



## ASSESSING THE IMPACTS OF ARMED CONFLICTS AND TERRORISM ON HUMAN RIGHTS PROTECTION IN NIGERIA

By

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### Abstract

*This paper examines the relationship between the protection of human rights and strategies at curbing security challenges in Nigeria. The paper considered the historical trajectory and the current state of affairs in the fight against terror and other armed conflicts. It draws attention to the intricate interactions between these two areas and their significant implications for the future of the country. Nigeria has experienced increase in the global terrorism indexes. The 2021 Global Peace Index ranked Nigeria 146 among 163 independent nations and territories according to its level of peacefulness. Although Nigeria had moved a step forward from 147 in 2020, the country still ranks eighth among the least peaceful countries in Africa. Nigeria is one of the countries with the highest terrorism threat levels in the world, with 1,245 fatalities recorded as at 2019, thus making effective anti-terror war a priority to the government. However, issues of insecurity and the uncoordinated approach of the security agencies in curbing the menace has impacted negatively on the protection of human rights. The article examines the importance of balancing national security and the protection of human rights and found that lack of proper anti-terrorism strategies on the part of the security agency often violate the rights of Nigerian citizens. The paper recommends the adoption of effective counter terrorism mechanisms that protect the inviolability of the existential rights of citizens.*

**Keywords:** *Armed Conflicts, Human Rights, National Security and Terrorism*

### 1.0 Introduction

The philosophy of human rights addresses questions about the existence, content, nature, universality, justification, and legal status of human beings.<sup>1</sup> The strong claims in favour of the universality, inalienability or morality of human rights occasionally provokes debates and counter philosophical rebuttals.<sup>2</sup>

Human rights were originally designed to protect the individual against the state.<sup>3</sup> Gross human rights violations such as extra-judicial execution, arbitrary arrest, detention, and torture are usually committed by states' security agencies under the guise of fighting war, insurgency and terrorism, although they can also be committed by non-state entities such as armed rebel militias. The anti-terrorism crusades of

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<sup>1</sup> Constitution of the Federal Republic of Nigeria, 1999, Chapter IV.

<sup>2</sup> S.P Subedi, (2015) The Universality of Human Rights and the UN Human Rights Agenda: The Impact of the Shift of Power to the East and the Resurgence of the BRICS., Indian Journal of International Law, 55 (2), pp. 177-207.

<sup>3</sup> Brander, P et al, Council of Europe, Compass, Manual for Human Rights Education with Young People, 2<sup>nd</sup> Edition 2020.



government most time deny citizens of the civil and political rights, including, freedom of speech, rights to liberty, peaceful assembly, and the right to vote.<sup>4</sup>

Government has a legal and moral duty to protect lives and properties.<sup>5</sup> It is the duty of government to suppress terrorism and address other anti-social behaviour that could culminate into armed conflict situations. It is the primary duty of government to protect its sovereignty and territory.<sup>6</sup> The attainment of national security is a priority to every governments. Government achieve this herculean task through its security agencies.

However, one major concern and irony is that government security personnel often violates the fundamental rights of Nigerians<sup>7</sup> in their counter-terrorism mission. Cases of mass arrest, airstrike bombing,<sup>8</sup> restriction of movement, illegal detention, maiming, rape, torture, inhuman treatments and unlawful manslaughter are common occurrences during armed conflict and terrorism war.

In Nigeria and many countries, citizens and commuters no matter their age are made to trek long distances through security check-points,<sup>9</sup> disallowed use of mobile phones;<sup>10</sup> curfews are arbitrarily imposed; communities are invaded and citizens are arrested and denied access to communicate with their families; indiscriminate and sporadic shootings of citizens without respect for the principle of distinction; reported cases of missing persons and corpses, arson and starvations are some of the 'new normal' since the current anti-terror war begun after the September 11<sup>th</sup> 2001 attack at New York. In some cases, it has been difficult to fault the approach of the security agencies on ground of patriotism and the peculiarity of the situation. This paper thus consider the appropriateness of balancing the interest of national security with the protection of citizens' human rights in the counterterrorism war in Nigeria.

During the pre-colonization period, the various ethnic groups in Nigeria had their own forms of government and justice administration system, which were rooted in their respective traditions and customs.<sup>11</sup> These systems were based on fundamental human rights principles, such as the right to a place of worship, the right to a fair trial, and the respect of individual freedoms. The emergence of the British colonial regime had a significant impact on human rights in Nigeria. As English common laws were introduced, indigenous legal systems were suppressed, and pre-existing rights eroded. Human rights discourse in Nigeria has been increasingly focused on the protection of human rights against the states and fellow citizens in the post-independence era.<sup>12</sup>

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<sup>4</sup> L. C. Keith, 'The United Nations International Covenant on Civil and Political Rights: Does It Make a Difference in Human Rights Behaviour?' *Journal of Peace Research*. (1999), 36.

<sup>5</sup> CFRN, Chapter II

<sup>6</sup> B. S. Kokpan & V. O. Elechi, 'Explaining the Interdependency Paradigms between States Sovereignty and International Criminal Law', *University of Port Harcourt Journal of Private Law* (2020), Volume 5, Issue 1, ISSN: 2616 -1125, pp. 72-83.

<sup>7</sup> B. S. Kokpan & N. A. Nsaa, 'Fundamental Human Rights in Nigeria: Practice, Abuse and Remedy', *Legal Essays in Honour of Alhaji Kola Babalola, SAN, The Journey: Legal Essays* (2021), pp. 119-139.

<sup>8</sup> A. Ejekwonyilo, Nigerian Air Force Belatedly Owns up to Airstrike that killed 39 along Nasarawa-Benue border – Report, *Premium Times*, 7<sup>th</sup> June 2023. See also, Abiodun Jamiu, 'Accidental' Nigerian Military Air Raid Survivors Still in Grief,, *AL JAZEERA TV*, 6<sup>th</sup> September 2022.

<sup>9</sup> Lawrence Njoku & others, Worry over Multiple Security Checkpoints, *TheGUARDIAN Editorial*, 25<sup>th</sup> July 2020.

<sup>10</sup> Channels Television, Why Using Phones at Checkpoint is Wrong- Military Chief, 9<sup>th</sup> December 2019.

<sup>11</sup> Dada J. A, Human Rights Protection in Nigeria: The Past, The Present and Goals for Role Actors for the Future, *Journal of Law, Policy and Globalization*, Vol. 14, 2013.

<sup>12</sup> Enemo I. P & Olorunfemi, J. F, Human Rights and National Developments in Nigeria, *Law and Policy Review*, (2011) Vol. 2.



Nigeria achieved its independence from the British colonial regime in 1960 and since then has made considerable progress in creating a legal framework for the protection and promotion of human rights in the country. The Constitution of Nigeria has been amended and revised through the years and various human rights clauses have been included in the Constitution.<sup>13</sup> Furthermore, Nigeria has ratified a number of International Human Rights Treaties and Conventions, which have enabled the country to move closer to global standards.<sup>14</sup> Nevertheless, the road to achieving full human rights protection in Nigeria is still full of challenges, including corruption, inter-ethnic and religious tension, and conflicts, which have at times led to human rights violations.<sup>15</sup> These issues are not exclusive to Nigeria; however, they highlight the complexity of human rights in relation to security.

## 2.0 Terrorist Activities and Human Rights

Armed conflict can either be of international<sup>16</sup> or non-international nature<sup>17</sup>. Nigeria is a state that has been plagued with non-international armed conflict since independence until date, including a 30-month civil war from 1967 to 1970. Furthermore, there had been several bloody military coups and other forms of armed conflicts, including the Warri city oil-ethnic conflict, the Ife/Modakeke, Aguleri/Umuleri, Igbide/Emede, Tiv/Jukun, and Kano/Maitasaine conflicts, among others.

Human rights entail both rights and obligations. States are obligated to respect, protect and fulfil human rights. These obligations are mainly provided in the Four Geneva Conventions and the Additional Protocols and applicable to situations of armed conflicts. This means that states must refrain from interfering with or curtailing the enjoyment of human rights; protect individuals and group from human rights abuses; and take positive action to facilitate the enjoyment of human rights<sup>18</sup>. Two important issues are taken into consideration on Nigerians implementation of the international humanitarian law. One of this is the level of implementation of the Geneva Convention and additional protocol, secondly the determination of if the armed conflict is of international or national character.

Section 12 of the Constitution of the Federal Republic of Nigeria 1999 provide that no treaty between the federation and any other country shall have the force of law except to the extent of which such treaty has been enacted into law by the National Assembly. This position was reaffirmed by the Nigerian Supreme Court in the case of *Abacha v. Fawehinmi*,<sup>19</sup> where the court held that ‘an international treaty entered by the government of Nigeria does not become binding until enacted into law by the National Assembly, it has no force of law as to make its provision justiciable in our courts’. Nigeria fulfilled its obligation by ratifying the Geneva Conventions in 1960 and its additional protocols in 1988. Even though the country ratified these laws, it is yet to domesticate the additional protocols and therefore some provisions in the additional protocol cannot be enforced.

<sup>13</sup> At present, Chapter IV of the CFRN 1999 specifically provides for the fundamental rights of Nigerians. See also, B. S. Kokpan & N. A. Nsaa, *supra* (n7).

<sup>14</sup> Oputa, C. A, *Idigbe Memorial Lectures, Human Rights in the Political and Legal Culture of Nigeria* (Nigeria Law Publications Ltd, 1989), pp. 93-95.

<sup>15</sup> Nweze, C. C., *Human Rights*, Abia State University Law Journal,, (1997) Vol. 1, pp. 9-11.

<sup>16</sup> Article 2 of the Fourth Geneva Convention 1949.

<sup>17</sup> Article 3 *ibid* and Article 3 Additional Protocol II.

<sup>18</sup> *International Legal Protection of Human Rights in Armed Conflict* (New York and Geneva, 2011) 17.

<sup>19</sup> (2000) 6 NWLR (Pt.660) pg. 228.



Armed conflicts in various regions of Nigeria have posed a severe threat to the protection of human rights. Armed conflict is the breeding ground for mass human rights violations and the civilian population often becomes the victim of these armed conflicts facing forced displacements (about two-third of the World's population, being displaced within their country)<sup>20</sup>, loss of properties, starvation, torture, lack of education and most tragic of all loss of lives (unlawful killing). Common Article 3 of the Geneva Convention prohibits violence to life and persons, including prohibition of murder, mutilation, cruel treatments and torture; taking hostages; outrageous upon personal dignity in particular humiliating and other degrading treatment. Other principles of the law of war are provisions dealing with the passing of sentences and the carrying out of executions without previous judgment pronounced by a regularly constituted court, affording all the judicial guarantees, which are recognised as indispensable by civilised peoples in the case of armed conflict not of an international nature. Having been ratified and domesticated as laws in Nigeria<sup>21</sup> these rules are applicable and enforceable to situations of armed conflicts as such is necessary to protect the dignity of human rights.<sup>22</sup>

The law of armed conflicts protect civilians and respect human rights. International Humanitarian Law protects civilian population;<sup>23</sup> objects indispensable to the survival of the civilian population<sup>24</sup> protection of archive works and installations, including<sup>25</sup> dams, places of worship<sup>26</sup>. Displacement of civilians in time of armed conflict also violates their rights to life, liberty and security, health, adequate housing, education, and family life.

International humanitarian law recognises two kinds of conflicts the international armed conflict<sup>27</sup> and non-international armed conflict<sup>28</sup>. The additional protocol II of the Geneva Convention defines Non-international Armed conflict as an armed conflict that takes place within the territory of the state between its armed forces and dissident armed forces or other organised armed group. For a conflict to be classified as non-international armed conflict it must first be between the state and an organised group and secondly said organised group must be in control of parts or territory of the state. Also a non-state group is considered an organised armed group, there must be the presence of a command structure; the group must have sufficient manpower and ability to engage in armed conflict or violent attacks; finally they must have the ability to purchase or acquire sophisticated weapons and other military instruments as well as recruit and conduct military training<sup>29</sup>. Boko haram and ISIS falls within this category.

### **3.0 Impacts of Terrorist Activities on Human Rights**

Some of the impacts of terrorist activities vis a vis armed conflicts on human rights include the following.

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<sup>20</sup> Internal Displacement Monitoring Center Report, 2022.

<sup>21</sup> The Geneva Convention Act 1960

<sup>22</sup> Section 12 CFRN 1999

<sup>23</sup> Art. 13 II Protocol Additional to the Geneva Convention 1977

<sup>24</sup> Art. 14 *ibid.*

<sup>25</sup> Art. 15 *ibid.*

<sup>26</sup> Art. 11 *ibid.*

<sup>27</sup> Art. 11 Geneva Convention 1949.

<sup>28</sup> Common Art. 3 Geneva Convention 1949.

<sup>29</sup> International criminal Tribunal for the Former Yugoslavia.



### 3.1 Loss of Lives

Armed conflict damages societies in clear and striking ways, killing combatants and civilians and destroying critical infrastructures. The economic, social, health, environmental and security implications of armed conflicts on hapless civilians cannot be overemphasized. Shortage of foods, closure of educational institutions; restrictions on freedoms of worships, movement and expression are common features of armed conflict situations not forgetting uncertainties.<sup>30</sup>

One of the most notable impacts of terrorism is colossal loss of lives. For instance,, it has been reported that as of 31 July 2020, Boko Haram activities has directly resulted in 34,457 deaths in Adamawa, Borno, and Yobe states since the beginning of 2009<sup>31</sup>. Armed conflicts can also increase death toll indirectly through the destruction of health infrastructure and degraded living conditions leading to increased deaths from disease and hunger.

In practice, government security agencies are more interested in decapitating the terrorists than in protecting the civilians. Death of civilians could result from miscalculation of the object of attack or gross negligent by the troops. For instance, the senseless killing of over one hundred civilians by military airstrikes in Kaduna State on the 3<sup>rd</sup> of December 2023 recently alarmed Nigerians.<sup>32</sup>

### 3.2 Forced Displacement

Another notable impact of terrorism is forced migration. Boko Haram attacks have led to massive internal displacement. More than 1.8 million Nigerians are displaced in Adamawa, Borno, and Yobe states, with the vast majority (nearly 1.5 million) located in Borno<sup>33</sup>. In camps and host communities, IDPs often live in poor conditions and lack access to adequate food and services. In addition, More than 280,000 Nigerians are registered as refugees in Cameroon, Chad, and Niger, with the majority having fled violence in Nigeria's north-east<sup>34</sup>. As much as the conditions of IDPs are deplorable, the conditions of those in bordering countries are worse. While many of the displaced persons would like to return home, insecurity remains a major threat and the fact that many of them displaced have been displaced more than once is disheartening.

Citizens are displaced for no fault of theirs. They bear the brunt even when they have no interest in the outcome of the crisis. Government rarely fulfil its promises to rebuild the citizens. Displacement often lead to loss of opportunities for the innocent citizens.

### 3.3 Disruption on Economic Activities

Armed conflict and terrorism severely disrupt economic activity through the destruction of productive assets, diversion of resources, death and injury to the population, and damage to health and education systems. Terrorism causes low agricultural productivity and high unemployment rates. Private

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<sup>30</sup> Paul Collier and others, *Breaking the Conflict Trap: Civil War and Development Policy* (The World Bank and Oxford University Press, 2003)122

<sup>31</sup> Clionadh Raleigh and others, 'Introducing ACLED: An Armed Conflict Location and Events Dataset' (2010) (47) (5) *Journal of Peace Research*;651-660

<sup>32</sup> Human Rights Watch, *Nigeria: Erroneous Military Airstrike*, available at <https://www.hrw.org/news/2023/12/07/nigeria-erroneous-military-airstrike> last accessed 12th December 2023.

<sup>33</sup> United Nations Development Programme, *Assessing the Impact of Conflict on Development in Northeastern Nigeria* (UNDP, 2020) 22.

<sup>34</sup> Ibid.



buildings belonging to citizens and road infrastructures are destroyed by terrorist activities. Military ban has placed hold on activities and movements of goods and services. Many businesses are fully or partially closed, thus denying the citizens of investment opportunities. A World Bank assessment estimated cumulative GDP losses from 2011 to 2015 at \$6.21 billion (\$3.54 billion in Borno, \$1.57 billion in Adamawa, and \$1.1 billion in Yobe).<sup>35</sup>

In the case of Boko haram, the education system in North-Eastern Nigeria was strained even prior to the escalation of the terrorist activities. Over half of children in the North-East Zone were out of school in 2008, including 32.9 percent of children in Adamawa, 63.5 percent in Yobe, and 73.4 percent in Borno. Education has been an important target of direct attack by Boko Haram, as can be gleaned from translation of the group's name "western education is forbidden." Between 2014 and early 2017, Boko Haram destroyed roughly 1,500 schools while claiming over 1,200 students and teachers as casualties. Over 1,000 children have been abducted since 2013, including the 2014 abduction of 276 girls from a school in Chibok and another incident six months later, when more than 300 children were abducted from a primary school in Damasak<sup>36</sup>. Direct attacks on education peaked between 2013 and 2015 but have slowed in recent years.

Terrorism and armed Conflict in North-Eastern Nigeria has affected men and women in different ways and worsened pre-existing gender inequalities. On the one hand men make up the majority of direct conflict deaths and have been subjected to abduction and forced recruitment by Boko Haram, as well as mass arrest, human rights abuse, and extrajudicial killings. While on the other hand women and children make up to 80% of the displaced population, with no work and limited options for survival. Women have especially been targets of abduction by armed groups, are subjected to violence, and are oftentimes being used as spies, suicide bombers and fighters. An estimated 500 women were abducted between 2009 and 2014. To make an already cruel situation worse, women who have escaped or been released are not always welcomed back to their communities and those returning from captivity or involvement with armed groups do not have access to the training, counselling, and reintegration programs that target men.

#### **4.0 Government Response and Human Rights**

In the course of security operations against terrorist activities, Nigerian military forces have extra-judicially killed some terrorists under the guise of suppressing violence and maintaining both of which enjoys constitutional backing. Similarly, mass arrests are common during armed conflicts. Countless are usually tortured with some having no chance of survival. Amnesty International reports that hundreds, if not thousands, of Nigerians have become victims of enforced disappearance; and at least 7,000 people have died in military detention<sup>37</sup>. These acts, committed in the context of a non-international armed conflict, constitutes war crimes and amounts to crimes against humanity for which military commanders bear both individual and command responsibility.

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<sup>35</sup> A. Azad, Crawford and H. Kaila, Conflict and Violence in Nigeria, Results from the North-East, North-Central and South-South, World Bank Report, 2018.

<sup>36</sup> Ibid.

<sup>37</sup> Amnesty international, Nigeria: Stars on their Shoulders: Blood on their hands: War Crimes committed by the Nigerian Military (2015)

Less confrontational steps have however been taken by the Nigeria government to curb the activities of terrorist groups, including Boko Haram with the aim of protecting the civilians and those not having no role in the hostilities. Part of government determination culminated in the amendment of existing laws and the enactment of new laws.

### **5.0 The Roles of the Terrorism Prevention and Provision Act, 2022 in Protecting Human Rights.**

On the 12<sup>th</sup> of May 2022, former president Muhammad Buhari signed into law the Terrorism's (Prevention and Prohibition) Act, (TPPA) repealing the 2011 Act on the subject. The erstwhile law and its 2013 amendment created uncertainty, difficulty and ambiguity in the application of the law. Following gaps identified by the 2019 Mutual Evaluation Exercise of Nigeria by GIABA, it became imperative to tweak the law to meet the changing dynamics of the architecture of terrorism and terrorism financing<sup>38</sup>

The TPPA 2022 provides an effective, unified and comprehensive legal, regulatory and institutional framework for the detection, prevention, prohibition, prosecution and punishment of acts of terrorism, terrorism financing, proliferation and financing of proliferation of weapons of mass destruction in Nigeria. Part 3 of the TPPA provides for the establishment of a counterterrorism center as the coordinating body for counter-terrorism and terrorism financing in Nigeria, with the mandate to coordinate counter- terrorism policies, strategies, and plans<sup>39</sup>.

The TPPA 2022 also establishes a sanction committee<sup>40</sup>; The Nigerian Sanction Committee was previously established under the Terrorism Prevention (Freezing of International Terrorists Funds and Other Related Measures) Regulations of 2013, made pursuant to the powers of the Attorney General under the TPA 2011 (as amended). The Committee has the function to formulate and provide general policy guidelines on the designations of groups or persons as terrorists, financiers, proliferators, and proliferation financiers, and take such measures to ensure the effective implementations of the United Nations Security Council Resolutions on targeted financial sanctions on terrorism financing and on proliferation financing.

The TPPA 2022 also prohibits the proliferation of weapon of mass destruction<sup>41</sup> and financing for the proliferation<sup>42</sup> as well as provides for the implementation of the United Nations Security Council Resolution relating to proliferation and freezing obligations with respect to Financing and proliferation of weapon of mass destruction respectively<sup>43</sup>.

One of the laudable provisions of the TPPA 2022 is the establishment of Victims Trust Fund. The trust fund, located in the office of the Attorney General of the Federation and Minister of Justice, is created for the restitution and damages to victims of terrorism and armed conflict. It also funds armed conflict prevention programs purposes incidental to or connected with the attainment of the objectives of the Act<sup>44</sup>. Although, the money, gifts, donations, grants, aids and endowments afforded by the trust fund

<sup>38</sup> Nigerian Financial Intelligence Unit, Newsletter (2022) (3) (2)

<sup>39</sup> Section 6-8 Terrorism (Prevention and Prohibition) Act 2022

<sup>40</sup> Section 9 TPPA

<sup>41</sup> Section 58 TPPA 2022

<sup>42</sup> Section 59 TPPA 2022

<sup>43</sup> Section 60 & 61 TPPA

<sup>44</sup> TPPA 2022, s.91.



may however not be enough to compensate for the loss and human rights abuses suffered by victims but it may be a step towards helping them to lead somewhat of a normal life.

Finally, the Act has placed stringent punishment for perpetrators of armed conflicts and terrorism. Sections 11 through to 25 strengthens the dissuasiveness and proportionality of the sentencing provisions of the Act to life imprisonment and a minimum of not less than 20 years depending on the offence. The act also punishes persons who without lawful authority uses or disperses in any way, radioactive or nuclear materials, or make use of any device with the intention to cause death or grievous bodily harm.

### **6.0 Conclusion**

In conclusion, the assessment of the impacts of armed conflicts and terrorism on human rights protection in Nigeria reveals a complex web of challenges. The war against terror impinge on human rights just as terrorism challenges the protection of human rights. The right to life, education, security, and other fundamental human rights are systematically undermined in the wake of conflicts, displacing communities and leaving vulnerable populations exposed to egregious abuses. Economically, armed conflict and terrorism leads to relocation of resources away from the accumulation of productive capital through reduced investment. Government thus invest much on national security than economic development. Apart from the civil, political, social and cultural rights, terrorism and armed conflicts also affects the environment and community cohesion or unity.

Expectedly, government promise of respect for rule of law and human rights are unwittingly observe more in breach because of the priority to guarantee security. Nonetheless, we strongly recommend that the protection of human rights must be the most essential focus in strategies aimed at resolving conflicts, promoting sustainable peace, and fostering the socio-economic development of the country. Military manuals and government security policy/instruments should be amended to clearly and practically respect human rights even in the midst of armed conflicts.