

The Asymmetric Nature of Boko Haram Insurgency and Its Implications on Human Rights and International Humanitarian Law

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Abstract— *Boko Haram is a brutal and rapacious Islamic insurgency group which began in Maiduguri, Borno State, Northern Nigeria around 2002 and has been declared as an international terrorist organization and described as having links with a dreaded terrorist group, the Al Qaeda by the United States of America. The group is adverse to Western influence and education in the northern part of Nigeria, seeks to introduce Sharia law and wants to replace government rule in order to establish a Caliphate within the northern region. In an attempt to undermine the government, Boko Haram is employing all forms of guerrilla tactics to unleash horrific and indiscriminate violence on innocent civilians. As their atrocious attacks increase, the situation in Nigeria continues to worsen with growing numbers of victims resulting in continued destruction of the social, cultural and economic infrastructure. Despite efforts by the Nigerian government to restrain the insurgent group, Boko Haram has transformed into a transcontinental danger, thereby creating more concern for the international community. This work evaluates the operational means and methods being adopted by the insurgents, the impact of their activities in Nigeria and its implications on the human and humanitarian rights of Nigerians. The paper concludes by recommending among others the need for government to focus fundamentally on addressing the underlying socio-political and economic triggers of domestic violence.*

Keyword— *Insurgency, Asymmetrical Warfare, Boko Haram, Human Rights, International Humanitarian Law.*

I. INTRODUCTION

Nigeria is Africa's most populated and presumably the most diverse country with about 400 ethno-linguistic groups. The country is battling with numerous conflicts occasioned by overlapping ethnic, religious, political and regional dichotomies. Section 14 (2) (b) of the

Constitution of the Federal Republic of Nigeria 1999 makes the protection of lives and property the essence of government. This cardinal responsibility of government seems to be eroded in the northeast of Nigeria as a result of the brutal activities of the Boko Haram insurgency. The sense of security which entails a state of being safe and the absence of fear, anxiety, danger, poverty and oppression have been completely obliterated. Boko Haram has been declared as an international terrorist organization and described as having links with a dreaded terrorist group, the Al Qaeda by the United States of America. This declaration is not unfounded, it fits the definition contained in a recent United Nations (UN) document which describes terrorism as any 'act which is intended to cause death or serious bodily harm to civilians or non-combatants with the purpose of intimidating a population or compelling a government or an international organisation to do or abstain from doing any act' (Ban Ki-Moon, 2005).

The Boko Haram insurgency has disordered people from their normal abode to different unplanned places. The mass exodus of people has created refugee problems with considerable costs to the individual, host communities and the government. Moreover, the escalating violence has taken a toll on the socio-cultural harmony of the people thereby creating social melancholy and disorganising the hitherto existing sociological cohesion. The human costs in terms of lives and properties can hardly be valued and quantified since the upsurge of the violence began. Economic activities have been brought to a halt as a result of Boko Haram insurgency. Extreme violence destroys economic activities and discourages business investors. All economic ventures in the northeast of Nigeria have been paralysed. This has halted the development space of the region as it has scared foreign and local investors alike and limited the earnings from tourism (Nwagboso, 2011). The coordinated attacks on key government installations, infrastructure and investments have completely

devastated northeast Nigeria. One of the most obvious effects is the distress it has caused to local businesses and the people who reside in that part of the country (Onodugo & Itodo, 2016).

This situation has stimulated lawlessness by triggering misunderstanding and extensive horror among people in Nigeria. The fundamental human rights of individual as guaranteed by the Constitution have been jeopardised as well as gross violation of the rules of international humanitarian law. The people have been made to suffer from the double jeopardy of the insurgents and the armed forces of Nigeria. This is so because while the insurgents release violence on the people, the security agents on the other hand have subjected the people to gross violation of their constitutionally guaranteed rights. Government forces have deployed unconstitutional and extra-judicial system of unwarranted detention, torture, including shoot at sight to challenge and counter prevalent civic turbulences arising from the insurgency activities. People are harassed, intimidated, confined unjustifiably and killed at the slightest suspicion by the armed forces.

This paper is designed and constructed to evaluate the implications of the activities of the insurgents and government forces on human and humanitarian rights law. We therefore seek to establish in this work that there have been serious human rights abuses and international humanitarian law breaches as a result of the Boko Haram insurgency in Nigeria. The nature of insurgency is evaluated and the asymmetric strategy adopted by Boko Haram appraised. Even though this research is primarily doctrinal, it enjoys the benefit of diverse approaches including the chronological, analytical and evaluative. For all these, heavy reliance is placed on published materials such as books, journals, documents, reports, papers, communiqués, newspapers, etc. Additional materials are sourced from reliable internet sites.

II. THE NATURE OF INSURGENCY

Insurgency is a protracted struggle conducted systematically, in order to achieve specific intermediate goals leading finally to the overthrow of the existing order (David, 1964). Insurgents could also be described as individuals who rise in forcible opposition to lawful authority, especially when it engages in armed resistance to a government or to the execution of its laws (Anold, 2012). In the words of David, insurgency is 'an organized resistant movement that uses subversion, sabotage, and armed conflict to achieve its aims (David, 2013). Insurgencies normally seek to overthrow the existing social order and reallocate power within the country. They also aim to overthrow an established government, and also form an autonomous national territory within the borders of a state (Ikyase & Egberi,

2015). The notion and nature of insurgency always entreat the spirit of trepidation, evil, and revolt against an established authority by those who want to destabilize the efforts of an incumbent regime. Insurgency should be distinguished from riot which may take the form of sporadic, unorganised and sudden civil disturbances undertaken in protest against government policies but without any operational strategy and ideological objective.

Insurgency and terrorism are terminologies that maybe used interchangeably because terrorist tactics constitute part of the strategies and manoeuvres of insurgency. Their operational tactics are essentially those of guerrilla warfare and their objectives are similar, namely, to intimidate, frustrate and raise the feeling of uncertainty, imminent danger and the loss of hope, so as to cripple or limit all aspects of human activity and normal livelihoods (Ogbodo, 2010). It is our position that insurgency is limited to insurrection defined within the confines of internal crisis but may become terrorism when its operations are internationalised through external connection and network that threatens global peace and security; somewhat a distinction without a difference in the objective and strategy of their operations. Boko Haram has without doubt transformed from an insurgency group into a Nigerian example of terrorist network. Currently, there appears to be a pronounced religious content in the character of Boko Haram insurgency in Nigeria and this has manifested in the appeal, trend and intensity as well as the dynamics and possible consequences of the conflict. The Islam religion is used by the insurgents as a potent weapon for recruitment, sympathy, ideological indoctrination, intelligence gathering and radicalization. The insurgents are therefore riding on the crest wave of religious sentiment to gain acceptance and manipulate the proclivity of the people.

According to Robert, the operational modalities of insurgent groups involve varieties of tactics and methods, namely (Robert, 2010):-

- a) cell-networks that maintain secrecy,
- b) terrorism used to foster insecurity among the population and drive them to the insurgents for protection,
- c) multifaceted attempts to cultivate support in the general population, often by undermining the new regime;
- d) attacks against the government,
- e) Massive propaganda, etc.

The adoption of asymmetric strategy by Boko Haram is much within expectation. The group cannot attain their political objectives through conventional means. Because of this, it has deployed guerrilla tactics, to wit, asymmetric violence, ambiguity, the use of complex terrain, psychological warfare, and soft spot attack as means objective actualisation. This has serious

implications for the promotion of, respect for and enforcement of the human rights of the people. By adopting means and methods that are contrary to the rules of war, the insurgents have trampled on the fundamental human rights of the citizenry and committed grave breaches of international humanitarian law.

III. THE BOKO HARAM INSURGENTS

Boko Haram is a combined term derived from Hausa and Arabic. The term “Boko” comes from the Hausa word *Aninmist* western or otherwise non-Islamic education. And the Arabic word “Haram” means “western education is a sin.” Boko Haram is therefore an Arabicized-Hausa terminology which simply translates into “western education is sinful” and is propagated by “jama’atulAlhulSunnahLidda” watiwal Jihad” sect who believed that they are committed to the Hadith of Prophet Muhammed’s teachings and Islamic jihad (Adetoro, 2015). The originator of Boko Haram (Mohammad Yusuf) was a fundamental Islamic cleric who trained as a Salafist (a school of thought often associated with Jihad) and was strongly influenced by „Ibn Taymiyyah” (a fourteenth century legal scholar) who preached Islamic fundamentalism (Farouk, 2012).

Boko Haram originated from Maiduguri in Borno State, located in northeast Nigeria, around 2002. The group established an Islamic school in Maiduguri from where they operated and subsequently relocated from Maiduguri in 2004 to a remote village called Kanamma in Yobe State where they formed a base and named it Afghanistan (Ezema, 2013). Gradually Boko Haram increased in their numbers as Mohammed Yusuf attracted people who were mostly school dropouts, unemployed, and disgruntled (Anthony, 2014). The Boko Haram Jihadist group shared a common ideology (jihadist) with Al-Qaeda in the Islamic Maghreb, Al-Qaeda groups operating in the Sahara and Sahel region (Stuart, 2014).

The target and cardinal objective of Boko Haram is to abolish the secular nature of the Nigerian society and to replace it with an Islamic state, by establishing a Sharia system of government in the country. It is equally against western education and the teaching of modern science. These ideas according to the founder of Boko Haram are anti-Islam (Nwabuisi, 2012). In this connection, the group abhors western education, western culture and scientific explanations to certain natural happenings.

Accordingly, the reason behind the Boko Haram insurgency in Nigeria is strategically political, in that the insurgents are attempting to replace the Nigerian state with an Islamic state governed by Sharia law, especially in the northern Muslim dominated region. Sharia law is an Islamic law based on the Quran, which regulates both public and private conduct (Merriam-Webster, 2016).

Boko Haram believes a strict Islamic state under Sharia law would address the problems of corruption, bad governance, and Western influence, which does not meet the desires of the Muslim population.

Since its emergence, the insurgent group has employed all forms of guerrilla tactics and violence to unleash mayhem against the state and people in an attempt to replace the Nigerian institutions, which they perceived as corrupt and Western inclined. Boko Haram took advantage of the prevailing situation to mobilize support, and recruited fighters to carry out a revolutionary Jihadist movement against the Nigerian state (U.S Department of Justice, 2014).

Accordingly, Boko Haram has carried out violent, horrific and indiscriminate attacks on innocent civilians. As their attacks increase and the situation in Nigeria continues to deteriorate, with increasing numbers of victims, there is continued destruction of the social and economic infrastructure and disruption of education services. The conflict has spread and intensified as a result of a complex web of socio cultural, economic, ethno religions and sub-regional factors. It has evolved into what appears to be a non-international armed conflict between Boko Haram and Nigeria security forces in the states of Borno, Yobe and Adamawa and has been marked by egregious violations committed by both sides (Mohammed, 2014).

Since the arrest and extrajudicial execution of the leader of the sect in July 2009 by the Nigeria Police Force while in their custody the regularity and severity of Boko Haram attacks increased tremendously. The violence the group has unleashed on the Nigerian State is unprecedented in the history of insurgency in the country. Boko Haram has used bombs to launch attacks against government or “Western targets, to intimidate opponents and to kill civilians. Its fighters have slaughtered civilians during attacks on towns and villages, assaulted and abducted teachers and students, abducted at least 2000 young women and girls and subjected many of them to forced marriage, forcibly recruited men and boys and burned and destroyed houses and schools. It is important to point out that Boko Haram is the first insurgent organization in Nigeria to be classified as a terrorist organization by the United States of America and its allies (Sehu, 2011).

IV. ASYMMETRIC NATURE OF THE CONFLICT AND THE ADOPTION OF GUERRILLA STRATEGY BY BOKO HARAM

Asymmetrical warfare refers to armed conflicts to achieve political objectives, and as the name implies, involves a disproportionate distribution of power. Unlike most conventional warfare, it is usually (though not always)

initiated by the weaker side (David, 2017). Asymmetric warfare therefore occurs in a situation where the two main armies engaged in armed conflict are of unequal size or strength. This is typified by armed conflict involving a conventional army of a sovereign country and perhaps an armed group within the country's territorial jurisdiction. In an orthodox war, you have two professional armies, who have almost the same capacity, military training experience, resources, and machineries. The only practical variance in this circumstance is how the two warring groups execute their tactics. When this situation is the case, the armed conflict is called symmetrical warfare, because both sides to the conflict fundamentally appear similar. An example of symmetrical warfare is afforded by the war fought between the Allies and the Axis; it was a conflict between professional, national armies that were all basically the same. This is normally how a conventional war is fought (Ancker & Burke, 2003).

We however have situations where unequal parties engage in war in which one of the combatants is not a professional army, but a smaller group of insurgents or rebels making it impossible for the latter to apply the conventional military tactics used to fight a professional army. The means and methods acceptable in warfare under international humanitarian law are thus made inapplicable. When this is the case i.e., where asymmetrical warfare is in place, resort is had to the use of guerrilla tactics, which are aimed at distressing and intimidating the enemy more than trying to destroy them (Blank, 2004). The recourse to guerrilla warfare by the smaller and weaker party to the armed conflict is not farfetched. Apparently overwhelmed by the strength and capacity of the professional army, the smaller party is usually left with no option than to adopt unprofessional means and methods designed to weaken the resolve of the larger army to continue fighting (Clark, 2007).

These guerrilla tactics may include destroying infrastructure, sporadic raids or attacks at unanticipated times and targets that are not military objects. The overall objective is not to gain military objective and advantage but to harass and intimidate the populace and gradually dissolve the will of the larger army (Chaliand, 1994). The resort to unacceptable tactics by the smaller combatant sometimes put them in a more advantageous position over the bigger and professional army. Unlike conventional wars, in which one army battles another army in uncluttered battlefields, asymmetric wars mostly takes place inside thickly populated urban areas. The strategy is to bring the war to built-up areas for several reasons including making soft and civilian objects susceptible to attacks so as to intimidate and weaken the larger army (Mack, 2000).

Asymmetrical war strategy is deployed in contemporary conflict by those engaged in terrorism, insurgency, war of information and ideas, war of disruptive threats, attacks using bioweapons through the mail or cyber-attacks on the Internet, war waged by non-state actors against the sole remaining superpower (Allen, n.d.). The means and methods used by the current enemy is what is in contradistinction from well-established traditional warfare, i.e., warfare conducted by the legitimate military forces of nation-states, wherein the objective is to gain military advantage.

This is another type of war, new in its intensity, ancient in its origin—war by guerrillas, subversives, insurgents, assassins, war by ambush instead of by combat; by infiltration, instead of aggression, seeking victory by eroding and exhausting the enemy instead of engaging him. It preys on economic unrest and ethnic conflicts. It requires in those situations where we must counter it, and these are the kinds of challenges that will be before us in the next decade if freedom is to be saved, a whole new kind of strategy, a wholly different kind of force, and therefore a new and wholly different kind of military training (Lele, 2014).

The concept of asymmetric warfare has existed since the dawn of time. One need not go into every example of a war fought with a new tactic, new weapon or new organizational style, or where one side used terrain or some other tangible substance to its advantage. The primary strategic objective of asymmetrical warfare is psychological, not military. It is to intimidate the adversary psychologically by directly or indirectly inflicting fear and terror in order to achieve its political agenda. In more descriptive terms, it is, "the combined use and threat of violence that is directed at one set of targets—the victims—to compel compliance or allegiance from another set of targets (targets of demands) or to impress a wider audience that is not directly involved in a specific conflict (the mass media, the general public, world opinion, other governments, etc. (Mack, 1974).

Asymmetrical combatants generally use covert terrorist and unconventional guerrilla warfare tactics and seek to avoid direct military encounters with the adversaries' vastly superior armed forces. This is in sharp contrast to conventional military warfare strategies that involve direct military-on-military confrontations with the strategic objective being to erode the enemy forces' will to fight, and thereby to produce decisive military victories that can force the defeated side to accept the victors' terms. The second but vital strategic objective in asymmetrical warfare is to win the hearts and minds of potential sympathizers and supporters, thereby gaining financial and logistic support, safe haven, and the ability to recruit new combatants (Staten, 2016). No

asymmetrical organization or movement can long survive much less achieve its political objectives without a significant outside support system.

The bigger and professional army is trained on rules of warfare under international humanitarian law and is restricted to adopt only means and methods allowable in armed conflict according to the rules of engagement. Apart from the limitation placed on professional armies by international humanitarian law, the nature of this kind of conflict is so indeterminable and fluid when compared with the traditional warfare thereby making the, larger and more power armies confused and unable to adjust. Asymmetrical warfare can be astonishingly potent for the weaker force (Allen, 2010). Asymmetric warfare therefore inspires the use of non-traditional military tactics, used generally by the weaker force to balance out the power inequity. In this connection, asymmetrical combatants generally use covert terrorist and unconventional guerrilla warfare tactics and seek to avoid direct military encounters with the adversaries' vastly superior armed forces. This is in sharp contrast to conventional military warfare strategies that involve direct military-on-military confrontations with the strategic objective being to erode the enemy forces' will to fight, and thereby to produce decisive military victories that can force the defeated side to accept the victors' terms (Ronald, 1989).

The usage of unconventional tools and tactics, be it guerrilla warfare or terrorism or irregular warfare or any other forms are becoming more synonymous with non-state entities and Boko Haram is not an exception. Accordingly, Boko Haram has deployed to its advantage the use of these unconventional tools and tactics to target the state's susceptibilities in order to achieve unequal result. Historically, weak powers have sought to avoid an opponent's strengths and instead attempted to exploit the latter's weaknesses (Katzenbach, 1962). But the application of hitherto unexplored and innovative means for attacking an adversary's weaknesses is termed as "asymmetric warfare". In a way, seeking asymmetries is fundamental to all wars. But in the modern context, asymmetric warfare emphasises what is popularly perceived as unconventional or non-traditional methodologies. These generally seek a major psychological impact such as shock or confusion that affects an opponent's initiative, freedom of action or will. Asymmetric methods require an appreciation of the opponent's vulnerabilities. Asymmetric approaches often employ innovative, non-traditional tactics, weapons or technologies and can be applied at all levels of warfare, strategic, operational and tactical and across the spectrum of military operations (Metz, 2001).

The increasing trend of asymmetrical warfare as a strategy of choice among insurgents, rebels, extremist political groups is most inevitably result national and international security threat in the 21st century (David, 2017). Operating in small, covert groups, and having no recognized sovereign territory or population to defend, asymmetrical combatants can engage in violent, lethal activities with far less risk of being totally overwhelmed by reprisals that a nation-state might face. In addition, those killed in action can be portrayed as martyrs and used to recruit more converts to the cause.

It should be pointed out that states are under clear obligation to respect and uphold human rights in armed conflict situation. This responsibility is as obligatory as the duty to ensure the recognition and enforcement of the rules of international humanitarian law. Breaches of these obligations attract international condemnation, sanctions and criminal responsibility. Thus while states are accountable to other states in the United Nations system in terms of international law and to their own citizens in terms of domestic law and values, violent non-state actors like the Boko Haram appear subject to no laws.

Boko Haram has engaged in strategic violence directed mostly towards government security forces, civilian populations, institutions, and Western interests. In September 2010, Boko Haram attacked the Maiduguri Prison, releasing seven hundred prisoners, including its own members (Sani, 2010). Another strategic attack by the insurgents was the bombing of the Nigerian police headquarters at Abuja, the federal capital territory, in June 2011. Two months later (26 August 2011), the insurgents masterminded the bombing of the United Nations headquarters in Abuja, killing 26 people (Adewumi, 2014). This was also an attempt to express their hatred for Western influences in Nigeria. On 2 December 2013, several Boko Haram fighters, dressed in military uniforms and equipped with rocket launchers, infiltrated Maiduguri, and attacked the army barracks and air force base, leaving several buildings and five aircraft destroyed. A similar incident occurred in Bama in Borno state, on 20 December 2013, when the insurgents attacked a military barracks killing members of the security forces.

Other noticeable premeditated violence perpetrated by the insurgent includes the attack on the Kanama police station in December 2003; looting arms and burning down a police station in a coordinated attack in 2004; an invasion of the Bama and Gwoza police stations, killing scores of policemen, including a deputy police commissioner, and carting away arms and ammunition. In March 2014, a coordinated attack was staged on Giwa army barracks in Maiduguri, freeing more than one thousand fighters and detainees by Boko Haram. Boko Haram also resorted in killing prominent figure, clerics, and chiefs who presented

a threat to their organization (Adewumi, 2014). In 2011, the group assassinated a gubernatorial candidate and a political party's chairman in Maiduguri, a month before a general election. Prominent chiefs and Muslim clerics were also assassinated during this period for criticizing the group, or being suspected of passing information to government troops. These attacks are deliberate attempts by the insurgents to undermine the Nigerian government, destabilize the country, and eventually overthrow it (Sadau, 2011).

4.1 The use of Violence and Propaganda

Boko Haram has engaged in violent propaganda in order to propagate its ideology, reach wider audience, and attract similar radical groups beyond the Nigeria border. Guerrillas need to be experts in propaganda media; they do everything possible to spread their ideology, create fear, and disrepute the government and its security operators. Boko Haram has employed propaganda strategies throughout its operations. The group has effectively engaged the internet, YouTube, cable news, and other social networks in showcasing clips of its successful attacks on military targets, prison breaks, attacks on police stations and government installations. Boko Haram continues to conduct propaganda activities in order to spread fear, and prove they are everywhere and capable of taking on selected targets. The abducted schoolgirls from Chibok community were repeatedly displayed on social media, YouTube, and cable news by Boko Haram in order to achieve its propaganda goals (Gilbert, 2014).

The wildest method to spread trepidation and terror is the use of violence. Guerrillas employ violence in order to prove to the people that they can always reach the enemy as well as anyone contrary to the movement. Violence helped Boko Haram to spread fear among the Nigerian security forces, government officials, civilian population, and the international community. Boko Haram attacked and set thousands of homes ablaze, causing panic and fear among communities, forcing people to abandon their homes and property for safety. The insurgent also engaged in terror attacks using suicide bombs on targeted personnel and installations (Sadau, 2009). The group conducted assassination of prominent chiefs and Islamic scholars critical of their movement. This act left other prominent Islamic scholars, government officials, and key figures silent out of fear for their lives. On several occasions, the group has indiscriminately attacked worshippers, both Christians and Muslims, to scare them away from their places of worship by depriving the people freedom of religion.

In 2012, as attacks by Boko Haram intensified, former President Goodluck Jonathan declared a state of emergency, which was subsequently extended repeatedly

in Borno, Yobe and Adamawa States. The state of emergency gave overly broad emergency powers to the security forces former President Goodluck Jonathan set up a joint task force to lead the operations against Boko Haram, which included personnel from the Nigerian Army, Police Force and other security forces. The army took full control of operations against Boko Haram in August 2013. The authorities set up a Civilian Joint Task Forces (JTF) to work with the security forces in Borno State by identifying and helping to arrest Boko Haram members. Civilian JTF play a role in mass arbitrary arrests and in screening operations in which informants point out Boko Haram suspects (Idowu, 2013).

To further instil fear, confusion and assent control over the instrument of violence the group in 2014 abducted two hundred schoolgirls from Chibok village in the Borno State of Nigeria. The abduction activated the concern and attention of the international community, and provoked worldwide denunciation (Onafowora, 2018). Insurgents tend to use guerrilla tactics such as bombing, ambushing, kidnapping, killings, and assassination in order to create fear or gain recognition. The Boko Haram group further pledged allegiance to Islamic State in Iraq and Syria (ISIS) in 2014 to consolidate their network and gain more recognition (Almukhtar, 2015). The group has engaged in guerrilla warfare against the Nigerian government and its citizens for the last decade. Despite efforts by the Nigerian government and its partners to combat the Boko Haram insurgency, the group continues to pose a threat and challenge to the government of Nigeria and its partners.

4.2 The Use of Intelligence

Guerrilla warfare is profoundly reliant on intelligence, which is a crucial factor in scheduling operations. Guerrillas make a comprehensive study and evaluation of the enemy before conducting an attack. They exploit the enemy's softness to their advantage. For instance, guerrillas seek out information about the enemy's strength, state of equipment, deployment, movement and supply route, troop discipline, level of commitment and training, and boldness of its leader (Liolio, 2013). All these are considered before they strike. The operation of Boko Haram in the last decade shows that they have adequate and accurate intelligence at their disposal. There seem to know all about the movements of the armed forces and strike immediately the opportunity presents. Besides, their mobilisation against the armed forces is usually more than adequate suggesting that they have foreknowledge of the military strength at that given time. Their intelligence net is so sturdily synchronized with everyone acting as an agent and informant thereby establishing a reliable and formidable communication system.

Boko Haram keeps its operation fluid leveraging on secrecy, speed and surprise thereby making it problematic for Nigerian security forces to comprehend its strategy at any given time. The sect maintains a compact information protection regime making it almost impossible to determine the exact details its operations, size, and structure. This makes the solution to defeating the group indefinable. The group has also employed devices to collect information on government troops, such as includes electronic devices, social media, hacking, and use of local inhabitants. The rate at which Boko Haram carried out coordinated attacks against government troops, locations, and facilities is alarming. This indicates the amount of surveillance activities conducted against government troops and their operations. The insurgents have exhibited superior knowledge in their understanding of terrain, and use of information to outsmart security forces on numerous occasions. They employ services of local inhabitants, who provide them with accurate intelligence about government forces. The group also enjoys the support of sympathizers, who are not necessary taking part in the struggle, but provide information for the insurgents because they have had lost faith in the government (Sadau, 2011).

As a corollary, guerrillas deny all vital information of themselves to the enemy, who is enveloped in an impenetrable fog. They take advantage of knowledge of terrain to gain initiative and operate on the ground of their own choosing. They attack weakness and withdraw when conditions are not promising. Guerrillas are expert at running away from major confrontation because their aim is to exhaust security forces and prolong the struggle. Unlike government troops, guerrillas effectively engage locals and recruits from inhabitant of their geographical location (community) with knowledge of the terrain and can easily spot any unusual movement in their controlled area.

V. BOKO HARAM INSURGENCY AND ITS IMPLICATIONS ON HUMAN RIGHTS

The term "right" connotes an interest of any person or group of people which is recognised and protected by law, in return for which, there is a corresponding duty, and a disregard for which there is a penal consequence for an act which is regarded as a wrong (Salmond, 1983). "Human Rights" on the other hand are considered as those inalienable rights which are believed to have been with man right from creation and have followed man from one historical epoch to another.

The term human rights constitutes a set of rights and duties necessary for the protection of human dignity inherent to all human beings, irrespective of nationality, place of residence, sex, national or ethnic origin, colour,

religion, language or any other status (Esteinerte & Wallace, 2009). The concept of human rights has been defined as a set of duties necessary for the protection of human dignity and inherent in all human beings irrespective of nationality, place of residence, sex, natural or ethnic origin, colour, language, religion or any other status. One of the fundamental objectives of the United Nations Organization as enshrined in Article 1(3) of the United Nations Charter, 1945, is the promotion and protection of human rights of citizens globally. This has been the driving force of the work of the United Nations which has been seen in the range of International treaties, declarations and conventions bordering on the promotion and protection of human rights, the most important of which is the Universal Declaration of Human Rights (UDHR) which came into effect in 1948 (George, 2010).

Consequently, it has been stated that the acceptance of the centrality of human rights within the international community has been due to the increasing consideration of human rights issues within the framework of the United Nations. The UDHR is perceived as the foundation for current HR developments. Since its inception, many of the rights enshrined within it have infiltrated the municipal laws of many States. The UDHR has also inspired a plethora of International Convention. Following the UDHR, the International Covenant on Civil and Political Rights (ICCPR) and the International Covenant on Economic, Social and Cultural Rights (ICESCR) were adopted in 1966. These two instruments effectively made many of the provisions of the UDHR binding on States that ratified them.

Human rights are very significant in the lives of citizens of any country, their guarantee in the Constitution or any legal instrument help in safeguarding the welfare and happiness of the citizens. Their safeguard also serves as checks against arbitrary exercise of power by the state instruments of coercion. Their guarantee in any society promotes the output or productivity of the citizens in contributing to the development of their society. The UDHR has also, indirectly helped States in drafting their constitutions and forming their own HR policies. Human rights are broad and are classified into three categories, the first are the civil and political rights which are provided in the constitution of most countries and rendered justiciable. It can be rightly asserted that one of the greatest objectives of the post-independence Nigerian Constitutions is the protection and promotion of human rights. The preamble to the 1999 Constitution unmistakably set the tone by dedicating itself to promote good government and welfare of all persons on the principles of freedom, equality and Justice. Apart from the preamble, chapters two and four of the Constitution

extensively deal with human rights issues. While chapter two is captioned, Fundamental Objectives and Directive Principles of State Policy, chapter four is entitled, "fundamental rights". Under the Fundamental Objective and Direct Principles of State Policy, the second generation rights, consisting of economic, social and cultural rights are extensively set out in sections 13 to 21. These rights are predicated on the necessity for the material well-being of the citizenry with the state playing a pivotal role (Jacob, 2012).

The rights considered fundamental and which must be promoted and protected are contained in Chapter IV of the 1999 Constitution of the Federal Republic of Nigeria. These rights are justiciable in terms of enforceability and on no account should these rights be abused save as allowed by the constitution. These essential rights are listed below without elaboration:

1. The Right to Life as contained in section 33
2. The Right to Dignity of Human Person as contained in section 34
3. Right to Personal Liberty as contained in section 35
4. Right to Fair Hearing as contained in section 36
5. Right to Private and Family Life as contained in section 37
6. Right to Freedom of Thought, Conscience and Religion as contained in section 38
7. Right to Freedom of Expression as contained in section 39
8. Right to Peaceful Assembly and Association as contained in section 40
9. Right to Freedom of Movement as contained in section 41
10. Right to Freedom from Discrimination as contained in section 42
11. Right to Acquire and Own Immovable Property anywhere in Nigeria as contained in section 43

To give concrete expression to the rights, section 46 empowers any person who alleges that any of the rights has been, is being or is likely to be contravened in relation to him to seek redress in any High Court and the court has the jurisdiction to make an appropriate order and issue such writs and give such directions as it may consider appropriate for the purpose of enforcing or securing the enforcement of the rights (Dada, 2012).

Despite the fortification of these fundamental rights by the constitution and numerous judicial reaffirmations by the courts, Nigeria is faced with widespread human rights abuses as a result of Boko Haram insurgency in north-eastern Nigeria. Boko Haram continues to commit gross human rights abuses and serious violations of international humanitarian law resulting in extreme violation of the constitution and other normative regime

in this respect. The extent of human rights abuses by Boko Haram and Government forces has shocked the scruples of the international community.

The Boko Haram insurgency has created a potent environment for the abuse of the human rights of citizenry. For instance, the crisis has thrown up serious internal displacement within the region. The internally displaced are made to go through harsh conditions thereby exposing them to dehumanizing conditions. They are held in camps made of shanties not suitable for habitation and the weather. As a result, they are cut off completely from social, cultural and economic facilities making it impossible for them to enjoy the rights to education, food, health, shelter, and water and sanitation. Closely related to internal displacement is the Refugee situation the insurgency has created. Since the intensification of the insurgency, several thousands of persons have escaped across the border into neighbouring countries like Cameroon, Chad and the Niger. This has resulted in a major refugee crisis in the region. Of relevance to our discussion is the fact that the affected refugees have been subjected to all manner of human rights violation by their host country contrary to existing regime of protection. We have had instances where refugees were forcibly evacuated back to Nigeria by Cameroon authorities under the guise that their presence will elicit attacks from Boko Haram. Besides, refugees have been made to contend with inhuman treatment not even suitable for animals.

The conflict has reduced the value of human life to nothing. Premeditated and extrajudicial killings are so common and rampant thereby rendering human life valueless. The right to live has been completely eroded. Government sources in the States concerned have estimated that some 20,000 civilians, including an undetermined number of women and children, have been killed by Boko Haram since 2009. Civilians consisting of men, women, boys, girls, and children who are non-combatant and therefore should have been protected have been shot, beheaded, amputated, stoned, drowned, burned and bombed. Boko Haram has used stones, machetes, knives, sophisticated and high-calibre weapons, improvised explosive devices, landmines, guns mounted on pickup trucks, military helicopters, armoured vehicles and motorcycles to perpetrate killings. The consistency and regularity with which unlawful killings occur shows that human life is no longer sacrosanct and that the right to live as guaranteed by the constitution is observed more in breach than in compliance.

The constitution guarantees the right to freedom of movement and association but the Boko Haram insurgency has rendered these constitutional protections meaningless. One of the avenues used by the insurgents to recruit fighters and wives is by abduction. Boys are

principally captured by Boko Haram for brainwashing for the purpose of radicalising their orientation and ideology and for recruitment into its belligerent force. Women and girls on the other hand are kidnapped for sexual harassment, manipulation, compulsory marriages, labour and religious conversions to Islam. As we write, the locations of most of the victims are unidentified, and those who have attempted to escape have been killed. The abduction of 276 schoolgirls from Chibok, of Borno state, on 14 April 2014, was the hallmark of all kidnap that elicited international reaction and condemnation. Boko Haram insurgents are remarkable for brutality and ruthlessness. Much within expectation, abductees are usually exposed to cruel, inhuman or degrading treatments including, sexual violence. In addition, abductees and civilians living in locations within the northeast are randomly arrested, menacingly interrogated and at times tortured so as to extract information from them.

The right to property is equally not spared from abuse. Victims constantly recount how Boko Haram thoroughly demolished, seized and burgled homes during attacks. We are daily inundated with gory videos of annihilation of entire community by insurgents. These practices are prevalent and are used as part of the group's fighting tactics to gain control over territory and to prevent escapees from returning. Under domestic and international law States are obligated to ensure respect for and protection of human rights. Such an obligation includes taking measures to prevent the commission of offences, investigating human rights abuses and international humanitarian law violations promptly, thoroughly and independently and prosecuting those found responsible, providing adequate and effective remedies, and preventing the recurrence of violations. Unfortunately and quite regrettably, the Nigerian government has failed woefully in this respect.

VI BOKO HARAM INSURGENCY AND ITS IMPLICATIONS ON IHL

War is not fought at the whims and caprices of combatants. The conduct of armed conflict is regulated and restricted by International humanitarian law (IHL). IHL means international rules, established by treaties or customs, which limit the right of parties to the conflict to use the methods or means of warfare of their choice or which protects states not party to the conflict or objects that are, or may be, affected by the conflict (Ladan, 1999). IHL is actually an off-shoot of the law of nations and its basic rules are binding on all states (Gasser, 1993). The law of war of which international humanitarian law forms a part, operates for the benefit of victims of the hostile relations and not merely to define rights and duties

of belligerent parties (Ibanga, 2002). It is based on the principle that human beings are entitled to certain minimum rights - protection, security and respects - whether in peace or in war. If wounded or captured, he is entitled to care and humane treatment; if dead, his body is entitled to decent treatment (Umozurike, 1993).

International humanitarian law, therefore, is one side of a coin; the other is human rights law. Scholars have given different definitions of international humanitarian law. Buergethal describes it as "the human rights components of the law of war (Buergethal, 1995)." Professor Pictet defines it as that considerable part of international law which is dominated by the feeling of humanity and is aimed at the protection of the persons (Geza, 1984). The International Committee of the Red Cross (ICRC) plays far-reaching and noticeable role in the evolution and improvement this aspect of international law. ICRC has defined IHL it to be those international rules, established by treaty or custom, which are specially intended to solve humanitarian problems directly arising from international or non-international armed conflicts and which, for humanitarian reasons, limit the right of the parties to a conflict to use methods and means of warfare of their choice or protect persons and property that are, or may be affected by the conflict (Gasser,).

This branch of law therefore regulates the conduct of war and also seeks to mitigate the hardship occasioned by outbreak of hostilities. In other words, it imposes limits and restrictions on the choice of means and methods of conducting military operations on the one hand, and on the other, provides for the protection of persons who do not or no longer take part in military actions (Blishchenko, 1989). The norms of international humanitarian law have been extensively codified in the four Geneva Conventions of 1949, in the Additional Protocols of 1977, and in other instruments, and some of the Geneva Conventions have received more ratifications than the United Nations Charter.

The Basic Rules of IHL can be stated as follows:

- 1) The parties to a conflict must at all times distinguish between the civilian population and combatants in order to spare the civilian population and civilian property. Neither the civilian population as a whole, nor individual civilians, may be attacked. Attacks may be made solely against military objectives (Clairede, & Edwin, 2003);
- 2) People who do not or can no longer take part in the hostilities are entitled to respect for their lives and for their physical and mental integrity. Such people must in all circumstances be protected and treated with humanity, without any unfavourable distinction whatsoever (Buergethal, 1995);

- 3) It is forbidden to kill or wound an adversary who surrenders or who can no longer take part in the fighting;
- 4) Neither the parties to the conflict nor members of their armed forces have an unlimited right to choose methods and means of warfare. It is forbidden to use weapons or methods of warfare that are likely to cause unnecessary losses or excessive suffering (Hans-Peter, 1993);
- 5) The wounded and sick must be collected and cared for by the party to the conflict which has them in its power. Medical personnel and medical establishments, transports, and equipment must be spared. The Red Cross or Red Crescent or red crystal on a white background is the distinctive sign indicating that such persons and objects must be respected (Hillier, 1999);
- 6) Captured combatants and civilians who find themselves under the authority of the adverse party are entitled to respect for their lives, their dignity, their personal rights, and their political, religious, and other convictions. They must be protected against all acts of violence or reprisal. They are entitled to exchange news with their families and receive aid. They must enjoy basic judicial guarantees (Sanford, 1985).

In apparent contravention of IHL, Boko Haram has targeted civilians and civilian objects protected under this legal regime, including schools, mosques, churches, prisons, hospitals and markets, and has contaminated water installations. Civilians, civilian objects, Prisoners of War, those rendered hors de combat and those who do not take part in hostilities etc., are protected from all forms attacks and entitled to respect for their lives and their moral and physical integrity. They are expected to be protected in all circumstances and treated humanely without any adverse distinction.

The violation is not limited to the insurgents. Attacks by security forces causing a high number of civilian casualties have been reported, most notably in Baga, Nigeria, in April 2013, where civilians were reportedly shot by security forces and 642 people were displaced. Investigations into the event by reliable national sources determined that cases of extrajudicial and summary executions, torture, arbitrary detention, enforced disappearance and rape had been committed by national security forces (Nigerian National Human Rights Commission, 2013).

In addition to the protection of these persons, IHL regulates and limits the right of parties to a conflict to choose methods and means of warfare. It is forbidden to use weapons or methods of warfare that are likely to cause unnecessary losses or excessive suffering. In this connection, weapons that are likely to result in superfluous consequences as to achieve unwarranted and

collateral effect are prohibited. Undoubtedly, Boko Haram and government forces have resorted to the use of these calibres of weapons in outright violation of IHL.

The current strategy by Boko Haram is the use of explosives capable of and intended to achieve excessive effect. This is made manifest by the terrifying and persistent use of women and children in suicide bombing by the Boko Haram terrorist group. The justification for the use of women and children is to evade government security networks and strike their target without any suspicion. It is usually very unlikely to imagine that children and women will pose any danger in armed conflict situation and therefore stand to escape the scrutiny of security personnel. Thus, women and girls can have easier access to targets because females are less often “suspected, inspected, or detected” as attackers (Jacob, 2014). This can be especially true in Islamic societies where there are strong social barriers to predominantly male security officers subjecting Muslim women to checks (David and Allison, 2007). This ultimately renders the use of women and children a short-term tactic since security forces can and do adapt (Lewis, 2012). These patterns are consistent with organizational-level analysis that explains the use of women and children in terms of tactical and strategic advantage for a terrorist movement (Robert, 2003). First, the ‘shock value’ of initial use of female attackers may ensure publicity and therefore have a propaganda effect (Pearson, & Wilayat 2017). Second, militant groups suffering shortages of male recruits amid, for example, an intensification of external pressures can resort to the use of women and children in an act of “desperation (Cindy, 2005). Third, the use of women and children can be used to shame and embolden men to fight (Anne, 2008).

Many of the women and children who are involved the Boko Haram insurgencies do that out of obliviousness and usually under extreme indoctrination, brainwashing and manipulations. They are usually captured, mesmerised, cajoled, proselytized and made to operate independent of the exercise of their free will. A number of women and girls say insurgents told them they would be safe when they detonate the explosives and are made to believe that nothing will happen to them. Because of extreme poverty, female suicide attackers are paid as little as 200 Naira (60 cents) to undertake attack on soft target (Pearson & Jacob, 2016).

Members of the Civilian Joint Task Force (JTF) and Operation Lafiya Dole command believe both hypnotism and enforced drug-use also coerce females to bomb. In 2016, a woman abducted in Maiduguri described how she and two other women were injected with a tranquilizer before being strapped with bombs. Eyewitnesses have also reported seeing men accompanying female suicide

attackers to ensure they see through their task. Coerced remote detonation is possible, although U.N. reports suggest this is less prevalent, as photographs of dead attackers reveal self-detonation via wristband (Dionne, 2016).

Terrified and worried by the grave breaches of IHL in the northeast of Nigeria, the office of the Prosecutor of the International Criminal Court in November 2010 opened a preliminary examination of the situation in Nigeria, analyzing alleged crimes committed since 2004. Two years later, the office of the Prosecutor reported that it considered that since July 2009, Boko Haram had committed the Crimes Against Humanity of murder and prosecution. The report highlighted various attacks on civilian population by the sect. It also described these attacks as systematic and widespread spanning over the entire North Eastern region as well as Plateau, Kogi, Kano, Bauchi and Kaduna States (Nicholas, 2017). In December, 2014 the Office of the Prosecutor again established that members of Boko Haram had committed Crimes against Humanity and may have committed war crimes. It also indicated that it had received reports of crimes committed by the security forces including the extrajudicial execution of more than 600 people after Giwa Barracks attack and allegation of torture.

VII. CONCLUSION AND RECOMMENDATIONS

It is distillable from our discussion so far that both sides to the conflict in northeast Nigeria have committed serious violations of human rights and grave breaches of the provisions of the 1949 Geneva Convention on the Laws of War and their Additional Protocols relating to IHL. Violations and abuses committed by Boko Haram, including the intentional killing and abduction of civilians and the targeting of protected civilian objects, the use of women and children in hostilities, rape and other forms of sexual violence, and torture and ill-treatment. The apparent systematic targeting of civilians and the widespread nature of the violations committed in territories where Boko Haram operate amount to crimes against humanity and war crimes.

In an attempt to fight back and get around the vicious attacks by Boko Haram, government forces have also resorted to retaliatory and revengeful attacks and killing inconsistent with the rules of war and amounting to serious violations of human rights and international humanitarian law. In this connection, government forces during counter-insurgency operations have engaged in extrajudicial killings, enforced disappearances, arbitrary arrests and detention, torture and ill-treatment. So what is happening is a situation where Boko Haram insurgency wreaks havoc and the security forces in trying to contain

the destruction create some more mayhem of their own; a case of two wrongs not making a right.

In the light of all the problems identified above, the following recommendations are considered appropriate:

1. Appropriate proactive measures must be taken by government to strengthen the promotion and protection of human rights in the northeast including in the context of counter-insurgency operations;
2. The criminal justice system in Nigeria should be rejuvenated and made potent enough to ensure effective enforcement regime and increase access to justice and responsibility for all abuses and violations of international human rights law and international humanitarian law, regardless of the position or rank of the perpetrator. The criminal justice system should be designed and constructed to ensure that those accused of human rights violations and grave breaches of IHL are monitored, arrested, prosecuted, convicted and punished if found guilty so as to create a more productive and less dangerous society;
3. Nigerian government must recognize that the protection of life and property is the main essence of government. Therefore serious attention must be directed at measures intended to achieve this objective. In this connection, the police and the armed forces should be adequately trained, motivated and equipped to be up to speed with contemporary challenges. There is therefore the need to overhaul the Nigerian security system. The current security architecture is less than efficient to deal with such a sophisticated social problem;
4. There is the imperative need to review the counter-terrorism strategy, policy and laws to ensure compatibility with international standards, including international human rights law and international humanitarian law;
5. Government should introduce a cohesive re-radicalization programme that will serve as reorientation for victims of insurgency for effective integration into the society. This should accommodate women and girls whose human rights have been violated, including for sexual violence. The programme should be robust enough to include mechanism for annulling forced marriages, provisions for psychosocial counselling, rehabilitation and social reintegration, comprehensive sexual and reproductive health services, including HIV treatment, safe abortion services at a minimum in

cases of rape, and to safeguard the life and health of the woman or girl;

6. Take measures promptly to prevent arbitrary arrest and detention in contravention of international obligations, and increase capacity to conduct prompt, thorough and independent investigations and accelerate judicial processes; the use of military or special courts to try civilians must be exceptional, justified and limited to serious cases where civilian courts are unable to undertake trials;
7. Take measures to re-establish children's access to education, including for girls, and particularly for those children displaced by the conflict; and rebuild schools destroyed during attacks and secure access to schools, while ensuring also the protection of teachers and students;
8. Promote social cohesion in developing return, rehabilitation, reconstruction and reconciliation strategies to address tensions between communities;
9. Guerrilla tactics is a potent strategy usually adopted by insurgents and implicit in this method is the readiness to employ violence to weaken the opponent and accomplish specific goals. In order to effectively curtail this onslaught and neutralize the insurgents, the Nigerian government must maintain an effective teamwork and collaboration between the country's security intelligence and her international partners in combating terrorism. At the moment there is an apparent lack of collaboration between security forces resulting in unnecessary and unhealthy rivalry;
10. Government may need to consider reconciliatory strategy by way of an amnesty programme which should include rehabilitation of insurgents who are captured or voluntarily surrender. For an ideological group like Boko Haram, Nigeria needs amnesty to support the political solution already in place. Amnesty will assist in reorientating the thought line of insurgents, engage them economically and appease them.

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