunaratna, 2004, 132).

Todd Sandler and Walter Enders, however, applied the economic perspective of modern economic game theory in addressing political problems while analyzing policy options and recommendations with respect to countering transnational terrorism. The authors corroborated that economic methods can provide important policy insights through strategic interaction (Sandler and Enders, 2005, 23). According to the theory, government should always conduct costs and benefits analysis to determine whether a stated counterterrorism policy will achieve its intended consequences. The authors also consider terrorists to behave and act rationally who often strive to maximize expected utility (or net payoffs) from the consumption of basic commodities created from their terrorist and non-terrorist activities. Hence, the “price” terrorists have to pay in order to employ their tactics is anticipated to differ based on security measures taken by the government (Sandler and Enders, 2005, 26).

Henceforth, policy makers are recommended to take substitution effects into account in order to realize the goal of its counterterrorism policy. For instance, the relative success of state of emergency measures imposed in Borno, Yobe and Adamawa states in the North East Nigeria in terms of minimizing the number of Boko Haram attacks may lead to increase of their attacks in other states not affected by the emergency rules. As such, government policies aimed at a single type of terrorist event adversely shift its relative price, resulting in a substitution for less expensive modes of attack (Sandler and Enders, 2005, 27). The authors suggested that, it very important for the government while testing the impact of any measure, such factors like vector auto regression (VAR) analysis should be include; allowing for potential interactions among

various terrorist time series in response to government policies (Sandler and Enders, 2005, 27).

In their final analysis, Sandler and Enders derived at the following conclusions; to smartly address any possible substitutions and complementarities, the authors proposed a three-prong strategies: *one* governments should make the terrorists substitute into less harmful events, *two* governments must go after the terrorists' resource endowments including its source of finance, leadership and members, and *three* government must simultaneously target a wide range of terrorist attack modes, so that the overall rise in the prices of terrorist attacks becomes analogous to a decrease in resources. In other words, raising the price for all modes of terrorist attacks would influence terrorists to shift into non-violent actions to air their grievances (Sandler and Enders, 2005, 28).

Although the authors confessed that assessing counterterrorism strategies are very difficult by using game theory, however acknowledging the dynamics of terrorists' tactics and their rational foresight had given the government another tough time to measure the result of its strategies. One fundamental shortcoming of this theory is that it is too state-centric as it fails to extend the consequences of counterterrorism policy on civil liberty and fundamental human rights of the people whose the terrorists often camouflaged in their midst.

2.4. Human Rights

The implementation of counterterrorism measures all over the world since the event of 9/11 attacks have generated constant debates and contestations both from the circle of academicians in the field of security and human rights studies; and even in the United Nations premises. Concerns have been raised on why states always prefer to maintain their security as number one priority even when their actions infringe negatively on the liberty and rights of their respective citizens. Therefore it is paramount to make a brief analysis on the concept of Human Rights because of its relevance to the scope of this thesis.

The concept of human rights originated in theology, philosophy and law. The concept according to Michael Freeman was normative, because it prescribed how people were permitted and obliged to behave. Thus, the contemporary concept of human rights has inherited this normative attribute and was designed to prescribe to government what ought and not to do (Freeman, 2011, 90). Brian Orend argues that one cannot say “Human Rights” without saying both “human” and “rights”. For him, the importance of drawing attention to the “human” element of “human rights” is to introduce the key and core concept: the right-holders. A right-holder, very simply is defined “as a person who has the right in question. Part of distinctiveness of human rights idea is the belief that all human beings have, or hold, human rights” (Orend, 2002, 15-16). Accordingly, Orend differentiated the old and the contemporary consideration on who qualified to be a right-holder, when he argued that:

For longtime, the person is considered as right-holder only if possessed of certain selected characteristics, like being an able bodied, land-owning adult male. The contemporary human rights idea, by contrast, suggests that every human being - man or woman, rich or poor, adult or child, healthy or sick, educated or not – holds human rights. We are all members of human community, and so hold any and all of those rights referred to as “human rights” (Orend, 2002, 15-16).

In line with Orend argument, Alex Conte believes that human rights comprise rights and freedoms which inherently possessed by humans by virtue of their being human. For him, “the full spectrum of human rights and freedoms involve the respect for, and protection and fulfillment of civil, cultural, economic, political and social rights, as well as the right to development” (Conte, 20010, 259). Furthermore, Karel Vasak, classified human rights into three broad categories: the *first generation*, which include civil and political rights. These set of rights prevent the states from interfering with day-to-day affairs of its citizens (e.g. right to fair trial and freedom of expression and so on). The *second generation*, include economic, social, and cultural rights, which Karel asserted that they require the state to ensure the equitable distribution of goods and services throughout all levels of society (e.g. the right to education and employment);

and *third generation* rights whereas, require states to cooperate in order to achieve the progressive improvement of lives of their entire population (Conte, 20010, 259).¹

All of the above scholars however viewed human rights from *Universalist* perspective, which contends that certain rights inhered in all individuals regardless of cultural context. This assertion was rooted from the liberal political philosophy, which also believed that individuals possessed the attributes of reason and are more motivated by the pursuit of self-interest (Pollis and Schwab, 2000, 10). In contradistinction, *Cultural Relativists* believe that, fundamental values are culturally specific, and that, the community group – whatever, that might be (tribe, village, or kinship), and not individual- is the basic social unit. They also argued that, interpersonal relations are governed by a mutuality of unequal rights and obligations, which are diverse, as are their underlying values and behavioral expectations that varies from one culture to another; and from one society to another (Pollis and Schwab, 2000, 11). In essence, this school gave significance to peculiarity and context in relation to human rights.

This cultural relativist argument however, had reignited the ongoing debates since the end of World War II. Thus, many questions had been asked as: what right does one culture has to prescribe, let alone impose, its values on one another? What assumptions about culture and its meanings are inscribed in the call for human rights? How can we respect cultural differences and yet defend minimum standards to which all states must subscribe in the treatment of their citizens? (Sarat and Kearns, 2002, 12). In answering these contrasting questions, many scholars embraced the assertion given by Kwame Appiah. In order to create a bridge on the divide between the Universalists and Cultural Relativists, Appiah argued that:

We value the variety of human forms of social and cultural life; we do not want everybody to become part of a homogeneous global culture; and we know that this means that there will be local difference... in moral climate as well. As long as these differences meet certain general ethical constraints

¹ Karel Vasak was the Head of the United Nations Educational, Scientific and Cultural Organization (UNESCO) in 1979. He is remembered as prominent defender of human rights who pioneering work marked the international campaign against human rights violation

– as long, in particular, as political institutions respect basic human rights – we are happy to let them be (Appiah, 1997, 621).

2.5. Theoretical Framework: Counterterrorism from Human Right Perspective

Having reviewed the concepts terrorism, counterterrorism and human rights, it is very imperative to critically analyze the theories which served the frame work of this thesis. From the underlined assumptions of these theories we can clearly understand the conditions which support or oppose the state to violate, deprive or go against the safeguard of human rights of its citizens while dealing with issues relating to its national security like terrorism.

2.5.1 Constitutional Emergency Power Theory

Alexis Keller in his article: ‘Constitutionalizing Emergency Powers in Modern Europe: The English and Roman Models’ asserted that terrorists attacks in New York (September 11, 2001), Madrid (March 11, 2004) and London (July 7, 2005) have revived the debates across the entire Western world since Roman antiquity on the balance between security and order on one hand and safeguarding the very justification of government’s existence – individual rights – on the other hand (Bianchi and Keller, 2008, 43). Keller however, critically analyzes the emergency power of the state when faced with the threat of political violence and how such impact on the provision of the law which gave civil liberty and human rights a prelude consideration for its actions. According to him,

The crux is the extent to which a political community is willing to sacrifice individual rights when confronted with external or internal threats liable to destroy its society. Consequently, a fundamental tension exists in any constitutional order between the basic premise of government constrained by law and the perceived need for discretionary power to face disastrous emergencies and crisis (Bianchi and Keller, 2008, 43-44).

What is critical here is the kind of dilemma which governments found themselves in time of political violence on to what kind of measures they can use which will not have adverse effects on the teaming doctrines of rights and freedoms of their citizens.

Are they going to subordinate individual rights in order to safeguard its logical existence? To further accolade the debate Keller cited Abraham Lincoln in 1861, when he “asked whether a government must of necessity, be too *strong* for the liberties of its own people or too *weak* to maintain its own existence” (Bianchi and Keller, 2008, 44). What Lincoln is trying to say is that, government should always be strong to protect its own interest of survival when it is faced with necessity (internal aggression) even when it is at the detriment of scarifying the rights of its citizens.

Jules Lobel while making an overview on United States highlighted that, three frameworks of emergency power have been present throughout US constitutional history: the *absolutist*, *relativist* and *liberal*. The first perspective ignored the tension between law and necessity “by denying that such a necessity exists in time of crisis”. It argues that even if such necessity does exist, the preservation of a nation would not be worth the sacrifice of liberty. The second, *relativist*, position argues that a constitution is a flexible document that allows the executive to take whatever measures necessary in a crisis situation. According to Lobel, both the *absolutist* and the *relativist* views have an underlying philosophical unity, as both tend to abolish the dichotomy between ‘constitutional normalcy’ and ‘extra-constitutional emergency’. The third perspective, which Lobel terms as *liberal*, aims to resolve the tension between law and necessity through another approach, one that preserves the dichotomy between ordinary (normal) and emergency power (Lobel, 1989, 1385-87). In differentiating the two opposing law regimes, Lobel argues that, normalcy enabled governmental structure under the auspice of separation of powers, respect for human rights and the rule of law, whereas emergencies required strong executive order, premised not on law and respect for human rights, but rather on the discretion to take wide range of measures to preserve the government (Lobel, 1989, 1388).

Although Lobel’s categorization was mainly on America, however it is relevant to the discourse of this thesis especially from the “liberal” point of view. Emergency rules have been seen as one of the very obstacle to solving internal crises in Nigeria. In many instances, democratic institutions were suspended; military administrators were

often appointed to take charge of the affairs of the affecting states. Even when they remain, they are just symbolic, whereas security matters usually became under the sole supervision of military or constituted authority established by the President. This scenario is not an exemption to the case of Boko Haram problem where the states affected by the violence were put to strict security control. For instance, emergency rule had given the JTF the power to act decisively and deal with anybody who tries to disobey the prescribed rules and regulations. As presented in the next chapter, the extra-emergency powers derogated from the constitution had further empowered the JTF to implement the wide ranges of counterterrorism operations which infringed adversely on the rights of the people in Adamawa, Borno and Yobe states.

Alexis Keller however, acknowledges the significance of Lobel's contribution on the development of constitutional theories of emergency power especially in United States, however he criticized him on being lob-sided with Liberal sentiment and his failure to recognize the importance of republican ideas. Although Liberal paradigm of emergency power was built upon the doctrine of the executive's prerogative formulated by John Locke in the eighteenth century; Keller argues that, historically, modern constitutional theories of emergency power rely not only on a *liberal* but also on a *republican* paradigm of executive prerogative (Bianchi and Keller, 2008, 46).

Republican ideas were pioneered and orchestrated by the works of James Harrington in the mid-seventeenth century and later revived and to some extent modified by the group of Whig "neo-Harringtonians" such as Andrew Fletcher, John Trenchard, John Toland, Walter Moyle, Edmund Ludlow and Algernon Sidney at the turn of that century; and subsequently, redeveloped by Montesquieu and Rousseau in the eighteenth century. In trying to distinguish the basic assumptions of the two traditions, Michael Ignatieff asserted that:

There is ... a conflict between a *republican* and a *liberal* theory of emergency powers. A republican account could envisage a democratic rationale for rights abridgments in emergency based on the need for executive decisiveness to protect majority interests, while a liberal view would fear that such a majoritarian rationale would risk permanent damage both to rights and to the system of checks and balances (Ignatieff, 2004, 27).

From the above, we can see that both of the two paradigms have tried to address the contending debate and tension between law and necessity by constructing a boundary line protecting the normal constitutional order from that under emergency rule. However liberals have been more reluctant to relinquish their stand against the excessive use of executive prerogative during emergency rule. They have often feared that an executive power might use the pretext of emergency rule to seize power and abolish constitutional liberty and other fundamental human rights; whereas republicans were more tempted by the use of emergency suspensions of liberties in exchange to national security and the existence of government which is exactly the case scenario in Borno, Yobe and Adamawa states who are still under emergency rule since May 2013.

2.5.2: Balancing Model

Another important perspective which captured the contending debates about counterterrorism and human rights can be found from *Balancing Model*. To understand the primary assumption of this model Simon Bronitt argues that in balancing approach “security is reconciled with respect for fundamental liberal rights and values” (Gani and Mathew, 2008, 65). Laura K. Donohue cited Adrian Vermeule and Eric Posner argument, about “a basic tradeoff between security and human rights. [According to them] both are valuable goods that contribute to social welfare, so neither good can simply be maximized without regard to the other.” They believed that in some situations, rational policymakers can increase security at no cost to human rights, or increase human rights at no cost to security. But it is plausible to assume that advanced liberal democracies are typically at or near the frontier already. In these circumstances, they suggested, “an appreciable increase in security will require some decrease in liberty, and vice-versa” (Donohue, 2008, 4). In the same being, David Cole argues that, “when we balance liberty and security, we should do so in ways that respects the equal dignity and basic human rights of all persons and not succumb to the temptation of purchasing security at the expense of basic rights” (Donohue, 2008, 4).

Former Australian Federal Attorney-Genaral Philip Ruddock as cited by Bronitt, pointed out that,

We don't live in an ideal world. We live in a world of trade-offs. As now we live in a world where we must accept the costs associated with protecting ourselves from terrorism...there will always be a trade-off between national security and individual rights. The task of government is to recognize these trades-offs and preserve our security without compromising basic rights and liberties (Bianchi and Keller, 2008, 43).

All of the above scholars were in support of making a balance between security and human rights or in what some referred as civil liberties. In essence, in the context of taking counterterrorism measure, government should not in any circumstance undervalue the importance of its citizens' rights and liberties not only of the victims of terrorism but even of those of the terror suspects. Although this approach had been criticized of been too idealistic, many scholars who opposed it believed that balancing promotes consequentialism in which the "ends justifies the means" a calculus in which individual interest are sacrificed for community gains. They also argued that, security and human rights are inversely related; thus an increase in security will lead to decrease in the protection of liberties and rights and vice versa (Bianchi and Keller, 2008, 66). That was why Lucia Zedner made a very strong assertion about this model when she argues that,

Typically, conflicting interests are said to be 'balanced' as if there were a self-evident weighting for a priority among them. Yet rarely are the particular interest spelt-out, priorities made explicitly, or the process by which a weight is achieved made clear. Balancing is presented as zero-sum game in which more of one necessarily means less of the other (Zedner, 2004, 510-11).

In his article: 'Liberal State Response to Terrorism and their Limits', Paul Wilkinson recommended that, for state like Nigeria to be successful in addressing challenges of modern terrorism while maintaining its democratic values, the liberal state must seek to achieve a measured and proportionate response that will ensure the balance between the protection of fundamental human rights and the obligation of government to the preservation of national security (Bianchi and Keller, 2008, 80).

As an advocate of liberalism, Wilkinson position was very cautious in the sense that while countering terrorism, government should remember its obligation in the safeguard of civil liberties and human rights of its citizens. He considers both the quest for maintaining national security and the protection of human rights as mutually important. In responding to the threat of terrorists, Wilkinson postulated four models which according to him are open to liberal state. The first is built on *peace process* as it concerns with “peaceful method of conflict resolution to prevent or terminate terrorist violence in democratic societies while ensuring that democracy is safeguarded in the process” (Bianchi and Keller, 2008, 80). The second model is *the use of military to aid the civil powers in combating terrorism*. Here military role in responding to terrorism is strictly limited to supporting the police and the civil authorities in the maintenance of law and order, and the protection of the community. In essence, the military perform a ‘quasi-peace keeping operation’ and can be held accountable for its actions under criminal and civil laws (Bianchi and Keller, 2008, 82-83).

Similarly, the third is the popular *criminal justice model* which sees terrorism as an act of crime. It gives primacy to due process, rule of law and basic human rights of individuals; and that those suspected for terrorism should be assumed to be innocent until proven guilty before a properly constituted court of law on the basis of evidence which establishes guilt ‘beyond reasonable doubt’ (Bianchi and Keller, 2008, 85). And fourth and final is the *war on terror model* which defines terrorist attack as an act of war. It almost entirely abandons the third model as means of dealing with suspected terrorists. It rejected the issues of due process, rule of law and individual human rights. Hence, the only way to deal with terrorists is to suppress them with crushing military force on the assumption that “the only good terrorist is a dead terrorist” (Bianchi and Keller, 2008, 87-88).

Although, Wilkinson argued that each one of these models has its own limitation, however, governments should be more flexible in applying the suited model. Sometimes, two or more models can be used simultaneously provided that they will achieve the result which the governments desired. While the first model focuses about

peaceful resolution process, in the case of Nigeria, even after the submission of its report on November 5, 2013 the Presidential Committee on the Dialogue and Peaceful Resolution of Conflict in Northern Nigeria which was set-up in early 2013; nothing have been achieved in reaching a truce with Boko Haram (Adetayo, Punch, November 5, 2013). The Nigerian Government relied heavily on the use of the last model in countering Boko Haram. Many human rights organizations have questioned the Federal Government commitment to the rule of law and due process in treating Boko Haram suspects which the Criminal Justice enshrined; whereas, the military and other security agencies empowered to contain Boko Haram have been accused of committing so many atrocities since 2009. Even with the ongoing crackdown measures, the group is proving very difficult to defeat.

However, according to Crelinsten, both *criminal justice model* and *war model* relied heavily on state monopoly on the use of violence. While comparing the two models, Crelinsten asserted that, in the criminal justice model (CJM), the rule of engagement involves the use of minimal force which often requires deliberation of judgment on the part of officials involved in the area of arrest and pre-trial detention of suspects. In the war model, it is the sole responsibility of the military and the military rule of engagement requires the maximal use of force to over-power the terrorists (Crelinsten, 2009, 48).

Crelinsten believes that, in both two models, there are strict limits on who can be subjected to state violence. In CJM, it is only those suspected and found guilty of committing a crime, whereas, in the war model, it is only combatants and those directly providing military support to those combatants. Hence, according to Crelinsten these restrictions on the exercise of violence on both models form part of the basis bestowed upon the state by the rule of law. In the case of CJM, he stated that:

These rules include the prerogatives of due process, which must be followed at all stages of arrests, indictment, trial, and punishment. Those include: the right to be informed of charges; to be tried without undue delay; to prepare and present a defense; to be assisted by counsel; not be forced to confess; and to be presumed innocent until proven guilty (Crelinsten, 2009, 48).

In the war model however, Crelinsten argues that, it is the rule of war as encompasses in the International Humanitarian Law and Human Rights Law that legalized and legitimized state actions. For instance, he cited Common Article 3 of the 1949 Geneva Conventions, that applies to non- international armed conflict, in paragraph I (d), which forbids “the passing of sentences and carrying-out of executions without previous judgment announced by regular constituted court, affording all the judicial guarantees [as mentioned in CJM] which are recognized as indispensable by civilized people” (Crelinsten, 2009, 49). He finally concluded that, without these legally mandated restrictions on the use of state violence, the exercise of violence by any state agents like JTF in the case of Nigeria would be criminal- violating either domestic criminal law or international law, such as the laws of war (Crelinsten, 2009, 49).

From what Crelinsten explained, it will be very important in the fourth chapter of the thesis to assess whether the authorities empowered by the law in Nigeria have adhere to these rules while countering Boko Haram in northern Nigeria. And to what extent if not, their actions infringed on human rights of the hostile population. Hence, both the two theories (i.e. constitutional emergency and balancing model) combine will be used as a frame work in analyzing the problem of this thesis; and also aid in answering the formulated questions of the thesis.

CHAPTER THREE

3.0: Historical Background

3.1: Nigeria in a Brief

The very term “Nigeria” originally appeared in print media in an editorial written for the first time in London in January 8, 1897. The name “Nigeria” was credited to the colonial editor of the Times of London, Flora Shaw who was the wife of the new entity’s first Governor-General, Lord Fredrick Lugard. She coined the name Nigeria as a shorter alternative to the then widely popular “Royal Niger Company Territories” deeming it “inconvenient” and extent “misleading” name for the then British protectorate. This fact alone depicted the extent to which Nigeria squarely in itself was an artificial construct (Campbell, 2013a, 1, Hill, 2012, fwd. and The Report Nigeria 2012, 17). The country did not become a single political entity until 1st January, 1914 when the Southern and Northern protectorates were amalgamated by Lord Lugard under British colonial administration. “The disparate terrains it came to include were home to a bewildering array of ethnic groups. Never before had they all shared one government. And colonial rule did much to perpetuate and extend the divisions between them” (Hill, 2012, intro. and Campbell, 2013a, 1).

The ricketiness of the cultural, linguistic and religious link between these nation states stood in stark contrast to the strength of what they shared with the inhabitants neighboring countries. The Hausa people in the North were bound far more tightly to their kin in Niger and Cameroon than they were with Igbos in the South-East, and Yoruba in the South-West looked to Benin and Togo before Kano and Sokoto (Hill, 2012, intro. and Campbell, 2013a, 1).

As the twentieth century advanced, the British turned to federalism as the best means of responding to Nigeria’s multi-ethnic reality. The pre-independence result was British created federation that consisted of three regions corresponding to the building blocks of colonial Nigeria: the North, with its capital at the city of Kaduna was

dominated by the Hausa-Fulani, the East with its capital at Enugu dominated by Igbos; and the West dominated by Yoruba with the capital in Ibadan. This created structure resulted unintended consequences of ratifying the preeminence and subjugation of numerous minority tribes by the three big ethnic groups in their respective regions (Campbell, 2013a, 4).

With the elections of 1959 which determined the Nigeria`s first independent government, Nigeria became a fully sovereign and independent state in the British common-wealth on 1st October, 1960. The foundations upon which Nigeria gained independence were not firm; in fact, the federal machinery was very fragile. The new country united in the euphoria of its independence was still divided on many levels. Regionalism and ethnicity remained major problems barring the development of national identity. Furthermore, although, the three largest ethnic groups each dominated their respective regions of Nigeria, hundreds of smaller ethnic groups feared impending domination by a larger group at regional level (Falola and Heaton, 2008, 156).

Although, at independence, the prospects of the country appeared promising and expectations for the future were very high. Nigeria was the most populous country in Africa, and the potential for economic growth was very great, buoyed by largely the discovery of commercial quantities of petroleum in Niger-Delta region in 1958. Nigeria was dubbed the “Giant of Africa” and many people both inside and outside the country believed that, Nigeria would soon rise to claim a leading position in Africa and world affairs. It also saw itself as beacon of hope and progress for other colonized people emerging from the yoke of alien rule (Falola, 2008, 158). In 1963, the country became a republic, with Dr. Nmandi Azikiwe as the first President and Sir Abubakar Tafawa Balewa as Prime Minister. The country adopted a Parliamentary system of government with unicameral type of legislature. The three respective regions were each governed by Premiers (Campbell, 2013a, 4).

By 1970, however, Nigerian stability and prestige had been greatly damaged by a decade of political corruption, economic underdevelopment and military coups. Most

damaging however, was the culmination of these problems in a two-and-a-half-year of civil war, (1967 to 1970) which rent the country along regional and ethnic lines, and caused the killing of about 1.3 million people, and nearly destroyed the fragile federal bonds that held the country together (Falola, 2008, 158). Ethnic and religious strife have been common in Nigeria, and perceived differences have been politicized by the jingoists among Nigerian political elite. The country is composed of over 250 distinct ethnic groups, each with its own language. The three largest, the Hausa-Fulani, the Yoruba, and Igbo, together are less than two-third of all Nigerian population estimated at over 160 million (Campbell, 2013a, xiv and Ploch, 2010, 2).

Divisions between ethnic groups, between north and south, and between Christians and Muslims often stem from perceived difference in access to social and economic development. More than 15, 000 Nigerians were believed to have been killed in local clashes in the last decade and some three million have been displaced periodically by those clashes (Rotberg, 2007, 20). The country is bifurcated often between Islam and Christianity, with the north predominantly the former while south the latter. Popular alienation and fragmentation of the establishment has contributed to Nigeria becoming one of the most religious, and at the same time, one of the most violent countries in the world. In 2010, the International Society for Civil Liberty and Rule of Law estimated that, the number of those killed since 1999 “outside the law in Nigeria might have increased to 34, 000” over 13,500 killings resulting from ethno-religious and inter-communal violence (Ploch, 2010, 2).

The underline causes of all the problems that Nigeria experienced in the 1960s and experienced since then, are what often referred as “National Questions.” These controversial unresolved questions highlighted the fragile nature of Nigerian unity. They are: What is Nigeria? Who are Nigerians? And how does the country go about developing a meaningful national identity? (Falola, 2008, 158). Despite of all these problems however, starting with President Gowon, successive military governments after the civil war have attempted to manage ethnic and religious conflicts by creating an

ever increasing number of states; there are now 36 states and the Federal Capital Territory, most of which depend for their funding from monthly federal allocation (Campbell, 2013a, 10).

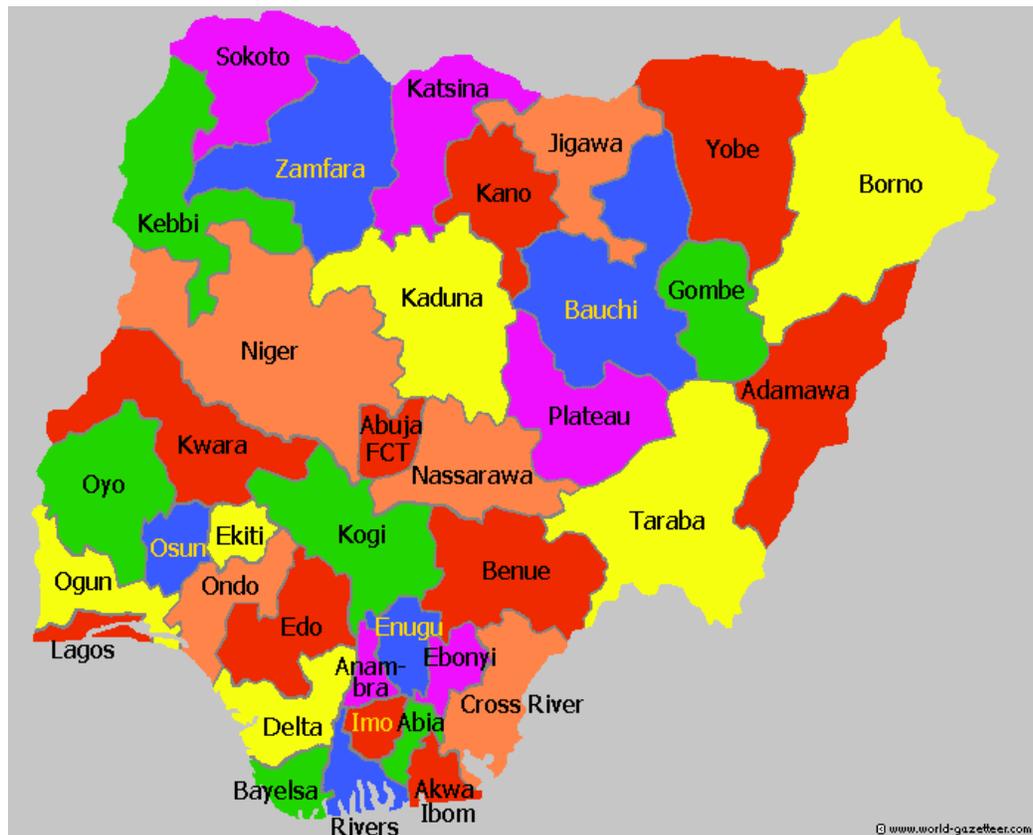


Figure 1: official map of Nigeria showing 36 states and the Federal Capital Abuja. <https://www.google.com.ng/search?q=nigerian+map&tbn>

The political structure is similar to that of the United States. Nigeria currently has a bicameral legislature (contrary to that at the independence) with 109 Senators and 360 Representatives. Each state is headed by an elected Governor. The President and Governors are elected for four years tenure of two terms, while the legislatures enjoy four years of unlimited terms subject to reelection (Ploch, 2008, 2). On May 29, 1999, the country adopted the Fourth Republic Constitution, the third and the longest attempt

to establish permanent democratic rule in the country- excluding the short-lived civilian government of 1960-66 and 1979-83 (The Report: Nigeria, 2012, 17).

Years in Power	Name	Means of Taking Power
Oct. 1960 – Jan. 1966	Benjamin Nnamdi Azikiwe	Elected
Jan. 1966 – July 1966	Johnson Aguiyi Ironsi	Military Coup
Aug. 1966 – July 1975	Yakubu Gowon	Military Coup
July 1975 – Feb. 1976	Murtala Ramat Mohammed	Military Coup
Feb. 1976 – Oct. 1979	Olusegun Obasanjo	Military Coup
Oct. 1979 – Dec. 1983	Shehu Shagari	Elected
Dec. 1983 – Aug. 1985	Muhammadu Buhari	Military Coup
Aug. 1985 – Aug. 1993	Ibrahim Babangida	Military Coup
Aug. 1993 – Nov. 1993	Ernest Shonekan	Appointed (interim)
Nov. 1993 – Jun 1998	Sani Abacha	Military Coup
June 1998 – May 1999	Abdulsalam Abubakar	Appointed (interim)
May 1999 – May 2007	Olusegun Obasanjo	Elected
May 2007 – May 2010	Umaru Musa Yar`Adua	Elected
May 2010 – present	Goodluck Jonathan	Appointed (interim) May 2010 Elected May 2011

Table 1: Nigeria’s Heads of State since independence (Forest, 2012, 29)

The country is officially called “Federal Republic of Nigeria,” it has an estimated population of 164.7 million according IMF figures and a land mass of 923,768 sq. Km. The country is located in West Africa and shared borders with the Republic of Benin in the West, Chad and Cameroon in the East, and Niger Republic in the North. Its coast lies on the Gulf of Guinea, a part of the Atlantic Ocean in the South. Constitutionally, the country has six geo-political zones, namely: the North-Central, North- East, and North-

West in Northern part of Nigeria. The remaining are South-East, South-West and South-South in the Southern part of the country (The Report: Nigeria, 2012, 12)².



Figure 2: map of Nigeria showing six geopolitical zones in the country

Source: <https://www.google.com.ng/search?q=nigerian+map&tbn>

² For further details log on to the Federal Republic of Nigeria official website: www.nigeria.gov.ng

Yet, despite of the immense and protracted socio-political strains, “modern Nigeria remains a united country. It has a distinctive character and often described as a nascent superpower” (Hill, 2012). Nigeria is considered as a key power in Africa not only because of its size, but also due to its economic and political role in the region. It has mediated conflicts throughout African continent, and have played significant role in peace keeping operations in the continent and the world over under the United Nations (Ploch, 2008, 1). One in five people in Sub-Saharan Africa regard Nigeria as a home.

The Nigeria`s Gross Domestic Product (GDP) has expanded to 6.81 percent in the third quarter of 2013 over the same quarter of the previous year. From 2005 until 2013, Nigeria GDP Growth Rate averaged 6.8 Percent reaching an all-time high of 8.6 Percent in December of 2010 and a record low of 4.5 Percent in March of 2009 (Trading economics, Nigeria GDP Growth, 2013). Recently, National Bureau of Statistics, NBS, put the value of the nominal GDP in 2012 at N71.1 trillion (about \$453.9 billion) as well as a projected figure of about N80.2 trillion (about \$509.9 billion) in 2013. The rebased nominal GDP represented an increase of 59.9 per cent using the old base year and 69.10 per cent in 2011, as well as an increase of 75.58 per cent in 2012 and a projected 89.22 growth per cent in 2013. With the new GDP figure, Nigeria emerged Africa`s biggest economy, pushing South Africa the previous holder of that title with a GDP of \$384.3 billion to the second position (Olukun, PM News, April 15, 2014).The government also seeks to enhance growth through its vision 20: 2020 strategy with the aim of becoming one of the Top 20 economies of the world by 2020; and reduce the over dependence on hydrocarbons by improving the industrial sector and ensure thriving and competitive business environment to attract more private sector businesses (The Report, Nigeria 2012, 12).

3.2: Boko Haram

Boko Haram can be semantically translated from Hausa and Arabic to mean “western education is forbidden.” However, it adherents do not call themselves “Boko

Haram,” a label applied to them by the government and the media. Officially the group is called “Jama`at Ahl-as-sunna Li-adda`await wa al- Jihad” an Arabic phrase which can be translated to mean Association of Sunnis [adherents to the teachings of the Holy Prophet Muhammad S.W.A] for the Propagation of Islam and for Holy War. Boko Haram is based in Nigeria and it is an internationally designated terrorist group. It seeks to rigorously enforce Islamic Sharia and establish an Islamic state particularly in its strongholds in Northern Nigeria (Campbell, 2013b, 215 and Guidere, 2012, 62).

The group was pioneered by Muhammad Yusuf in Maiduguri, Borno state in 2002 who forcefully advocated for radical social and educational reforms throughout Nigeria, essentially to eliminate any sort of western influence and purely replace it with islamically accepted based methods. Thoroughly, ideologically austere, members of the group are forbidden to partake in or identify with any activity that is western or western based (Guidere, 2012, 63). The group marked its existence internationally in 2009. In July of that year, the Nigerian government began official investigation of the group activities, following the security report that alleged the group for aggressively arming itself. In response, several of the group members were put to jail in prison in Bauchi state, and ensuing fight with the Nigerian security forces began leading to the killing of many people. During that attack Muhammad Yusuf was extra judicially killed on 30 July, 2009 in Maiduguri and since then he was succeeded by his deputy, (an internationally designated terrorist by United States) Muhammad Abubakar Shekau (Guidere, 2012, 63).

Members of Boko Haram are drawn primarily from the Kanuri tribe (roughly 4 percent of the population of Nigeria), who are concentrated in the northeastern states of Nigeria like Bauchi, Borno and Yobe; and the Hausa and Fulani (29 percent of the Nigerian population) spread more generally throughout most of the northern states. Kanuri also inhabit regions across the northern border into Chad and Niger Republic, and there is evidence to suggest that these tribal relationships facilitate weapons trafficking and other cross-border smuggling transactions, but this was the extent to

which Boko Haram's activities go outside Nigeria. Recently the group has claimed responsibility of attacks in Niger Republic and Cameroon. While it is very much a locally-oriented movement, the group has not yet attracted a significant following among Nigerians of other tribal or ethnic backgrounds. Furthermore, it has thus far proven difficult for the group to find sympathizers or anyone who would help them facilitate attacks further south, thus the majority of attacks have taken place within the north and particularly northeastern part of the country (Forest, 2012, 1).

It is very significant to note that Boko Haram is not a unified, monolithic entity. In essence there are separate factions within the group who disagree about tactics and strategic direction; in some cases they compete against each other for attention and followers. A recent U.S. House of Representatives report suggested that one faction of the group may be focused on domestic issues and another on violent international extremism. While another report published in November 2011, indicated that the group may have even split into three factions: one that remains moderate and welcomes an end to the violence; another that wants a peace agreement; and a third that refuses to negotiate and wants to implement strict Sharia law across Nigeria. There is at the very least evidence of disagreements among some Boko Haram members. In July 2011, a group calling itself the Yusufiyya (i.e. the followers of Muhammad Yusuf) Islamic Movement distributed leaflets widely in Maiduguri denouncing other Boko Haram factions as "evil" (Forest, 2012, 20-21).

3.3: Some Major Boko Haram Claimed Attacks in Nigeria

Initially the modus operandi of Boko Haram was limited to gun attacks on security personnel and clergy, the group campaign of violence took more radical forms after the death of Muhammad Yusuf in 2009. Since then, the group has attacked police stations and patrols, politicians (including village chiefs and a member of parliament), religious leaders (both Christian and Muslim), and individuals whom they deem to be engaged in un-Islamic activities, like drinking beer and gambling. Boko Haram has also carried out several mass casualty attacks and is the first militant group in Nigeria to

embrace the use of suicide bombings (Forest, 2012, 1 and The Report: Nigeria 2012, 18-21). The group also made significant leaps in its operational capability, and there are indications that members of the group have received weapons and training in bomb-making and other terrorist tactics from al-Qaeda affiliates in Sub-Saharan Africa (Forest, 2012, 3).

The group was responsible for the released of over 700 inmates from Bauchi prison in September 7, 2010. On December 31, 2010 Boko Haram attacked Mogadishu Cantonment in the Federal Capital Abuja and prior it had lunched twin bomb attacks that killed more than 80 people in the city of Jos, Plateau state on Christmas Eve. On 26 August, 2011 Boko Haram conducted a suicide attack on the United Nations building in Abuja which resulted the killing of 24 persons including its staffs. This marked the group`s internationalization of its terror acts (Guidere, 2012, 64 and Okume, 2013, 165). On January 20, 2012 Boko Haram lunched coordinated attacks on security formations in the Northern city of Kano which led to the death of almost 200 persons including innocent civilians and security personnel (Guidere, 2012, 64 and Hill, 2012, 37).

Since 2009, the numbers of Boko Haram attacks have increased and that, the majority of Boko Haram`s attacks have come in just two forms: armed assaults and bombings. From 2009 to 2011 as indicated in Figure 2, the group had been responsible for more armed assaults than bombings, but there has been a very significant increase in bombings since mid-2011. Further, the number of casualties from Boko Haram bombings is now more than twice that of their armed assaults (Forest, 2012, 66).

	All incidents (incl. robberies)	Bombings	Bombing Casualties	Armed Assaults	Armed Assault Casualties
2009	23	1	7	14	219
2010	57	11	127	35	107
2011	191	74	587	89	258

Table 2: Terrorist Incidents Attributed to Boko Haram, 2009-2011.

Source: Institute for the Study of Violent Groups, 2011 cited by Forest 2012.

Although lack of empirical study and central database in Nigeria have resulted in various estimates and projections about the exact figure of the group`s attacks and casualties. Modest estimates by (Human Rights Watch, 2012), for example, put the total deaths at 935 in some 164 attacks. The report also estimates that 550 people were killed in 115 Boko Haram attacks in 2011 alone, while (Amnesty International, 2012) estimates that, “in 2011, at least 500 people were killed in attacks by Boko Haram, often targeting police officers and government officials” (Bamidele, 2012, 36).

Similarly, from January to May 2012 Boko Haram had “carried out 118 attacks in six northern states and the FCT, killing 308 people” the states include Bauchi, Borno, Kaduna, Niger, Yobe and Plateau according to Nigeria`s Minister of Police Affairs (Vanguard: May 16, 2012). Accordingly In the first nine months of 2012 alone, more than 815 people died in some 275 separate attacks in 12 northern and central states, and Abuja (Human Rights Watch, October 2012, 41). Significantly, the scope of the group attacks have also expanded from its original areas of operation (Bauchi, Borno and Yobe) to other states in the Northern part of the country, like Adamawa, Kaduna, Kano, Niger, Plateau and the Federal Capital Abuja (Forest, 2012, 67).

Although there was a decrease in the scope of Boko Haram attacks in Northern Nigeria since the declaration Emergency Rule by the Federal Government in May 2013, the group had conducted numerous and deadly attacks mostly in Borno and Yobe states. The most outrageous attacks were carried-out on schools in these two states. According to Lucy Freeman, from 2012 to 2013 “hundreds have been killed in these horrific attacks. Thousands of children have been forced out of schools across communities in northern Nigeria and many teachers have been forced to flee for their safety.” In 2013 alone, at least 70 teachers and scores of pupils have been slaughtered and many others wounded. Some 50 schools have been burned or seriously damaged, and more than 60 others have been forced to close (Amnesty International, Annual Report 2013).

Similarly, according to Human Rights Watch`s Nigeria researcher, Mausi Segun “Boko Haram`s attacks in major cities like Maiduguri had reduced since early July 2013, but it has stepped up attacks in rural towns and villages particularly in Borno and Yobe States. As a result about 700 people have lost their lives in over 40 attacks since May 2013. The group has also started abducting young women and using young boys as fighters and for intelligence gathering (Daily Maverick, 15 January, 2014). On 2 December, 2013 Boko Haram fighters also launched a ferocious attack in Maiduguri, pounded an Air Force base, an Army barracks and a police divisional headquarters, in the first such violence in the city for five months. The fighters first raided the 33 Artillery Regiment of the Nigerian Army along Maiduguri-Damaturu road, destroying most of the buildings there. They then moved to the 79 Composite Group of the Nigerian Air Force and destroyed most structures. Helicopters, vehicles, mechanical workshop, offices and personnel homes were all destroyed (Daily Trust, 3 December, 2013). With the continues military offensive by the Nigerian government in the affecting states under emergency rule, Boko Haram capabilities have been severely limited and the group has found it difficult to expand its attacks beyond villages and other rural areas in Borno state.

3.4: Nigeria`s Response and Counterterrorism Measures Against Boko Haram

3.4.1: Anti-Terrorism Prevention Law

Although terrorism in Nigeria is considered as a crime but it has not been clearly addressed by the law until On December 10, 2010, when Executive-sponsored Anti-Terrorism Bill was read in the Senate. On February 17, 2011, it was overwhelmingly passed by the upper chamber before the lower chamber did same thing on February 22, 2011, after which, it became a law on June 2, 2011 following the President`s assent (Ekundayo, Punch, January 24, 2012). However the law was later amended and passed by the Nigerian senate on October 17, 2012 (Umar, 2013, 40).

The Act is divided into eight parts, with 41 sections and seeks to:

- Provide measures for the prevention, prohibition and combating of acts of terrorism and the financing of terrorism in Nigeria.
- The effective implementation of the au convention on the prevention and combating of terrorism and the convention and suppression of financing of terrorism.
- Prescribe penalties for violating any of its provisions.

According to section 1(2)(c)(i-iii), terrorism includes attacks upon a person's life which may cause bodily harm or death, kidnappings, as well as the destruction of government facilities or private properties in a manner likely to endanger human life or result in a major economic loss. Some other acts of terrorism highlighted in the Act are propagation and dissemination of information in any form calculated to cause panic, evoke violence, or intimidate a government, person or group of persons. The Act also addresses issues such as kidnapping, hijacking of aircraft, ships, or other means of public transport, as well as the manufacture, possession, acquisition, transport, supply, or use of weapons and explosives (Ekundayo, Punch, January 24, 2012).

Some of the laudable provisions are:

- Comprehensive definition of terrorism and terrorist activities.
- The power to proscribe terrorist groups or groups with terrorist tendencies.
- Several provisions enhancing collaboration between Nigeria and other countries in the global fight against terrorism.
- Provisions aimed at facilitating the ratification and enforcement of international and regional conventions and treaties on terrorism.
- Provisions allowing investigation into and the seizure of properties and cash belonging to terrorist groups and their financiers.

- The power to withdraw certificates of incorporation of business organizations that are found using the funds from their legitimate business to fund terrorist organization (Ekundayo, Punch, January 24, 2012).

3.4.2: The Formation of Joint Task Force (JTF)

Since the inception of Boko Haram violence in 2009, Nigerian government has addressed it as a security problem. However, the government responded to Boko Haram crisis in many ways. Initially, it considered the violence as temporary security problem, similar to previous experiences across Nigeria, which could be solved through traditional police measures. Unfortunately, the crisis persisted despite the engagement of the military (Umar, 2013, 38). On 12 June 2011, President Goodluck Jonathan inaugurated the Joint Task Force (JTF) in Borno state, codenamed “Operation Restore Order”, mandated, to restore law and order to the North Eastern part of the country with emphasis on Borno State. It comprises personnel from the Nigerian Armed Forces, the Nigeria Police (NP), the Department of State Security (DSS), the Nigerian Immigration Service (NIS) and the Defence Intelligence Agencies (DIA). The JTF commander was chosen from the military, due to its dominance in the operation (Amnesty International, 2012, 9).

The current security operations carried out by the JTF in Borno, Yobe, and Adamawa States in the northeast region were considered as not only stability operations but as violent crackdowns on the sect members and sympathizers. The Nigeria Police (NP) is primarily responsible for the maintenance of domestic law and order, the Armed Forces constitutionally mandated to aid in civil authority by assisting the police in the maintenance of law and order, but they are only to be called upon if the situation was beyond police capability, the Nigeria Immigration Service is responsible for immigration issues, while the DSS and DIA charged with the responsibility of intelligence gathering (Umar, 2013, 38).

3.4.3: JTF's Counterterrorism Strategies and Operations against Boko Haram

Joint Task Force primary responsibility is aimed at subduing the group through offensive military crackdowns against Boko Haram. The JTF actions were mostly aimed at limiting the operating space for the sect and eliminating or arresting members of the group and their supporters. The strategies designed by the JTF to achieve this aim are military-oriented operations which include roadblocks, checkpoints, arrests, cordon and search. It also entails guarding of key points, surveillance, protection of very important persons and offensive military raids among others (Umar, 2013, 41).

a- Establishment of Check Points

Boko Haram operatives often make use of roads to reach their targets. To frustrate their movements and to maintain a continuous check on roads, JTF has established a number of check points along main roads and approaches in Northern Nigeria especially those directly affected by Boko Haram attacks. At these points, suspicious vehicles and persons are searched and in most cases the passengers are asked to walk through the checkpoint or the axial routes for the troops to physically screen them and motorcyclists are often ordered to push their motorcycles instead of riding them purposely to deter Boko Haram fighters from succeeding in attack and run tactics which are usually conducted with the aid of motorcycles (Umar, 2013, 41).

However, this has produced mixed results; its overall effectiveness is still below expectations. The check points are poorly manned due to inadequate manpower and required screening equipment; and there were cases of inhuman treatment of road users by the JTF. Despite these operations, Boko Haram operatives still carry out their attacks against selected targets, possibly by using minor roads to evade detection. The inherent administrative problems associated with prolonged check points have further contributed to public disenchantment. Thus, the much-needed public support which is vital to success in the fight against Boko Haram is being lost (Umar, 2013, 41).

b- Cordon and Search

These operations are conducted by JTF in conjunction with the NP. Cordon and search operations are carried out based on intelligence reports about sect members in certain locations. Such operations have in many cases led to the capture of some

suspected members of the Boko Haram sect and the recovery of arms, ammunition, and explosives. The operations have also led to the capture of some equipment used in the production of improvised explosive devices (IEDs). This kind of operation however is hampered by the lack of proper coordination within the JTF at the infestation stage which at times led to the death of innocents people and lots of security personnel. Also, there have been cases when the searches irritated the civil populace who view it as an infringement on their fundamental human rights (Umar, 2013, 42).

c- Guarding of Key Points

Since 2009, Boko Haram attacks have crippled many public and private institutions and telecommunication networks in northern Nigeria especially in northeast. This situation necessitates increased physical security by JTF through the deployment of armed personnel to guard such facilities, in order to prevent further attacks. However, the deployment of troops at some facilities that are not proximal further exposes them to attacks from the sect members (Umar, 2013, 42).

d- Armed Military Patrols

The JTF also conducts mobile patrols along major roads and environs to discourage activities of the Boko Haram sect especially in the group's strongholds. The patrols have gone a long way in checkmating the group's activities and reassured the populace of their safety. The purpose of such patrols is to deny members of the sect freedom to operate with impunity; and to avail the JTF intelligentsia and planners with adequate information for detailed preparation before raid operations. Despite of their successes, the conduct of patrols in military uniforms and vehicles has exposed the JTF troops and became vulnerable to Boko Haram attacks. There are recorded incidents of soldiers on patrol coming under ambush, resulting in serious casualties (Umar, 2013, 43).

d- Military Raid Operations

This is one of the most effective operations of the JTF. Raids are often carried out by the JTF troops based on intelligence about the location and hide-outs of the suspected terrorists. The persistence of such operations has resulted in some success,

including the arrest of Boko Haram members, and truncated the group's plans of attack. Some sect members have been killed in the raid operations and weapons and explosives recovered. However, such operations have also frustrated the civilian populace and created more hatred for the JTF as innocent individuals are believed to have been killed in some failed operations or as part of collateral damage (Umar, 2013, 43).

3.4.4: State of Emergency Measures

In January 2012, President Goodluck Jonathan declared state of emergency rule in 15 Local Government Areas across four states. They include: Maiduguri Metropolitan, Gamboru Ngala, Banki Barna, Biu and Jere LGAs in Borno state; Jos North, Jos South, Barikin-Ladi and Riyom in Plateau state; Damaturu, Geidam, Potiskum, Buniyadi, Gujba, and Gasau-Bade in Yobe state; and Suleja in Niger state (Amnesty International, 2012, 8). Under section 45, chapter 4 of the 1999 Nigerian Constitution, a state of emergency permits the president to confer additional powers to "duly authorized persons" or make any other order "necessary or expedient for the purpose of maintaining and securing peace, public order, public safety and good governance in the emergency area" (Emergency Power Act, 2012: S.I.15), and to derogate from particular sections of Nigeria's constitution (Constitution of the Federal Republic of Nigeria (FRN) 1999).

Among the provisions are the detention of suspects; the taking of possession or control of any property in the emergency area; the entry and search of any premises; and the payment of compensation and remuneration to people affected by the order. The state of emergency had a six months' time limit under the Constitution (if not renewed by the National Assembly) which elapsed at the end of June 2012. The National Assembly did not renew the declaration, and the President officially recognized the end of the state emergency and the cessation of application of the Emergency Powers Regulations on 18 July 2012 (Amnesty International, 2012, 8).

However, with the escalation of Boko Haram attacks and the evident change in tactics of the group; intimately together with the expansion of its attack areas to other

parts in Northern Nigeria, on May 14, 2013 another state of emergency was declared by the Nigerian President Goodluck Jonathan in three states of Adamawa, Borno and Yobe in the northeastern part of Nigeria. In a televised national address, the President stated that:

I have received detailed briefings from our security agencies. These briefings indicate that what we are facing is not just militancy or criminality, but a rebellion and insurgency by terrorist groups which pose a very serious threat to national unity and territorial integrity. Already, some northern parts of Borno state have been taken over by groups whose allegiance is to different flags and ideologies. They have attacked government buildings and facilities. They have murdered innocent citizens and state officials. They have set houses ablaze, and taken women and children as hostages. These actions amount to a declaration of war and a deliberate attempt to undermine the authority of the Nigerian state and threaten her territorial integrity. As a responsible government, we will not tolerate this. Following recent developments in the affected states, it has become necessary for Government to take extraordinary measures to restore normalcy. After wide consultations, and in exercise of the powers conferred on me by the provisions of Section 305, sub-section 1 of the Constitution of the Federal Republic of Nigeria 1999 as amended, I hereby declare a State of Emergency in Borno, Yobe and Adamawa states (Sahara Reporters, May, 14 2013).

This emergency rule was extended to another six months after the approval of President`s request by the National Assembly members on November 7, 2013.

3.4.5: The Establishment of 7 Infantry Military Division in Maiduguri

This new division of the Nigerian Army was on August 19, 2013 taken over control of the federal government`s drive against Boko Haram from the debunked JTF. The new division codenamed BOYONA represents the three states of Borno, Yobe and Adamawa that are under emergency rule. According to the Defence Headquarters, the creation of BOYONA is in line with the plans laid out for the conduct of the operations to execute the mandate spelt out in the State of Emergency declaration by the President Goodluck Jonathan (Premium Times, August 19, 2013).

The phase of the operation being concluded on [August 19, 2013] was executed by a Joint Task Force composed by troops drawn from the Services of the Armed Forces as well as other security agencies who conducted Operation BOYONA,...henceforth, only the Nigerian Army will be solely in charge of the anti-terrorism operations in the three states, while the defence headquarters will provide routine guidance (Premium Times, August 19, 2013).

A General Officer Commanding (GOC), in the rank of Major General was appointed to command the new Division with its Headquarters in Maiduguri. The GOC took over the Command and the assets of the Headquarters of the Joint Task Force. The new Division is however to continue with the conduct of counter-terrorists operations in the North East which comes under its area of responsibility (Premium Times, August 19, 2013).

3.4.6: Other Counterterrorism Measures

Other measures put in place by the government include attempts to improve physical security in buildings and towns. These efforts include the installation of closed circuit television cameras in many parts of Abuja aimed at enhancing surveillance and gathering evidence for the investigation and prosecution of terrorism-related offenses. The development and broadcast of security tips in mass media is another measure employed. Another strategy to counter the threats of Boko Haram involves intelligence operations by the Nigeria Intelligence Agency (NIA) in partnership with security agencies of neighboring countries and the Department of State Security (DSS) that spearheads intelligence gathering within Nigeria. This effort is aimed at decimating the sect by eliminating its core leadership elements. This effort also has the objectives of denying Boko Haram the space necessary to mobilize and recruit members from within the vulnerable communities in northeastern region (Umar, 2013: 40). The imposition of curfew for specific periods ranging from 24 hours or less depending on the situation on ground and blockage of telecommunication network services (mobile and internet networks) are also used by the JTF to restrict the mobility and communication capacity of the group in states under emergency rule (Weekly Trust, May 25, 2013).

CHAPTER FOUR

4.0: Data Presentation and Analysis

The threat of terrorism is continually considered and described as ‘a real threat’ by numerous practitioners as well as academics. However, as real as the threat of terrorist acts may be, just as real is the threat that the fundamental rights of human beings are being undermined when states are fighting terrorism –Ida Søholm and Peter Vedel Kessing (2012).

4.1: The Effects Of Nigeria`s Offensive Counterterrorism Measures and Human Rights Violations In Northern Nigeria

With the establishment of JTF in Maiduguri in June 12, 2011 codenamed “Operation Restore Order” and the subsequent creation of new Army Division in Borno in August 19, 2013 which took over the counterterrorism mandate in Borno, Yobe and Adamawa states under emergency rule, Amnesty International and Human Rights Watch have documented numerous cases of human rights violations allegedly perpetrated by JTF and military operatives against many people living in the hostile states in northern Nigeria.

The declaration of the state of emergency by the President on two occasions – in January, 2012 and May 2013 – have conferred additional powers to the JTF under the Emergency Powers Regulations (published on 27 April 2012 and 20 May, 2013). Among the provisions are : the detention of any person either within the emergency area or elsewhere, removal and exclusion of any person from the emergency area; the taking of possession or control of any property in the emergency area; the entry and search of any premises; and the payment of compensation and remuneration to people affected by the order, the application of any law (with or without modification such as the imposition of curfews and blockage of telecommunication services) in relation to that area, the apprehension, trials and punishment of persons offending against the order (Amnesty International, 2012, 8, Emergency Powers (General) Regulations, May 20, 2013 and Weekly Trust, May 25, 2013).

In essence, the two research hypotheses will be analyzed in relation to the following consequences of JTF's counterterrorism operations:

4.1.1: Extra-Judicial Killings and Summary Execution

Although there is absence of accurate and official statistical figures of those extra-judicially killed by JTF from June 2011 to October 2013, Amnesty International and Human Right Watch have documented numerous cases of that nature in their reports. Their findings however are of great importance on this regard. Article 1 of UN Resolution 1989/65 of May 1989 visibly stated that:

...no international law allows authorities to kill someone who is already in their custody or otherwise under their control in the absence of a trial which fully meets international standards of fairness. To execute a person in such circumstances is a form of extrajudicial or summary execution, and constitutes a crime under international law for which those responsible must be brought to justice (Amnesty International Report, 2012, 19).

Accordingly the 1999 constitution of the Federal Republic of Nigeria (FRN) also recognizes right to life in section 33, and that of personal liberty in section 35, and the presumption of innocence in section 36.5 (Constitution of the FRN, 1999). However, in many cases, following an attack by members of Boko Haram on security forces, JTF had been accused of carrying out retaliatory executions of civilians living in the affected areas especially adult males and then claimed they were members Boko Haram (Amnesty International, 2012, 20).

Accordingly from July 2011 to October 2013 Amnesty International and Human Rights Watch combinely have reported 1,190 cases of extra-judicial killings associated with JTF operations. For instance, from July 2011 to March 2012, Human Right Watch has documented 19 cases of extra-judicial killings committed by JTF in the cities of Kano and Maiduguri (12 extra-judicial killings were recorded in July 2011, 3 in January 2012, 1 in May 2012 in Maiduguri and 3 occurred in the city of Kano in March 2012) (Human Rights Watch, 2012, 65-67).

The alleged killing of 12 innocent men happened on the night of July 9, 2011 in Kaleri area of Maiduguri, when suspected Boko Haram terrorists attacked a military vehicle in Maiduguri, soldiers condoned the Kaleri neighborhood and killed 12 men. According to the narration given by one of the surviving residents interviewed by Human Rights Watch revealed that:

I came out from the mosque around 8 p.m. and heard a bomb explosion. After the explosion the JTF arrived in six pickups. They told the people to come out of their houses. They asked the women and children to lie down on the ground.... I saw the JTF going into my neighbor's house. His name was Mohammed. I heard the soldiers shout, "Where is your husband?" They were speaking broken English. The wife said, "Mohammed is not in." They said, "If you don't show him, we will shoot you dead." Mohammed then came out. The soldiers separated the two of them. The soldiers then shot Mohammed. They shot him twice at close range. Three soldiers then poured petrol inside the house and set the house on fire. Mohammed's wife fell on him and held him. The soldiers threw the wife aside and carried his corpse away. After that I saw them [the soldiers] bring out about 11 men from various houses. I knew the men. They lined them up in front of Mohammed's house. One of their leaders ordered them to shoot them. He said "Fire!" He was speaking in English. The other soldiers then shot the men. (Human Rights Watch, 2012, 65-66).

Another witness name withheld who was interviewed by Amnesty International concerning the Kaleri case stated that: "When they [brought me outside] they made me lie there with one man. He was Dahiru Muhammad; he had three wives and 13 children. When I was brought out to lie down Dahiru Muhammad was already shot. He moved. [The soldier] said 'ah, he hasn't died' then he shot him again and he died" (Amnesty International, 2012, 22).

At Kwar Maila in Maiduguri, Amnesty International reported another case of extra-judicial killings committed by JTF, in which nine (9) innocent civilians were allegedly killed on 27 December, 2011. The 9 men include Wakil Dala, Bukar Dala, Ali Dala, Adam Tijjani, Mamman Adamu Mustapha, Hassan Musa Bukar, Mamman M Mustapha, Alhaji Ali and Babangida Adamu. According to residents of the community:

JTF soldiers in several vehicles had arrived at Kawar Maila Ward, Maiduguri, and surrounded homes. Parents were asked to produce their male children. They were told their sons were being taken away for interrogation. Two days later a relative of one of the arrested boys heard on the radio that the JTF had killed 11 Yusufiyya [followers of Mohammed Yusuf] members in Maiduguri. One of the relatives went to the mortuaries to check. He found the bodies of all nine on the floor of the University of Maiduguri Teaching Hospital mortuary (Amnesty International, 2012, 21).

On 26 January, 2012 men of the JTF raided Gidan-Yashi a suburb community in Maiduguri and shot 3 brothers - Dala, Mallam Tijjani, and Mallam Mohammed Mustapher - on the spot. According to the relative of the deceased who witnessed the killings and interviewed by Human Rights Watch stated that:

The troops told the men, all in their twenties, to lie down outside a residential compound and ordered the women to go inside the house: One of the soldiers asked the other soldiers to stand clear. When they stood clear the soldier shot the three men. The soldiers then threw the corpses into a van and left. We got information from someone at the Maiduguri University Teaching Hospital that the corpses were there, so we went and identified the bodies. They [the soldiers] tried to force us to sign that they were Boko Haram members, but we refused to sign.... We then went to a lawyer. He went and they released the bodies to him (Human Rights Watch, 2012, 66-67).

On 12 February, 2012, after an alleged attack on security vehicle at Budum community in Maiduguri, men of the JTF cordoned off the area and started the house to house searches as a result 8 people were killed on the spot including those trying to flee. According to the accounts given by eyewitnesses interviewed by Amnesty International revealed that:

Kana M Zakaria (16) was asked to come out of his house with his hands raised and was shot dead by a mobile police officer attached to the JTF unit. Bako Gwani Tijjani (42) was also shot dead while his hands were raised over his head. Six of the bodies were reportedly taken away by the JTF and later retrieved by the community from the hospital, while those of Baba Kalo (63) and Malam Yahaya (35) were left at the scene (Amnesty International, 2012, 21).

On May 22, 2012, men of the JTF raided Lawan Bukar Junction neighborhood and allegedly killed unarmed man who was hiding inside a tailoring shop. A resident of the neighborhood who was interviewed by Human Rights Watch revealed that:

At one tailor shop, a man named Ibrahim, who is the son of the owner, was caught inside. When he tried to get out, they shot him and he fell back into the shop. They threw gasoline in and set it on fire.... The next day, we went in and found Ibrahim's body. He was so badly burned that when we began to drag it [out], a leg came off (Human Rights Watch, 2012, 67).

On 9 March, 2012, 3 innocent men were killed by men of the JTF at Rijiyar Zaki area in Kano after suspected Boko Haram members attacked a police station near one filling station. According to the eyewitnesses interviewed by Human Rights Watch After the attack on the police station, JTF vehicles arrived and convened at the parking lot of the filling station. One of the employees hiding inside the filling station's service pit described what happened:

Seven of us were hiding in the pit. Four of us were staff here, the other was Ali, who had come to get fuel—I knew him from before—Ahmed, who sells fuels along the road, and a third man [name withheld]. Ali phoned his wife that his life was in danger and she should pray for him. After 45 minutes the soldiers and police came. Two soldiers came into the service bay. They were wearing camouflage uniforms. They didn't say anything. They just started shooting into the pit. They shot Ali and he fell down on top of me. They shot the second—Ahmed—and third one [name withheld]. I then started shouting saying: "We are staff, we are staff. We are staff!" The soldiers said, "If you are staff, you should come out." So we came out. My clothes were all covered in Ali's blood. They made us lie down outside. The soldiers and the police then went inside to my boss's office. They shot inside and took my boss out. They had removed his clothes and made him lie down with us...Later I took Ahmed and [the third man] in a tri-wheel vehicle to the hospital.... They attended to them and I left. On my way back home I was told that Ahmed had died. He was shot in the leg and lost a lot of blood. Another man was also shot and killed next to the filling station's generator (Human Rights Watch, 2012, 68).

On May 16, 2013 following the attack of military patrol in Baga town in Borno state by Boko Haram which resulted the killing of one soldier and wounding five others, the military under the JTF raided the town and killed an estimate of 183 people although

government statement refuted this figure and claimed only 37 were killed and 30 of them were members of Boko Haram and one soldier. However, based on the accounts given by seven residents of the town interviewed by Human Rights Watch revealed that, the number of those killed ranged from 183 to 220.

As interviewed by Human Rights Watch, senator Maina Maji Lawal, the federal senator representing Baga, stated that, “based on a two-day site visit on April 25 and 26, that some 220 people had been buried in three cemeteries, while eight others had been buried in separate locations” (Human Rights Watch, May 1, 2013). Some residents interviewed revealed that, “they saw soldiers in uniform kill residents and burn houses”. A 27-year-old woman, who stayed in her house after the eruption of gunfire shootings, described to Human Rights Watch how soldiers went door-to-door looking for any men that remained in her neighborhood. “I saw the soldiers drag a man out of another house. They started beating him with their guns. They were beating him severely and he was crying. The man then ran, and I saw the soldiers shoot him. I heard the gunshots and saw him fall” (Human Rights Watch, May 1, 2013).

Another resident, a 32-year-old fisherman, stated that:

We had heard the soldiers say before [the attack] that since you people are not cooperating with us and are hiding your brothers, we will treat you as one of them, “I heard the soldiers say this. Everyone heard them say this”. They were saying this in the open (Human Rights Watch, May 1, 2013).

Apart from those who were allegedly killed during military raids, Amnesty International in its statement issued on October 15, 2013 accounted that, over 950 people suspected to be members of Boko Haram died in military detention centers ran by JTF in Borno state within the first six months of 2013 alone (Amnesty International, October 15, 2013). A former detainee interviewed by Amnesty International revealed that: “people died on an almost daily basis in both Giwa and Sector Alpha from suffocation or other injuries due to overcrowding, and starvation. Some suffered serious injuries due to

severe beating and eventually died in detention due to lack of medical attention and treatment” (Amnesty International, October, 15, 2013). Another senior military officer of the Nigerian Army told Amnesty International that: “Hundreds have been killed in detention either by shooting them or by suffocation ... There are times when people are brought out on a daily basis and killed. About five people, on average, are killed nearly on a daily basis” (Amnesty International, October, 15, 2013).

4.1.2: Enforced Disappearance

Before presenting cases relating to enforced disappearance, it is very paramount to understand it within the context of international law, and use the reference in relation to Nigerian case. Amnesty International operationalized the concept by citing Article 2 Article of the Declaration on the Protection of all Persons from Enforced Disappearances as the:

arrest, detention, abduction or other form of unauthorized deprivation of liberty of a person by a state, agents acting for the state, or persons or groups of persons acting with the authorization, support or acquiescence of the State, followed by a refusal to acknowledge the deprivation of liberty or by concealment of the person’s fate or whereabouts, placing him or her outside the protection of the law (Amnesty International, 2011, 4).

Enforced disappearances constitute gross violations of human rights and facilitate a wide range of other violations, such as torture and extrajudicial executions. Enforced disappearances are therefore explicitly prohibited under the International Convention for the Protection of All Persons from Enforced Disappearance, which came into effect in December 23, 2010; and Nigeria acceded on 27 July 2009. The Convention also imposed legal obligations on states party to it, to make sure that alleged culprits for enforced disappearances are brought to justice; to ensure that necessary measures are put in place to prevent enforced disappearances. Such measures include: all persons deprived of liberty must be timely recorded and that their family members, lawyers and others must be granted access to such information, including “the ability to compel it through a prompt judicial procedure; and to guarantee and fulfill the rights of victims of

enforced disappearance including the family members of those who have disappeared” (Amnesty International, 2012, 27).

Both Amnesty International and Human Rights Watch Combinely have documented thirty five (35) cases of enforced disappearances from October 2011 to November 2012. In its 2012 report for instance, Amnesty International cited two cases of enforced disappearances which all happened in the city of Maiduguri. On 16 October, 2011, Goni Ali was arrested by men of the JTF at his residence in Maiduguri with three others. They were taken to 21 Army Brigade popularly called Giwa barrack. Only two of those arrested with him were released the following day; and the third one was released four days later. Since then Goni Ali’s family has not heard any information about him. In July 2012, a member of his family told Amnesty International in an interview that, “Whenever I go, I ask about my brother I don’t get any response from the JTF; sometimes they say they don’t know him” (Amnesty International, 2012, 29).

On June 8, 2012, a tailor whose name was withheld was arrested by the JTF at his house in Bayan quarters, in Maiduguri. A family member told Amnesty International:

I thought they took him to Giwa barracks. But he wasn’t there. I went to Crack. They said we haven’t seen him and suggested I go to another station. ... I’ve been looking for the past 10 days. I went to all the barracks. I went to Giwa three times. They kept telling me there is no one like him there... I have been going around with his ID. One policeman I know, I called on him, [to help me find out what happened]... he asked a friend who was within that team [that arrested him], the policeman told me the man arrested that day, he and two others were taken very close to [the family’s] area, to Lambu (irrigation) area. They were fired [shot and killed]...he told us to go to the mortuary. I went there...the mortuary attendant said they don’t keep the bodies for more than 10 days and that they buried nine corpses the day before yesterday.” Several people, including members of the security forces, subsequently told the family, off the record, that he had been killed but without a body the family said they cannot be certain that he is dead (Amnesty International, 2012, 28).

On March 14, 2012 Kaka Alhaji Ali (25) was arrested when he tried to pass in between two JTF vehicles, and was reportedly beaten with rifle butts. One of his relatives told Human Rights Watch that “he saw the soldiers place Ali into a pickup truck, and he followed the truck to Giwa Barracks.” On March 23, “the relatives saw Ali from a distance at the barracks, alive with his hands tied to a pillar. The next day, around 8 a.m., one of the relatives returned with a lawyer and asked about Ali. A soldier told them that Ali had left.” The relative continued that:

I took that to mean they had killed him. I went to the [University of Maiduguri] Teaching Hospital around 1 p.m. and found his corpse. There was a report that he was shot in an exchange of fire along the Maiduguri-Damaturu Road, which I knew was a lie. The lawyer and I asked for the corpse, which they surrendered to us (Human Rights Watch, 2012, 73).

Human Rights Watch also reported that security personnel often ferried detainees to the outskirts of Maiduguri and executed them. A resident of a settlement about four kilometers from Maiduguri said:

Since the beginning of 2012, JTF patrols have pulled up in convoy in the bush near the village on several occasions and gunshots have sounded. In the morning, residents have discovered dead bodies. ... The police forced us to bury the corpses. We buried them in our cemetery. I don't know the names of the dead. This has happened several times in the past five months. We have buried about 20 people ourselves. (Human Rights Watch, 2012, 73-74).

In February, 2014, Zulaika Umar the wife of a detainee in Giwa barracks told Amnesty International in an interview that; “soldiers from JTF arrested her husband at his home on 1May, 2012, since then, he had not been sighted by anyone. And the army has never allowed anyone to visit him” (Amnesty International, 2014, 20). In its press release issued on 2 November, 2012, Amnesty International stated that, between October 30 evening and November 1, 2012 morning, scores of men were taken out of their homes by the JTF in Maiduguri and many of them were reportedly killed. At least 30 bodies were deposited at Maiduguri teaching hospital morgue with gunshot wounds. One eye-witness told Amnesty International that “on Thursday she saw dozens

of bodies on the floor of the morgue with bullet wounds. And some burials took place on Friday morning” (Amnesty International, November 2, 2012).

4.1.3: Force Eviction and House Burning

According to Article 11.1 of the International Covenant on Economic, Social and Cultural Rights (ICESCR), “the destruction of homes and eviction of residents without adequate legal safeguards is a forced eviction and therefore a violation of the right to adequate housing” (to which Nigeria acceded in 1993); and “the rights to privacy, family and home” under Article 17 of the International Convention for Civil and Property Rights (ICCPR). The UN Committee on Economic, Social and Cultural Rights, which monitors the implementation of the International Covenant on Economic, Social and Cultural Rights by state parties, has stated that “forced evictions and house demolitions as a punitive measure are inconsistent with the norms of the Covenant” (Amnesty International, 2012, 31).

Both Amnesty International and Human Rights Watch combinely have reported 2,367 cases of force eviction and house burning from April 2012 to April 2013 mostly in Borno state where most of the fights took place. For instance, in April 25, 2012, men of the JTF set four houses on fire, following the killing of a woman by suspected member of Boko Haram in Kawar Maila and threatened to burn more houses if anything happen again. Also, on 1 May 2012 another person was killed by members of Boko Haram. The JTF returned with containers of petrol and burned 33 houses within the neighborhood. A Human Rights activist told Amnesty International in an interview that:

I visited the area a day after the incident. Along the main road and off the main road I saw many houses burnt and some few still burning, some household members were migrating out en masse with their properties and children loaded on pickup vans and small tricycle open trucks... I [collected info on] 33 household heads whose houses were burnt down” (Amnesty International, 2012, 31).

On 22 May, 2012, at Lawan Bukar junction, Maiduguri, men of the JTF have allegedly burnt 13 shops and five houses after an improvised device exploded when a

convoy of JTF vehicles was passing (Amnesty International, 2012, 32). Furthermore, as a reprisal for the attack on their patrol vehicle which resulted the killing of the leader of the patrol team and injured 5 soldiers in Gwange area of Maiduguri on 8 October, 2012, soldiers from JTF outrageously burned down more than 50 houses and killed 30 people including civilians (Punch, October 9, 2012).

The highest number of houses destroyed by JTF was reported by Human Rights Watch on 30 April, 2013, following a two day fights between JTF and members of Boko Haram on 16 and 17 April. A total of 2,275 destroyed and 125 severely damaged buildings were identified within the town of Baga in Borno State, based on a change detection analysis of two very high resolution satellite images collected on the mornings of April 6, before the violence, and April 26, 2013, after the violence (Human Rights Watch, April 30, 2013).

4.1.4: Arbitrary, Incommunicado and Unlawful Detention

Since the beginning of Boko Haram violence in 2009 many people including those suspected of having links with the group have been detained unlawfully and arbitrarily in an inhumane condition across police stations in Adamawa, Bauchi, Borno, Kano, Kaduna and Yobe states. Many are still under detention in notorious detention centers at Giwa Barracks (Maiduguri), Special Anti-Robbery Squad (SARS) and SSS Headquarters in Abuja.

The Nigerian constitution 1999, however has prohibits such. Section 35 of the Constitution stipulates that: “anyone detained on suspicion of committing a criminal offence must be arraigned before a court within a reasonable time”. The person arrested should be arraigned before a competent court of jurisdiction within 24 or 48 hours for non-capital offences subject to the proximity of the court. Detainees also have the right to be assisted by a legal practitioner or any other person of his/her own choice; and to be informed in writing within 24 hours of the facts and grounds for their arrest or detention (Constitution of the FRN, 1999).

Although the declaration of the state of emergency by the Nigerian President in January 2012 which elapsed in June 2012, and the subsequent declaration of May 2013 have derogated some provisions of the constitution. Whereas the 2011 Terrorism Prevention Act prescribes 30 days detention subject of a court order; and imposes some restrictions on access to lawyers in the first hours after arrest, however, few have been charged with related offences under the Act. Despite of this, even when the Act was applied, its provisions do not allow long period of detentions (Amnesty International, 2012, 35).

Constitutionally, the military do not have any general legal power to conduct arrest or detain anyone other than a member of the armed forces. But under the Emergency Powers Act as ordered by the President in pursuance to its effect on 27 April 2012, the military were exceptionally authorized to arrest and detain anyone within the areas covered by the state of emergency who “is or has been involved in the preparation or instigation of acts prejudicial to public safety” and over whom for this reason the military authority is satisfied that “it is necessary to exercise control” (Amnesty International, 2012, 35).

Upon this background however, thousands of people accused of having links to Boko Haram have been detained by the Joint Task Force (JTF), military, police and the Department of State Security Services (SSS). Combinely, Amnesty International and Human Rights Watch in their reports have documented 1,010 cases between January 2012 to December 2013 relating to long stay in detention without trial, lack of proper information on the detainees’ whereabouts and offences charged, and other ill-treatments raging from torture, cruel and inhumane detention facilities.

Several people who had been arrested and later released by the JTF and police in Maiduguri and Kano interviewed although their names were withheld on the condition of unanimity, told Amnesty International that, “they were not informed at the time of their arrest of the reason for their arrest and were not informed of any charges against

them. Some spent months in detention without ever being informed of the charges against them” (Amnesty International, 2012, 36).

On 17 January 2012, Maaji Mammam (22) was arrested by men from JTF in Maiduguri with his nine brothers. They were all transferred to Giwa barracks after spending one night at a JTF unit based at a hospital. Five days later, he was interviewed by two officers. He described his interrogation to Amnesty International:

They call the place court. When you go in there, one is introduced as their lawyer. They asked me my name, how I earn a living, where I live, the Local Government Area (LGA). They asked me to say how many friends I have and then asked me to name 10 of them. Then they asked me to identify members of Boko Haram from the 10 names I had given (Amnesty International, 2012, 36).

They had never been informed about the offence they were charged with. Maaji Mammam and six brothers were eventually released in June 2012; two of his brothers however remain detained.

Corroboratively, the accounts from former detainees interviewed by Amnesty International from February to July 2012 in Abuja, Borno and Kano states also revealed that: “they were denied any contact with the outside world, making it impossible to inform people that they have been arrested.” Furthermore, Some of the relatives interviewed by Amnesty International who had located their detained family members after spending days or weeks of searching, stated that; “they were allowed to see them and bring them food and medicine; in other cases, they were refused and could only leave money with the police or soldiers on duty in the hope it will reach their relatives” (Amnesty International, 2012, 38).

In May 2012, Human Rights Watch interviewed relatives of nine men taken away by the JTF in Maiduguri since January 2012. All said:

They had not received official word about the whereabouts and condition of their relatives, or what charges were being brought against them. The authorities in Maiduguri have permitted some lawyers irregular visits to the

detainees, but [at this] writing access to lawyers had been arbitrarily truncated by the military personnel (Human Rights Watch, 2012, 71).

On 28 May, 2012, Human Rights Watch interviewed two former detainees at the Giwa barracks. They described been detained in an underground cell in an inhumane and unsanitary conditions, without adequate food, for six weeks and four months, respectively. The men stated that, while in custody, they were handcuffed to a ring on the floor that prevented them from standing up or moving around and were only released twice a day to eat and use the toilet. “There were nine cells in the underground area. There were about eight inmates in each cell.... There was no light.” They were not allowed outside and were denied access to lawyers, family members, or other visitors; one said (Human Rights Watch, 2012, 72).

Another former detainee also witnessed several cases of torture at Giwa Barracks. For instance, he said one day, while he is interrogated by security agents in an office at the barracks, he saw soldiers at another table torturing a detainee by “pulling on his genitals with a pair of pliers”. He also described seeing soldiers trying to “peel the skin” of a detainee with a razor blade, and killed another detainee while he was suspended from a tree at the barracks (Human Rights Watch, 2012, 72). Amnesty International interviewed an official from the Nigerian military on the alleged forms of torture used in the detention centers, he stated that:

They (the army) carry out all sorts of torture means available to them. They hang people, at times, till they die. They use rifle butts and sticks to beat people. They also shoot people on their legs and leave them to bleed. They tie their hands to their back with rope. They call the system “taby”. Some or many are unable to use their hands after they’re released. Some people die even after they have been released (Amnesty International, 20 February, 2014).

In 2013 alone, over 1,000 people were arrested and detained at Giwa military barracks in Maiduguri Borno state, Sector Alpha (known as Guantanamo) in Damaturu, Yobe state as well as the Special Anti- Robbery Squad (SARS) detention centers under the Nigerian police in Abuja (commonly known as “the abattoir”). According to

Amnesty International, “majority of detainees have never been brought to court and most often do not have access to their lawyers and/or families. Few court orders for the release of detainees are respected by the police and the military” (Amnesty International, 20 February, 2014).

However, due to intensive pressure from human rights campaigners both domestic and international, in July 2013, the Nigerian Defence Headquarters in Abuja set up a 19 member Joint Investigations Team (JIT) under the office of the former Chief of Defence Staff (CDS) to investigate the conditions of detainees in facilities run by the Nigerian military. Its report was submitted in December 2013 to the CDS and the National Security Adviser (NSA). The committee recommended the release of more than 167 detainees and the prosecution of 500 detainees and review of 614 others whose cases were inconclusive in the states of Adamawa, Borno and Yobe. However, the report has not been made public and up to the time of writing this thesis, nothing have been implemented (Amnesty International, 2014, 20 and Daily Times, December 4, 2013).

4.1.5: Hypotheses Testing in Relation to Research findings

From the foregoing cases of gross human rights violations as presented, it very imperative to note that, it was the interaction between the dependent and independent variables as formulated in each of the two of the hypotheses mentioned in chapter one that produced the projected outcome in question. The first hypothesis which states:

The security threats posed by Boko Haram to Nigeria`s security had prompted the government in taking decisive measures to counter it which consequently lead to numerous cases of Human Rights abuses in the affecting communities.

As explained in chapter three, the intensification of Boko Haram attacks across the states in the northern part of Nigeria after the 2009 violence and the drastic shift in its tactics; and increase in the sophistication and nature of its assaults have posed serious security threats to Nigeria`s sovereignty and integrity. Consequently, the Nigerian government reactively responded with offensive military approach in its effort to counter

such security threats. JTF was assigned with the primary responsibility of countering Boko Haram after its establishment in June 2011 till August, 2013 when BOYANA took over. The JTF actions were mostly aimed at limiting the operating space for the sect and eliminating or arresting members of the group and their supporters. The strategies designed by the JTF to achieve this aim were military-oriented operations which included roadblocks, checkpoints, arrests, cordon and search. It also entails guarding of key points, surveillance and heavy military raid operations. Unfortunately, all things been equal, the result of these measures were the gross cases of human rights violations allegedly perpetrated by the members of JTF while conducting the operations in the northeastern part of Nigeria and other states within northern Nigeria as presented above.

The second hypothesis states that:

The emergency rule declared by the Nigerian President in the states affected by Boko Haram crises have given the Nigerian security forces under the Joint Task Force (JTF) an enormous power while executing counterterrorism measures which further deprived the very well beings of the people in those states.

As explained earlier in this chapter, the declaration of two state of emergencies by the Nigerian President – first in fifteen (15) local governments from January to June 2012, and the subsequent one in Adamawa, Borno and Yobe states in May 2013 – in northern Nigeria, after the violent resurgence of Boko Haram and its attacks in the region, have conferred additional powers to the JTF and later BOYANA in executing counterterrorism operations within the affected areas of the order. The security operatives were empowered to derogate from some sections of the Nigeria`s constitution in discharging their duties as spelled in the Emergency Power Regulation of 2012 and 2013 respectively. The consequences of these orders as all things been equal were the recorded increases of human rights abuses by the security operatives as presented above.

Hence, there are positive relationships between the dependent and independent variables in both hypotheses in relation to the outcomes they produced when other factors not mention remain constant.

CHAPTER FIVE

5.0: Conclusion and Recommendations

5.1: Conclusion

The resurgence and instant increase in sophistication of Boko Haram's terror attacks across Northern Nigeria and the subsequent offensive response by the Nigerian government have combinely resulted a collateral damage to the hostile population who are dwelling within the crisis-ridden states of the region. In essence, the thesis analyzed the effects of Nigeria's offensive measures against Boko Haram on the rights and liberties of the people in Northern Nigeria, particularly those living within the states affected by emergency rule (Borno, Yobe and Adamawa) from June 2011 to November 2013.

Accordingly, the establishment of Joint Task force in June 2011 and the subsequent declaration of emergency rules by President Jonathan Goodluck in January 2012 in fifteen local government areas which elapsed after first six month of imposition; and the contemporary one which began since May 2013 in three northeast states of Borno, Yobe and Adamawa have intimately created a situation of immense popular outcries as a result of improper conduct of security operatives deployed to "restore order" in those areas designated as Boko Haram strongholds. Backed by emergency orders, the counterterrorism operations carried-out by the JTF thus turned to be dysfunctional where in many occasions – as revealed from the substantive evidences extracted from the published reports of Amnesty International and Human Rights Watch – security operatives have resorted to brutality against the people in the hostile areas whom they are supposed to protect.

Like many other terrorist groups, Boko Haram since its popular uprising in 2009 have remained staunch to its forceful mission of establishing Islamic legal system in Nigeria and abolishment of the current "corrupt" secular state system. Lacking competent persuasion strategy in articulating the interest of the Nigerian Muslims to

vow to their call, the group violently resorted to unjustified Jihad (Holy Islamic war) against the Nigerian state. As a result, thousands of people have lost their lives and billions of naira worth of properties were destroyed; and about 470, 000 people are displaced (Human Rights Watch, March 14, 2014).

The security challenges caused by Boko Haram are of serious note, thus, no responsible government will relent in taking decisive measures to address them. Arguably, Nigeria in its capacity has a duty to preserve its logical existence which is threatened by the group`s violent attacks and its fierce resistance. Essentially, the over reliance on heavy-handed military offensive operations against Boko Haram by JTF and BOYANA were considered not only as “stability operation” but as violent crackdowns on the sect members and its supporters. The primary aims therefore are to subdue the operational capabilities of the group, limit its operating space and ensure its complete elimination. The dynamic nature of Boko Haram attacks and its targets however have compelled the adoption of multidimensional military-oriented operations by Nigerian security forces, such as the establishment of many security check points and road blocks, cordon and search, armed military patrols, and offensive military raids. Others include arrest and detention of Boko Haram suspects (Umar, 2013, 38-40).

With the declaration of the state of emergency by the Nigerian government on two occasions – in January, 2012 and May 2013 – additional powers were conferred to the JTF under the provisions of Emergency Powers Regulations, published on 27 April 2012 and 20 May, 2013. Security operatives were empowered to detain any person either within the emergency area or elsewhere, to remove and exclude any person from the emergency area, to take possession or control of any property in the emergency area, to enter and search of any premises; and to pay compensation and remuneration to people affected by the order, to apply any law (with or without modification like the blockage of telecommunication networks and imposition curfews) in relation to that area; and to apprehend, try and punish persons who offended against the order (Amnesty

International, 2012, 8, Emergency Powers (General) Regulations, May 20, 2013 and Weekly Trust, May 25, 2013).

However, the combination of these counterterrorism measures has consequently compounded to create a brutal state of affairs, where the JTF operatives with impunity committed numerous cases of human rights violations. Extra-judicial killings and summary executions have been systematically carried-out against people suspected to be members of Boko Haram outside the frame of law. Enforced disappearances, force evictions and house burning, as well as arbitrary, unlawful and incommunicado detentions are among the atrocities committed by the JTF under the auspice of countering Boko Haram.

Many people have forcefully abandoned their respective houses, while thousands of homes and shops were destroyed or burnt down in many areas especially in Borno state. Those arbitrarily arrested were detained in incommunicado and inhumane conditions at Giwa barracks in Maiduguri, SARS or SSS detentions facilities in Abuja. Many died as a result of suffocation, torture and diseases. Many of the detainees stayed under such conditions for longer period than they should be without access to their families, lawyers or relatives. Access to proper legal procedure as required by the law were proved difficult, whereas, security operatives deliberately refused to adhere with the detention guidelines prescribed in the Anti-Terrorism Prevention Act of 2011 and the provisions of Nigerian constitution as well as other relevant articles of international conventions which Nigeria acceded.

Nevertheless, the substantive evidences presented in relation to the cases of human rights violations have reflected the fundamental tension which inevitably exists in any constitutional order between the basic premise of government in relation to the protection of its people rights and the “perceived need for discretionary power” to face violent and disastrous emergency situations and crisis as argued in the constitutional emergency theory (Bianchi and Keller, 2008, 44). As a democratic state, Nigerian

constitution is flexible which enables the President to derogate some provisions or sections of the constitution in order to address emergency situations like that of Boko Haram crisis. Thus, the extra-emergency powers conferred on JTF/BOYANA within the areas covered by the order have corroborated the assertion on the dichotomy between “constitutional normalcy” and “extra-constitutional emergency.” Therefore, Lobel’s argument on “liberal” framework of constitutional emergency theory is relevant to this thesis. Although the nature at which the implementation of the emergency order is being carried-out has become a matter of great concern (Lobel, 1989, 1385-87). The alarming rate of human rights abuses by JTF have proved to be in line with the “republican” account which “envisaged a democratic rationale for rights abridgments” to preserve the state (Ignatieff, 2004, 27).

Nigeria’s response to Boko Haram crisis was very offensive, and prioritized the preservation of its national integrity at the expense of peoples’ rights. This uncompromising stand clearly portrays the unwillingness of the government in considering the paramount importance of indiscriminate “trade-off” between security and human rights. Thus failing to make the required proportionate balancing between the two indispensable public goods as orchestrated in the “balancing model” (Donohue, 2008, 4).

Considering the basic prepositions in Crelinsten’s criminal justice model (CJM) and war model, one can argue that, JTF have failed to acknowledge the strict limits about those who should be subjected to state violence. For instance, in CJM, it is only those suspected and found guilty of committing terror acts by the constituted court of law, whereas, in the war model, it is only combatants and those directly providing military support to those combatants. Hence, according to Crelinsten these restrictions on the exercise of state violence in both models forms part of the basis bestowed upon the state by the rule of law (Crelinsten, 2009, 48).

As presented, most of those who suffered from the brutal human rights abuses were neither found guilty of terrorism nor directly captured in the frontline fighting in the side of Boko Haram. They were mere suspects which according to CJM they must be subjected to standard judicial procedures. Accordingly these procedures include “the prerogatives of due process, which must be followed at all stages of arrests, indictment, trial, and punishment” (Crelinsten, 2009, 48). Therefore, those suspected of having links with Boko Haram at the period of arrest should be informed of their charges, must be put to trial without undue delay, they should be allowed to prepare and present their defenses, they should be assisted by counsels, they should not be forced to confess; and while in detention they should be presumed innocent until proven guilty.

Although war model emphasized the use of “military rule of engagement” that requires maximum application of force to subdue the terrorists similar to JTF and BOYANA mandates, but their actions are expected to adhere with the “rule of war” standards prescribed by International Humanitarian Law and Human Rights Laws. For instance, Article 3 of 1949 Geneva Convention prohibits “the passing of sentences and carrying-out executions without previous judgment announced by regular constituted court affording all judicial guarantees” (Crelinsten, 2009, 49). Based on the foregoing analysis one can argue that, Nigeria’s failure to adhere with these theoretical guidelines while countering Boko Haram has made its current measures to be ineffective and dysfunctional.

Nevertheless, coming to this point I can conclude that, the thesis has answered the three proposed questions mentioned in chapter one. However, it will be very significant to propose new research questions that would open the horizon for future academic research on this subject matter. These questions are:

1. To what extent the failures of the current counterterrorism measures as mentioned will assist in designing new measures that will minimize the tendencies of human rights violation?

2. How does this soft-counterterrorism approach will complement the current measures in addressing Boko Haram insurgency?

5.2 Recommendations

Nigeria's success in countering Boko Haram "will require long term engagement and work ... while maintaining respect for human rights and the rule of law." ... "We recognize that military measures alone will not halt the terrorist threat in [Nigeria]," ... "Addressing the underlying conditions that fuel terrorism and violent extremism" [is very significant] – Daniel Benjamin (April 25, 2012).

The ongoing military offensive operation against Boko Haram as argued by Daniel Benjamin is not the only appropriate solution to halt its insurgency. Boko Haram's fierce resistance against the Nigerian forces have also exposed the weaknesses in the current counterterrorism operations in Northern Nigeria. While the lives of ordinary people have continued to be trapped, the government is therefore recommended to review its contemporary strategies and adopt wide variety of measures that will assist in solving this protracted problem in all fronts. In essence, a comprehensive counterterrorism approach that will combine both soft and hard military measures is therefore required. Hence there is need for a new approach that will simultaneously address both the symptoms and root causes of Boko Haram terrorism campaign and minimize the tendencies of human rights violations. The fact that Boko Haram continues to resist the offensive crackdowns of the Nigerian security forces and often reemerge stronger have proved that wrong approach is being carried out. And this failure has overwhelmingly discredited the effort of the security forces and lead to increasing loss of confidence in government's will to fight Boko Haram by Nigerians and international community.

It is significant to diagnose the causes of terrorism while also countering its symptoms. In essence there is need to use effective measures that both deter and prevent terrorism simultaneously, backed by appropriate legislations and the other mechanisms.

Henceforth, every mechanism needs to be used (or have the capability to be used) and coordinated together to work successfully. Therefore, consideration has to be given to the mechanisms most appropriate to each case, treating each case as unique and tailoring different policies to different challenges (Steven and Gunaratna, 2004, 132).

Henceforth, even though the scope of this thesis is limited to assessing the impacts of Nigeria's offensive counterterrorism measures against Boko Haram on human rights of northern Nigerian people but proposing a new approach that will have minimum adverse effects on people rights and ensure a lasting solution to the crisis as whole will be of great importance. Therefore the following are the proposed recommendations of the thesis that will assist in designing a comprehensive counterterrorism approach in Nigeria:

5.2.1: Redesign and Improve Security Operations

Physical security operations are necessary tools in establishing a stable environment for the actualization of other non-military measures in a counter-terrorism situation. The environment needs to be "secured" to enable other governmental and non-governmental agencies to address some of the root causes and aftermath effects of the violence. Most significantly, military operations if effectively executed will succeed in denying Boko Haram the space to organize and recruit new members, protect citizens, infrastructures and reduce vulnerability to violent attacks. Correspondingly, caution must be taken seriously while carrying out such operations in order to avoid unlawful killing or imposing burdensome restrictions and other abuses upon the hostile population. This balance is necessary if the support and royalty of the people are to be retained.

To ensure that, security forces must be made to be fully aware of and comply with the provisions of Nigerian Constitution, International Human Rights Law and other relevant Articles of International Conventions when discharging their duties. In this

regard, security personnel must undergo training that would make them conversant with emergencies, balancing, proportionality and minimum use of force, as well as practical training on weapons handling to ensure minimal injury; and adequate self-protective equipment should also be available. Furthermore adequate training on the use of various equipment that will satisfy the need for differentiated use of force and other tactical methods without over reliance on conventional weapons is also necessary. Open hand techniques (taekwondo, judo, karate and wrestling) are also useful. Understanding the content and obligation to respect and comply with UN standards like the Basic Principles on the Use of Force and Firearms by Nigerian security forces is also required.

Over reliance on the services of military personnel in domestic law enforcement is not always healthy to democratic rule. Nigeria as a democratic country needs to strengthen the Nigeria police and other paramilitary institutions. Restoring domestic order constitutionally lies with police, military are only invited when the situation worsen. But it was the failure of effective policing that gave groups like Boko Haram the opportunity to even emerge in the first place and pursue their criminal acts. Therefore the Federal government must strengthen the capacity and effectiveness of law enforcement agencies (police, immigration, civil defence corps, prison service etc.) and improve their training courses (including human rights law training), and provide police with equipment that will enhance their forensics capabilities in the area of forensic tests, crime scene investigations (CSI) and autopsies or medical examinations.

Self-defence gadgets such as shields, helmets and bullet-proof clothing must also be provided. This will make it easier for them in prosecuting criminals without requiring maximum use of force. Adequate remuneration and good condition of service must also be ensured. Effective intelligence gathering is a primary tool in preventing crimes. There is need to coordinate the activities of Criminal Investigation Department (CID) of the Nigeria police, State Security Service (SSS) and National Intelligence Agency (NIA) and that government should avoid complacency in executing their reports.

5.2.2: Improve Security Collaboration with Neighboring Countries and international community

Security collaboration with neighboring countries like Niger, Cameroon, Chad and Benin is very paramount for Nigeria to succeed in defeating Boko Haram. There is a need to strengthen the already established Multinational Joint Task Force (MNJTF). Strict border patrol should be intensified across the porous borders between these countries and Nigeria so as to check illegal smuggling of arms and ammunitions. Coordination and sharing of information and intelligence is also very important because Boko Haram draws a considerable number of followers from these countries. On several occasions many members of Boko Haram that were captured were found to be citizens of neighboring countries. Additionally, most of the Boko Haram camps are located in the forests and mountains across the porous borders with those countries. Areas like Sambisa forest and Goza hills have become safe-havens and dangerous enclaves of Boko Haram. Therefore, there is need for Nigeria to equally strategize a coordinated operation with those countries and solicit military support especially from US and France in order to locate and destroy these camps.

The government of Nigeria also has an obligation to strengthen its military relations with countries like the United States, Britain, France, China and others in fighting Boko Haram. Since Nigeria is lacking better equipped intelligence gathering technologies, soliciting security assistance in the areas of satellite imaging technologies and advanced communication tracking devices is very important. At some points if required, joint military operations with these countries in fighting Boko Haram may prove decisively significant. This will increase the level of solidarity with Nigeria in the fight against terrorism since Boko Haram is a designated Foreign Terrorist Organization since November 2013.

5.2.3: Improve the Living Standard of Northern Nigerian People

Poverty, unemployment and starvation have significant contribution in making people to be desperate and push them to indulge in criminal activities. Despite of the Nigeria`s GDP growth, majority of Nigerians are still living in destitution. Estimated poverty rates declined only marginally between 2003-2004 and 2009-2010, implying that, given growth in the population, the number of Nigerians living in poverty is increasing significantly. Nigeria was ranked 153 out of 186 countries in the 2013 United Nations Human Development Index. Poverty rates and their dynamics differ considerably in different parts of the country. The rate of poverty is higher in the Northern part than in the southern part of the country Average poverty rates for the North East and North West areas are 59.7 and 58 percent respectively, while the North Central has an average rate of 48.8. By contrast, average rates in the South-West, South-East, and South-South are 30.6, 39, and 37.6 percent respectively (World Bank, May 2013, 10).

Data on unemployment also depicted similar story. Job creation in Nigeria has been inadequate to keep pace with the expanding labor force. The official unemployment rate has steadily increased from 12% of the working age population in 2006 to 24% in 2011. Preliminary indications are that this upward trend continued in 2012 (World Bank, May 2013: 11). Many observers have linked Boko Haram problem with the economic backwardness of northern Nigeria which continued to be impacted negatively by the ongoing protracted crisis. Therefore, government agencies such as the Ministry of Labor and Productivity, National Directorate of Employment, Industrial Training Fund, Small and Medium Enterprises Development Agency, National Poverty Alleviation Program and many others have a significant role to play in resolving these issues. The federal and respective state governments must as a matter of urgency redouble their efforts to create the enabling atmosphere for businesses to thrive. Private sector participation must be enhanced and incentives must be given through tax waivers, government credit facilities through micro finances, and incentivized investment

opportunities. This will help to reduce the deplorable unemployment rates in the North East.

Governments must also spend larger proportion of their fiscal budgets on capital projects that will facilitate massive infrastructural development by establishing new ones and repair the dilapidated ones due to long period of neglect. These infrastructures will in turn boom the already established businesses and at the same time provide new jobs for unemployed youths thereby creating a multiplier effect on the aggregate economic activities in the region. Agricultural sector must be revisited against the over reliance on oil revenues. Governments at all levels must work together to boost the declining agricultural activities by encouraging mechanized farming through training of rural farmers. Fish farming, livestock farming and provision of affordable agricultural loan schemes and other related facilities that will assist in increasing the level of productivity in the sector. If the governments at all levels are able to coordinate the operation of these projects effectively then the problem of poverty, unemployment and hunger will become a past story and hence minimize the possibilities for the emergence of new radical groups and their recruitment bases.

5.2.4: The Need for Educational Reform and Incorporation of Informal Schools

One major area that requires government attention in northern Nigeria is education. The region is lagging behind in every aspect in this regard. When people are ignorant they will become vulnerable to misguided ideology and propaganda. Although provision of education is under the concurrent list in the constitution but it received little attention from both the federal, state and local governments. Boko Haram propaganda initially was against western education and declared it as a channel for inculcating immorality to children and many schools especially in Borno and Yobe states were attacked, burnt and destroyed as a result. But the underline reason for holding this staunch stand was partly because of government negligence and complacency to address the increasing formation of informal Qur'anic schools in the north. Most of the students

of these schools are from poor families and receive no assistance from government. Students often resort to street and house-to-house begging in order to sustain themselves. Coupled with the growing anger from the majority of the students together with the increasing influence of uncensored and misguided preaching from the misled clerics, many disciples of those schools ended up embracing the idea of denouncing western education and became readymade recruits of Boko Haram.

In essence, there is need for government to develop a coherent and comprehensive educational policy that will facilitate the establishment of new public Islamic schools to complement the few existing ones. The informal Qur'anic schools must be incorporated with formal schools and necessary logistics should be made available. A new curriculum that would encompass both aspects of Islamic knowledge and western type of education must be developed, thereby minimizing the tendency of having a single individual indoctrinating a large number of disciples in his school. At the same time, government especially in states and local councils affected by Boko Haram crisis must ensure that schools that were affected by the notorious attacks are quickly rehabilitated for the students to continue with their classes without allowing them to lose their spirit and determination for learning. The longer the school remained destroyed and closed, the greater will be the moral boost for Boko Haram and claim of winning.

Increasing the number of schools in the north will facilitate an increase in the number of enrollment in areas where these schools are lacking. Also there is need for adequate reorientation campaigns in rural areas that will awaken the rural population about the importance of education of their children. Because many people still have the beliefs that denounce western education in northern Nigeria. This is a responsibility of local education authorities, community reorientation departments in states and National Orientation Agency.

5.2.5: Ensure Effective Implementation of Various Reports Related to Boko Haram Crisis

In this regard, Nigeria has a duty to ensure effective implementation of the proposed recommendations of the Presidential Committee on Dialogue and Peaceful

Resolution of Security Challenges in the North which recommended the establishment of Dialogue and Amnesty Commission. The commission when established will be responsible for finding out the requisite modalities for amicable resolution of the crisis with the factions of Boko Haram that are ready to embrace peace with Nigerian government. This will really help in addressing the problem because some members of the group were forced to join it while many of them have identified with it because of ignorance. The rest that are fanatic with the ideology of the group should be left to face the violent military rapprochement.

Recommendations of various reports from Human Rights Watch, Amnesty International and other concern International Organizations like the UN should also be put to consideration. Most of their calls emphasized on the urgent need to ensure strict adherence to the rule of law, respect for human rights, good governance, criminal justice reform, security sector reform among others. These recommendations are very essential and will assist in the maintenance of peaceful coexistence and sustainable development in Nigeria if effectively implemented. Most importantly, it is a high time for the federal government of Nigeria to face this reality and avoid divisive politicization of the problem. All hands must be on deck to ensure the end of this protracted problem and many others, so as to succeed in achieving a peaceful and united Nigeria.

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