

## **An Appraisal of the Nigerian Terrorism (Prevention) (Amendment) Act, 2013 and the Boko Haram Insurgence in Northern Nigeria**

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### **Abstract**

*This article is undertaken to address the problem of terrorist attacks in Nigeria, particularly the Boko Haram insurgence in the Northern part of Nigeria, which has resulted into the destruction of innocent lives and properties, distorted law and order in this part of the country and has continued to send waves of terror to the minds of the people in the area. In the article, the basic concepts that form the topic are defined, followed by a trace of the origin of terrorist acts in Nigeria and what has being done in the context of the law to provide the legal mechanism that will be utilized in fighting and suppressing the increasing incidence of terrorists invasions in Nigeria. The article also contain a critical examination of the existing legal framework in fighting terrorism in Nigeria, including Boko Haram, as well as, the social measures that are evolved by the state in combating the ugly phenomenon in the country. It is ended with solutions which the writer feel will assist the nation in effectively suppressing the current waves of Boko Haram invasions in some of the states of Northern Nigeria.*

### **Introduction**

This article is one that deals with the vexatious incidents of terrorist invasions in Nigeria, especially the Boko Haram attacks in different states of Northern Nigeria. It is commenced with the definitions of the essential concepts that make up the topic,

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followed by a trace of the origin of terrorist attacks in Nigeria, particularly the Boko Haram insurgence, and other terrorist hostilities in the country, such as the militant attacks of the Niger Delta youths, the Fulani invasion of the Tiv and other ethnic groups in the Benue Valley of the North Central Nigeria. The paper has also identified the negative impacts of terrorist attacks on the socio-economic and political landscape of Northern Nigeria. It further include a detail review of the legal framework for combating terrorism in Nigeria which is, the Terrorist Act, 2011, now Terrorism (Prevention) (Amendment) Act, 2013 and a discussion of the enactment as a useful legal tool in addressing the protracted incidence of terrorist invasions in Nigeria. The write-up end by identifying problems, legal and social, that have militated against the effective fight against the numerous spates of terrorist hostilities in Nigeria, particularly, the Boko Haram invasions.

### **Conceptual Clarifications**

The term “appraisal” used in this article means, a total survey or examination of something with the target to identifying the problems associated with it and how to overcome those problems or phenomenon in the society. The word also means an examination of something or conducts of somebody. This article therefore, covers an examination of the protracted terrorist hostilities in Nigeria and what can be done to suppress this ugly phenomenon that is currently ravaging the socio-economic and political landscape of the country. The word “terrorist” is a noun form of the word “terror”. “Terror” means, to put in extreme fear or make someone or people constantly afraid of a person, an act or happening. A “terrorist” is a person who takes part in activities that unleashes or sends fear to the minds of victims or those who are affected. The violence so unleashed may be ethnic, religious, sectional, political or beaucratic. Such violence, are unleashed to compel government or the state to take a decision which the

terrorist wants to force on it, by unleashing violence on its people.<sup>2</sup> The word “Act” means any law or legislation in Nigeria that is enacted by the National Assembly and is intended to operate as a law in the entire Federation of Nigeria<sup>3</sup>.

In Nigeria, any law that is passed by the National Assembly in accordance with the constitution, is referred to as an Act of the National Assembly<sup>4</sup>. Whereas, laws enacted by the State House of Assembly are called Laws of the State<sup>5</sup>. Legislation enacted by Local Government Councils are referred to as bye-laws. The word “insurgence” means a person or group of persons fighting against government forces in his or her country<sup>6</sup>. While *Boko Haram* which is a Hausa/Arabic expression, means that: “western education is sinful”. It is an Islamic jihadist and a militant organisation based in the North Eastern Nigeria, with its roots from Niger Republic, the Republic of Chad and Northern Cameroon.<sup>7</sup> By Boko Haram, western education and western ideas, principles or way of life should be avoided completely in the social, religious, political and legal way of life of Nigeria. Names like Adamawa, Yobe, Borno, Kano, Kogi, Zamfara, Kaduna, Sokoto used in the article are component political units in the Federation of Nigeria.<sup>8</sup>

### **Origin and History of Boko Haram in Nigeria**

Boko Haram, a terrorist organisation is believed to have been founded by one Muhamed Yusuf in 2002. Its main aim is to establish a pure Islamic state in Nigeria which shall be governed

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<sup>2</sup>Crowther J Oxford Advanced Learners Dictionary (5<sup>th</sup> edition) (New York: Oxford University Press, 1998), 1233

<sup>3</sup> See section 318 of the Constitution of the Federal Republic of Nigeria, 1999 (as amended)

<sup>4</sup> See section 318 CFRN, 1999 (as amended)

<sup>5</sup> See section 4(5) of the Constitution of the Federal Republic of Nigeria, 1999 (as amended)

<sup>6</sup>Crowther J, opcit 620

<sup>7</sup>Omale D.J, “Terrorism and Counter-Terrorism in Nigeria: The Critical Paradigms and Lessons of Public Policy” published in the Canadian Social Science Journal vol.9, No.3, 2013, p96-103

<sup>8</sup> See section 318 constitution of the Federal Republic of Nigeria, 1990

by sharia laws in every ramification<sup>9</sup>. At the beginning, it was known for attacking and ruining Christian, government targets such as police stations, army barracks, invasion of secular schools, bombing of churches, and kidnapping of western tourist. In recent times, it has deviated in its hostilities by attacking even mosques in Northern Nigeria and places inhabited by Muslims as well. It has unleashed violence that have resulted into the death toll of more than 150,000 people between 2001 and 2014 in Nigeria. The Boko Haram terrorist attacks at the time of this write-up in 2015 was discovered to have exerted a ravaging impact on many states in Northern Nigeria such as, Borno, Yobe, Adamawa, Kano, Kogi and the Federal Capital Territory, Zamfara. The group have a defined command structure that is diffused. At the time of this research, it was revealed in the media that this terrorist group have links with the ISIS, a jihadist group that operate outside Nigeria which is currently unleashing terror in the Maghreb or the Arabian Peninsula,<sup>10</sup> a terrorist group presently under attack by UN, with bases in Syria, Iraq and Iran

Many of the senior radicals of this terrorist group are partially inspired by the unfinished work of the late Islamic preacher called Maitatsine a religious leader that evolved and trained a terrorist group that unleashed violence in Yola town, the then capital of Gongola State, now Adamawa State, in 1984. Others are believed to be motivated by the inter-ethnic and religious crises in Jos. To the founder of this group, Yusuf, the ethnic conflict in Jos was a ploy on the part of the Plateau State Governor to eliminate the Hausa and the Fulani who are Muslims<sup>11</sup>, hence the need for a resistant group.

The concern of this terrorist group is that, it is opposed to the interaction by the local Muslims with the western world and so have trained people who carried out assassinations in the face of anyone that criticises it, including Muslim clerics. Its leader, Muhamed Yusuf, revealed that, the teaching in secular schools

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<sup>9</sup> "Boko Haram"- see [http://en.wikipedia.org/wiki/Boko\\_Haram](http://en.wikipedia.org/wiki/Boko_Haram)

<sup>10</sup> *ibid*

<sup>11</sup> *ibid*

such as, the Earth's sphericity, isanti-Islamic teaching should be rejected along with the Darwinian theory of Evolution and the fact that rain originates from water evaporated from the sun is contrary to Islamic postulation. Before his death, Yusuf restated the group's objective to be to change the prevalent education system in Nigeria and to reject the prevalent western Democracy being practised in Nigeria<sup>12</sup>.

Following the crackdown of this group in 2009, the group went underground and subsequently emerged with more frequent attacks that magnified the range of its geographical attacks. Currently, the group expanded its attacks beyond the original targets and the composition of its members now include not only Islamic militants, but criminal elements and some disgruntled politicians. It is true that terrorism or terrorist activities are fast becoming an emerging challenge to the security of Nigeria. There have been acts of terrorism in the past that were perpetrated in various forms.<sup>13</sup> Most of such identified incidences were ethnic, religious, political, etc.

Nigeria remained relatively peaceful and a terror free country after Independence, the violence that erupted in 1964 after the Federal election in the country, resulted into the killings of party supporters from the opposition parties, produced terror of the highest magnitude to the people of the Western Region of Nigeria. This was followed by the Tiv revolt of 1964 in the North Central Region, which resulted in violent killings and destruction of properties by the Tiv people. This was in attempt to shield themselves politically and religiously, from the Muslim dominated Northern Peoples Congress Party, led by Sir, Ahmadu Bello. Followed by these events of political and ethnic terrorism, Nigeria witnessed the Ibo killings in Northern Nigeria, from 1967 when the Eastern Region dominated by the Ibos decided to secede.

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<sup>12</sup> *ibid*

<sup>13</sup> Omale J.O, *ibid*

**Instances and Forms of Terrorist Hostilities in Nigeria**

Since the end of the Civil war in 1970, Nigeria has remained terror free until the killing of Mr. Dele Giwa, the Chief Editor of The News magazine, through a letter bomb in October, 1986. This killing marked the beginning of the state use of impoverished explosive devices to brutally murder someone it consider a treat to the state<sup>14</sup>. After this incidence, the nation witnessed series of incidence of terrorism such as the Hijacking of a Nigerian Airways aircraft in October 1993, after the annulment of the presidential election of Chief M.K.O Abiola.

After the above incidence, there was an incidence of a bomb blast that destroyed Shed 6, of Illorin Stadium in August, 1994. Other incidence of terrorist attacks that occurred in Nigeria in 1996 and 1998 included the bomb attack on the car of the Chief Security Officer of the Federal Aviation Authority of Nigeria, Dr. Omushola. Later, the excort car of the former military Administrator of Lagos State, Brigadier General, M.B Marwa, was attacked. Other notable incidence of the attacks include the violence or siege in Jos in 2004, 2010 and 2011 and the series of bombing and killing that have being witnessed in Borno and Yobe States between 2004 to 2014. Also in the 2010, New Year eve, there was the bombing of the Mogadishu military Cantonment mammy market, Abuja. There was also the 1<sup>st</sup> October bombing in Abuja that disorganised the marking of Nigeria's 50<sup>th</sup> Independence Anniversary<sup>15</sup>.

Since then, there have being series of terrorist activities in the Northern part of Nigeria. For instance, the April 2011 election in Northern parts of Nigeria. On April 8, 2011 the Suleja INEC office was bombed. On May 29<sup>th</sup>, 2011 there was another bombing in a drinking spot in Maiduguri and Zuba, an outskirt of Abuja. On June 16<sup>th</sup>, 2011 the Nigerian Police Force Headquarters was bombed in Abuja, whereas, on August 26<sup>th</sup>, 2011 the United

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<sup>14</sup> Oladunjoye and Omemu F, "Effects of Boko Haram on School Attendance in Northern Nigeria" published by the British Journal of Education, vol.1 No.2 of 2013, p1-9

<sup>15</sup> *ibid*

Nations House in Abuja was bombed. On November 4<sup>th</sup> 2011 was the bombing of the Army Task Force operation, Police Headquarters and other government buildings in Damaturu in Yobe and Borno States. On the Christmas day the St. Theresa Catholic Church near Abuja was bomb on the 25<sup>th</sup> December, 2011. Other bombings, including those in Mubi, Yola, Gombe and Maiduguri that took place on the 5<sup>th</sup> to 6<sup>th</sup> January, 2012. Futher incidents are, the Kano bombing of the Headquarters of the First Division of the Nigeria Army and Kano Bridge on 7<sup>th</sup> February, 2012. The list of these terrorist invasions are numerous and still ongoing.<sup>16</sup>

Coming to the spate of ethnic terrorism in Nigeria, a renown scholar, Hagher has supplied the below compendium: “on May 1999, the very day Obasanjo took over office, fighting flared between the Ijaws and the Itsekiris in the Niger Delta over the sitting of the Local Government Headquarters, over 200 people lost their lives.<sup>17</sup> On July 18<sup>th</sup>, two months later, the Hausa and Yoruba clashed in Shagamu in the South West over traditional rites. The Hausa who have lived in shagamu and become integrated suddenly found themselves homeless. The settler-indigeneship quarrel claimed over 60 lives. In response to the Shagamu riot, the Hausa’s in Kano attacked the Yoruba’s living in Kano as settlers, killing 70 people on August 5<sup>th</sup>, scores of death were recorded in the bloody clash between Ijaw and Elaje Yoruba clan over the oil rich land in the Niger Delta. Here again, bitterness and terror unleashed as a result of resource control song composed by the politicians, claimed a number of lives. In the same period, Taraba State witnessed its orgies of violence when the Kutep and the Chambas clashed, resulting into 200 people dead. On September 9, about 16 people died in fighting at Lagos Port. The fight was in response to the separatist stance of the Yoruba group with rabid anti-settler instincts. On October 4<sup>th</sup> in River State, the Okrika and Elem people fought for resource control of the choice

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<sup>16</sup> ibid

<sup>17</sup>Hagher I, *Beyond Hate and Violence* (Ibadan: Caltop publications Nigeria, Ltd, 2002) p52-58

land near Nigeria's largest oil refinery in Port Hacourt. Death toll exceeded 30 people".<sup>18</sup>

Hagher continued: "on November 21<sup>st</sup>, the first open massacre of civilians by the Nigerian Army took place in the country, when President Olusegun Obasanjo ordered the Army to kill innocent civilians in Benue State in the villages of Zaki-Biam, Kyado, Vaase, Anyin, Iorja and Tse Adoor, leading to the killing of over 70 people. The other massive killings of innocent citizens were the killing of innocent civilians at Odi for ostensibly killing 12 policemen. In this terrorist act, over 6 people of the Odi village were brutally killed.<sup>19</sup> On February 21<sup>st</sup>, the Nation witnessed the Kaduna riot where Hausa Muslims and Christians clashed leaving more than 100 dead in the clashes. On 27<sup>th</sup> February 2000, there was the Yoruba on Yoruba violent clash between the Ife and Modakeke, 30 people were left dead, all because of a radio announcement by the organisers of a fund raising party indicating an address on Orouna Street beside AP petrol station, Ibadan road as belonging to the Modakeke. The Ife people who claimed to be indigenes were incensed that the Modakeke's dared claimed that street as their address. In the same month, a boundary dispute between Akwa Ibiom and Cross River State led to the death of a boy and a woman. On May, 20<sup>th</sup> 2000, the Muslims and Christians in Kaduna went to war, killing over 700 people in their attacks. This particular invasion took a peculiar pattern that was beyond ethnicity and religion. It seemed to be a mere facet or political agenda of the settlers against the settled, infused by criminals, disgruntled military officers and war mongers and extremists of both religions. The wanton destruction of this conflict and the magnitude of the terror it engendered had multiple parties or interlocutors".<sup>20</sup>

The scholar went further that: "on October 10<sup>th</sup>, 2000, Lagos again boiled for 4 days when there was a fighting between the Yoruba militia of the Oduwa Peoples Congress and the Hausa's in

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<sup>18</sup>: *ibid*

<sup>19</sup> *Ibid* at 52-58

<sup>20</sup> *Ibid* at 52-58



Lagos which led to over 100 people dead. On 27<sup>th</sup> May, 2000 the wars resource control between the Urobo and the Itsekiri's erupted with unprecedented casualties. On the 25<sup>th</sup> June 2000, the wars against the Tiv in Nasarawa State started, in this terrorist activity, armed militia men, sponsored for political agenda of the settler took advantage of the death of *SarkinAzara (alias MaganinTivi)* as he was known for his hatred against the Tiv. Before the death of this Chief, many Tiv in Azara area had reported to the authorities about the dehumanizing and torture meted by this chief to the Tiv living in his domain. This incidence combined with other agenda led to the general attacks on the Tiv in Taraba, Nasarawa and Plateau States. In the attacks, the Nigerian Army was authorised to use armoured tanks against the defenceless Tiv people of these areas.<sup>21</sup>

The above excerpts from professor Hagher's book have supplied a graphic insight about ethnic, religious and political terrorism in Nigeria, a ugly phenomenon that appear to be smearing and increasing in propensity day by day. Before the above incidences, Nigeria has witnessed other incidences of terrorism in the country. For instance, before President Umar Musa Yar'adua declared amnesty to the Niger Delta militant youths, the region was engulfed into terrorism, with the terrorist activities of the groups like the Movement for the Survival of the Ogoni people (MOSOP), Movement for the Emancipation of the Niger Delta (MEND), Niger Delta People Volunteer Force, the Eggesu Boys, and the Niger Delta Vigilante. With a long history dating back to the 1970, these militant and terrorist groups lunched series of agitations and violence against the Nigerian Army and the Federal Government properties in the region.<sup>22</sup> They sometimes, kidnapped expatriates of the oil exploring companies operating in the area. Their major complaint being, ecological degradation, unemployment, poverty, depravation and their marginalization in the scheme of things in the Federation of Nigeria.<sup>23</sup>

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<sup>21</sup> Ibid at 52-58

<sup>22</sup> ibid

<sup>23</sup> ibid

Followed by the above, arose the Bakassi movement in the Igbo dominated areas of Eastern Nigeria. The target of this movement was the actualization of the sovereign state of Biafra and also a terrorist group fighting for the equal rights, security and injustice meted to the Igbo's in Nigeria. They demanded for true Federalism, autonomy and relevance of the Igbo's in the socio-economic and political setting of Nigeria. In the West, the Odua Peoples Congress (OPC) emerged as a militant and terrorist group which served as a mouth piece of the Yoruba's in the Western part of Nigeria. The Arewa People's Congress is one of the militant groups that has been championing the course and interests of the Northern segment of Nigeria. There also emerge several pockets of minor militant groups that arose in places like Jos Plateau, Kataf area of Kaduna State and the Tiv people of the Benue Valley of Nigeria.<sup>24</sup>

In 2014, the nation witnessed increasing terrorist attacks of the Fulani's on various ethnic groups in the Benue valley such as the Tiv, Idoma, the Kuteb and the Jukuns. These attacks predicated on acquisition of vast lands in these areas for grazing purpose. The conflict of the Fulani interest with these nationalities that are essentially farmers resulted into serious attacks and counter attacks, which sent terror to the inhabitants of these areas. What bothers the mind of the writer of this article is: why is it that, there are increasing waves of terrorist attacks in Nigeria in recent times? In a flash, one may answer by saying the cause of terrorist invasions in the country or Northern Nigeria is as a result of the inefficient or failure on the part of the state to deal with the socio-economic and political problems that affect the people, such as, the problem of internal security, resource control, injustice, corruption, ethnicity, favouritism and the marginalization of certain groups in the scheme of things in certain parts of the country.<sup>25</sup>

From the above, the causes of terrorism in Nigeria are drawn from social, economic, political and environmental factors. And

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<sup>24</sup>Hagher, *ibid*

<sup>25</sup>Omale, *opcit* p97

these causes are the failure of the government to provide the needed internal security; stamp out social and economic injustice that has bedevilled Nigeria's political landscape. The massive corruption that is on going in the public service of the country, the use of the state apparatus in promoting ethnic and religious rivalries, and interests, the use of public offices to promote mediocrity and show of favouritism to relations and friends in public affairs; the consideration of certain people as settlers in many parts of the country and the denial of such people, certain rights that are accrued in the area<sup>26</sup>. The next question that may be considered next is: what are the negative effects of terrorist activities or terrorism, particularly the Boko Haram, on the people of Northern Nigeria.

### **Negative Impacts of Terrorist Activities of Boko Haram in Northern Nigeria**

One of the identified negative effect of terrorist activities in Nigeria, especially Boko Haram, is the general insecurity it has engendered in the states of Northern Nigeria where the terrorist group have persistently unleashed mayhem or destruction through the use of explosives and direct attacks on individuals and properties.

It has also resulted in the destruction and depravation of innocent lives in states like Borno, Yobe, Adamawa, Kaduna, Kano etc. The country has suffered especially in the Northern part, low enrolment of children in the primary and secondary sector. This is blamed on the current campaign by Boko Haram against western education and western values. The situation is worsened by the history of long existence of Islamic influence in Northern Nigeria, which has made many parents detest western education. To some of these parents, western education and values are linked with the Bible and succumbing to them, is a ploy of changing their religion and faith. The enrolment in the education sector is further

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<sup>26</sup> See Appendices 1&5 attached to Hagher's book, *Beyond Hatee and Violence*, opcit at 192-223

dropped due to constant attacks by this terrorists or extremists on schools like the *Jama'atu Anbarat Mmuslimna Fin Badilas Sudan*. These hostilities have worsened the efforts of the states in the region to improve the education sector.

Some of the extremists have directed series of attacks on different schools and have kidnapped many children sent by Islamic and Christian parents to receive western education. They have also attacked teachers, killed, injured and have some schools razed down. For instance, on 12<sup>th</sup> March, 2012 unknown gunmen besieged the Hausawa-Danmaliki Primary School in Kumbago Local Government Area of Kano State. Several pupils and the teachers of the school were killed. Also on September 2013, a school of Agriculture in Yobe State was attacked at night by Boko Haram and more than 60 students were killed<sup>27</sup>. The incident that caught the attention of the world sympathy was the kidnapping of 270 girls from a secondary school in chubok, Borno State. The students whose abduction has remain a mystery under President Jonathan's administration up to 2015.

In Nigeria, the DHS Education Data Survey of 2011 had supplied a gloomy picture of education in North-West and North-East part of Nigeria. According to the report, 12% of children in Borno State are not in the primary school, while in Zamfara State, the percentage of out of school children has gone to 68%. In 2013, the terrorist group increased its attacks on education sector by invading the Federal Government College, BuniYani, Borno State, where about 59 students were reported killed and burnt to ashes. With this aggression on western schools and colleges, even non-Muslim parents have become afraid of sending their children or wards to public primary and secondary schools in Borno, Yobe, Zamfara, Adamawa States etc that are engulfed with the terrorist attacks of Boko Haram.<sup>28</sup>

It is disheartened to note that, the terrorist activities of Boko Haram have made the Federal Government lost a cream of its

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<sup>27</sup> Oladunjoye P and Omemu F, opcit at p4-6

<sup>28</sup> Ibid

security men it has spent so many resources to train. In the course of Boko Haram invasions, police stations and army barracks are made the centre of attacks and in these invasions, men and officers of the police and army have being brutally killed by the terrorists. The dropping of bombs to policemen and officers at police check points on the highways, have exacerbated the situation.

Added to the above, the operations of this terrorist group have affected the human rights of citizens such as the right to freedom of movement<sup>29</sup>, personal liberty<sup>30</sup>, life<sup>31</sup> and property<sup>32</sup> as the citizens can no longer move freely in those states that are engulfed with terrorist hostilities or reside freely in those states.<sup>33</sup> Indeed, it is the denial of human rights by Boko Haram insurgence that has called for concern in this write-up.

The critical question that may be asked at this stage is, what has the Federal Government done in terms of law making in order to deal with the ugly situation of terrorist attacks, especially the Boko Haram insurgence that has engulfed many states in Northern Nigeria? This question takes this discussion to the review or examination of Nigerian Terrorist Act, 2011 put in place to contend with the prevailing terrorist activities in the country, including, the Boko Haram attacks in the Northern part of Nigeria.

#### **A Review of the Nigerian Terrorism (Prevention) (Amendment) Act, 2013 as a legal Instrument for Fighting Terrorism in Nigeria**

The National Assembly which is the legislative body conferred with the responsibility of making laws for the Federation of Nigeria, worried about the spate of terrorist activities in Nigeria, especially, the Boko Haram insurgence, enacted an Act known as

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<sup>29</sup> Section 41 Constitution of the Federal Republic of Nigeria, 1999 (as amended)

<sup>30</sup> Section 35 constitution of the Federal Republic of Nigeria, 1999 (as amended)

<sup>31</sup> Section 33 constitution of the Federal Republic of Nigeria, 1999 (as amended)

<sup>32</sup> Section 43 constitution of the Federal Republic of Nigeria, 1999 (as amended)

<sup>33</sup> Section 41(1) constitution of the Federal Republic of Nigeria, 1999 (as amended)

Terrorism Act, 2011 to cover the field of terrorism in the Federal Republic of Nigeria. Under the Act, acts or omissions which are considered to be terrorism are defined in the Act to mean; any act which is deliberately done with malice, aforethought and which:

- a. may seriously harm or damage a country or an international organization;
- b. is intended or can reasonably be regarded as having being intended to –
  - i. Unduly compel a government or international organization to perform or abstain from performing any act;
  - ii. Seriously intimidate a population
  - iii. Seriously destabilize or destroy the fundamental, political, constitutional economic or social structures of a country or an internal organization;
- c. involves or causes, as the case may be-
  - i. an attack upon a persons life which may cause serious bodily harm or death;
  - ii. kidnapping of a person;
  - iii. destruction of a government or public facility; a transport system, an infrastructure facility, including an information system, a fixed flat form located on the continental shelf, a public place or private property, likely to endanger human life or result in major economic loss;
  - iv. the seizure of an aircraft, ship or other means of public or goods, transport and diversion or the use of such means of transportation for any of the purposes in paragraph (b)(iv) of this sub-section;
  - v. the manufacture, possession, acquisition, transport, supply or use of weapons, explosives or of nuclear, biological or chemical weapons, as well as research unit, and development of biological and chemical weapons without lawful authority;
  - vi. the release of dangerous substance or causing of fire, explosions or floods, the effect of which is to endanger human life;

- vii. interference with or disruption of the supply of water, power or any other fundamental, natural resource, the effect of which is to endanger human life;
- d. an act or omission in or outside Nigeria which constitute an offence within the scope of a counter terrorist protocols and conventions dully ratified by Nigeria<sup>34</sup>

Under the Act, any act which disrupts a service but is committed in pursuance of a protest is not regarded by the Terrorism Act as an act of terrorism<sup>35</sup>. By this provision, the Terrorism Act has shielded workers, employees and members of union groups, who on account of making demands on their employers or the state are forced to embark on a protest which at times result into the disruption or stopping of work and the rendering of the service that is required of them.

It further prohibits the formation of associations or organizations in Nigeria which are to engage in promoting, encouraging and exhorting others to commit acts or omissions of terrorism in Nigeria<sup>36</sup>. The courts in Nigeria are empowered to declare any entity to be proscribed and the notice of the proscription published in an official gazette, where the Attorney General, National Security Advisor or Inspector General of Police have brought an application before them alleging that a particular organization or entity is setup and is carrying out a proscribed act of terrorism in Nigeria<sup>37</sup>. The publication of the order of proscription is to be done in an official gazette or two national newspapers as the court or judge may direct.<sup>38</sup> This requirement is to ensure that, members of the public are given adequate notice about the terrorist posture of any organization, association, or entity, so as to avoid dealing with same.

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<sup>34</sup> Section 1(2) of Terrorism (Prevention) (Amendment) Act, 2013

<sup>35</sup> See section 1(3) Terrorism (Prevention) (Amendment) Act, 2013

<sup>36</sup> See section 2(1) Terrorism (Prevention) (Amendment) Act, 2013

<sup>37</sup> See section 2(1)(c) Terrorism (Prevention) (Amendment) Act, 2013

<sup>38</sup> *ibid*

The Act provides as a defence for any person charged of terrorism in a Nigerian Court to prove that the organization he is involved in or is a member, had not being declared as a proscribed organization, at the time he was charged before the court. He may also prove that, up to the time he became a member, he had not began to profess to be a member or that he had not taken part in the activities of the organization or entity at any time after it had being declare to be a proscribed organization.<sup>39</sup>

For the purpose of identifying those that qualified as terrorist under the Act, for the purpose of proscription, the Act has defined and identified terrorist and terrorist meetings to be any person who:-

- a. arranges, manages or assist in arranging or managing or participates in a meeting or an activity which he knows is connected with an act of terrorism;
- b. provides logistics, equipment, or facilities for a meeting, or an activity which is he knows is connected with an act of terrorism or;
- c. attends a meeting, which he knows is to support a proscribe organisation, or to further the objectives of a proscribe organization, commits an offense under this Act and shall on conviction be liable to imprisonment for a maximum term of 10 years.<sup>40</sup>

In enacting the Act, the Nigerian law makers rendered even support for terrorism or terrorist activities, as a crime. For instance, section 3(1) of the enactment prohibits any person who knowingly, in any manner, solicits or renders support for:-

- a. an act of terrorism or
- b. suspected terrorist group, commits an offence
- c. without prejudice to (2) of this section, where death results from any terrorist act, the penalty of the supporter of terrorism shall be a jail term of 20 years.<sup>41</sup>

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<sup>39</sup> See section 2(4) Terrorism (Prevention) (Amendment) Act, 2013

<sup>40</sup> See section 3(a)(b) Terrorism (Prevention) (Amendment) Act, 2013

<sup>41</sup> See section 3(1)(a)(b)&(c) Terrorism (Prevention) (Amendment) Act, 2013



The quantum of penalty of 20 years jail terms to the mind of this writer can hardly deter terrorist of religious kind, like Boko Haram, where it is noted suicide bombers that are sent to unleash destruction are prepared even to offer their lives in the course of the destruction as some may perceive themselves as persons carry out a sacred religious duty that will earn them a place in Heaven, in the success of their assignment. The word “support” used in section 3(1) of the Terrorism Act is likely to have thrown the courts, litigants and lawyers into confusion in the course of interpreting that provision. To prevent the courts to embarking on a wild goose chase, the legislators have defined what the word “support” used in the Act to mean, those acts of terrorism which include:-

- a. incitement to commit terrorist act;
- b. offer of material assistance, weapons, including biological, chemical or nuclear weapons, explosives training, transportation, force documentation or identification;
- c. offer or provision of moral assistance including invitation to adhere to a proscribed organization;
- d. the provision of, or the making available, such financial or other related as may be prescribed in the Act.<sup>42</sup>

With the above definition of the word “support” citizens of Nigeria, as well as, the judges, litigants and their legal representatives are not left to guess as to what acts or omissions should be regarded as acts supporting terrorism in the context of the Terrorism Act.<sup>43</sup>

The enactment has further made the harbouring of a suspected terrorist as a crime. To this effect, it provides that the harbouring, concealing or to cause to harbour or conceal any person whom one know to have committed or have being convicted of an act or acts of terrorism and against whom he knows that a warrant of arrest or imprisonment for such an act has

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<sup>42</sup> Ibid, section 3(1) Terrorism (Prevention) (Amendment) Act, 2013

<sup>43</sup> *ibid*

being issued against such a person for committing an offence under the Act.<sup>44</sup> This legislation prohibits the harbouring and concealing of suspected terrorist to a term of imprisonment of 10 years.<sup>45</sup>

The National Assembly in order to fore close all avenues or loop holes in which terrorist activities are committed in Nigeria, and the perpetrators do not go unpunished, the legislation has forbidden even the training of terrorist in the country. On this, the enactment provides that any person who knowingly agrees to provide training or give specialized instructions to suspected terrorist. The Act provides that, any person who, knowingly agree to provide training or instruction;

- a. in the making or use of any explosives or other lethal device or;
- b. in carrying out a terrorist act: to a member of a terrorist group or a person engage in, or preparing to engage in the commission of a terrorist act; commits an offence and a such a person upon conviction shall be rendered liable to 10 years imprisonment, maximally.<sup>46</sup>

The Act also forbids acts of persons who serve as go-between or informants to terrorists. By this, it provides that any person who has information, which he knows or believes to be of material assistance in:-

- a. preventing the commission by another person or an organisation, of an act of terrorism;
- b. securing the apprehension, prosecution or conviction of another person for an offence under the Act.<sup>47</sup>

Linked to the above, the enactment has rendered any disclosure or information made by any person who is likely to prejudice any investigation about terrorism or is likely to interfere with any material which is relevant to terrorist investigation as an offence.

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<sup>44</sup> See section 5 Terrorism (Prevention) (Amendment) Act, 2013

<sup>45</sup>Section 5- *ibid*

<sup>46</sup> See section 6(a)&(b) Terrorism (Prevention) (Amendment) Act, 2013

<sup>47</sup> Section 7(1)(a)&(b) Terrorism (Prevention) (Amendment) Act, 2013

By this principle, the legislators have maintained the already existing criminal law principle that renders punishable any person that obstructs the investigation of crimes by law enforcement agents<sup>48</sup>.

The Terrorism Act has provided certain defences to any accused person, that is charged for making certain disclosure to suspected terrorists. The Act permits the accused that is charged to plead that the information supplied by them was given unknowingly or that they had no reasonable cause to suspect that their disclosure was likely to affect a terrorist investigation.<sup>49</sup>

Under the legislation, the President of the Federal Republic of Nigeria is authorised to declare any person to be an internationally suspected terrorist. This power is to be exercised upon the recommendation of the National Security Advisor, Inspector General of Police, National Coordinator on Terrorist Activities, appointed by the President. The conditions permitting such declarations are enumerated by the Act. They include:- reasonable suspicions or being involved in the commission, preparation or instigation of acts of international terrorism; or where one is found to be a member or belongs to an international terrorist group or has link with such a group; or is listed as a person involved in terrorist acts by a resolution of the United Nations Security Council or any instrument of the African Union and Economic Community of West African States.<sup>50</sup>

The enactment further prohibits the collection or provision of funds directly or indirectly by any person with the intention or knowledge that such funds are to be used or applied, in full or in part, to commit any offence which is a breach of any provision of the Act specified in the schedule of the Act; or the doing of any act intended to cause death or serious bodily injury to a civilian or any other person, not taking part in active hostilities in a situation of

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<sup>48</sup> See Doherty O, *Criminal Procedure in Nigeria* (London: Blackstone press limited, 1990) p113-119

<sup>49</sup> See section 8(2)(a)&(b) Terrorism (Prevention) (Amendment) Act, 2013

<sup>50</sup> See section 9(1)(a)&(b) Terrorism (Prevention) (Amendment) Act, 2013

armed conflict, when the purpose of such act, and its nature and context is to intimidate a group of people or compel a government or an international body to do or abstain from doing any act.<sup>51</sup>

The Act also renders as an offence the taking of any person hostage by any person who knowingly, seizes, detain, or threaten to kill, injure or continue to detain any person in order to compel a third party to do or abstain from doing any act or gives an explicit or implicit condition for the release, of the hostage. Such offenders or terrorist are upon conviction to be punished for 10 years imprisonment.<sup>52</sup> The question that may be ask is: what is the rationale for this provision, when the existing Penal Code and Criminal Codes already in existence in the country have provisions on kidnapping and abduction and have provided penalties in respect of same<sup>53</sup>?

In the course of enforcing this enactment, the National Security Advisor or the Inspector General of Police with the approval of the President are authorized to seize any cash which is reasonably suspected to be cash intended to be used for the purpose of terrorism or belongs to, or is held on trust for, a proscribed organization; or represent property obtained through acts of terrorism.<sup>54</sup> This legislation has also prohibited the soliciting, receiving, the provision or possession of monetary or other property or; the entering into or becoming involved in any arrangement as a result of which money or other property is made available, for the purpose of terrorism or for a proscribed organization. The penalty for the above act or omission is 10 years imprisonment.<sup>55</sup>

To trap currency trafficking and other property by terrorist groups outside and inside Nigeria, the banks and other financial

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<sup>51</sup> See section 10 Terrorism (Prevention) (Amendment) Act, 2013

<sup>52</sup> See section 11(1)(a)&(b) Terrorism (Prevention) (Amendment) Act, 2013

<sup>53</sup> See section 271 and 272 Penal Code law of Northern Nigeria (cap 89) Laws of Northern Nigeria, 1963: section 361 and 364 Criminal Code Act (cap 28) Laws of the Federation of Nigeria, 2004

<sup>54</sup> See section 12(1) Terrorism (Prevention) (Amendment) Act, 2013

<sup>55</sup> See section 13(a)&(b) Terrorism (Prevention) (Amendment) Act, 2013

houses in the country are placed under an obligation to report suspicious transactions carried through them which they suspect to relate to terrorism in 72 hours, after having knowledge of same, and to forward their report to the Financial Intelligence Unit, which shall process such information and forward it to the relevant law enforcement agency.<sup>56</sup> By the above requirement, the Nigerian law-makers, have eliminated the duty of confidentiality between banks and other financial institutions and their customers on transactions that they suspect, relates to terrorism.<sup>57</sup>

Since acts of terrorism are discovered to transcend national boundaries, the Act has authorized the Federal Government to establish bilateral relationships with other nations and to seek their co-operation in investigation and prosecution of persons suspected to be involved in terrorism in Nigeria and where they have escaped from the country, seek for their extradition.<sup>58</sup>

The power to prosecute any person on acts of terrorism in Nigeria is vested by the Act on the Attorney General of the Federation or any Federal Agency that is charged by law with the responsibility of terrorist investigation and prosecution.<sup>59</sup> On the issue of jurisdiction, this legislation has conferred the jurisdiction to try any person who contravenes its provisions on the Federal High Court, which is solely required to try the offences provided in the enactment, as well as, impose penalty.<sup>60</sup>

### **The Socio-legal Findings on Boko Haram Terrorism in Northern Nigeria**

The trend of terrorist attacks in Nigeria up to the year 2015 indicates that about 17 states out of 36 in the Federation are affected by the terrorist hostilities in various forms. The increase, in these invasions and the feelings of terror they have engendered, have become worrisome taking into account the surprise nature of

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<sup>56</sup> See section 14(1)(a)(b)&(c) Terrorism (Prevention) (Amendment) Act, 2013

<sup>57</sup> See section 14(2) Terrorism (Prevention) (Amendment) Act, 2013

<sup>58</sup> See section 18 Terrorism (Prevention) (Amendment) Act, 2013

<sup>59</sup> See section 30(1) Terrorism (Prevention) (Amendment) Act, 2013

<sup>60</sup> See section 32 Terrorism (Prevention) (Amendment) Act, 2013

the attacks and the destruction they unleashed in the states involved, in terms of loss of lives and properties and the general feeling of insecurity they create, in the areas engulfed in the attacks.

The disturbing thing about the law on terrorism is that it is essentially repetitive in many respects and contains a lot of loop-holes. For instance, the enactment has only identified and punished certain acts or omission as acts of terrorism, without placing an express obligation on the state as to what it should do to persons or relation of victims of terrorist attacks like the current Boko Haram. In the review of the enactment, it is revealed that the Act has provided and authorise the Federal Government to seize and forfeit any money or property belonging to a terrorist group without an accompanying obligation by the Act to have the proceed of such money or property kept in and escrow account to be used to compensate victims of terrorist invasions and destruction or for the support of their surviving relations. The enactment ought to have equally directed that money frozen by the Federal Government which is reasonably suspected or believed or meant for the use of a terrorist group, upon seizure to be used in reconstruction of schools, colleges, police and army barracks that are destroyed in the course of these hostilities.

Another disturbing thing about the fight against terrorism in Nigeria is that, the law enforcement agents like the soldiers and the police men who are conferred with the legal and constitutional duty to defend the territorial integrity of Nigeria appear to have compromise in their duty in the course of defending the country and its people against terrorist hostilities, particularly, Boko Haram attacks in Northern Nigeria. Just like in some of the terrorist invasions of the Fulani's in the Benue valley, victims of such attacks have testified on how soldiers/policemen deployed to maintain peace in the arrears of invasions, have looked the other way or supervised the burning of Tiv villages such as Gawa in Kastina Local Government, Gbajimba in Guma Local Government and Anyiin in Logo Local Government Councils of Benue State. And in one of Governor Gabriel Suswam's official visit in Guma

Local Government, the governor was openly attacked by the Fulani invaders, while the soldiers sent to protect the Governor withdrew, that the mandate given to them to protect the governor, did not extend to part of the state the Governor wanted to tour, to ascertain the level of Fulani raid in Benue State.

The acts of terrorism have also posed serious threat to peace and security to the states involved and rendered volatile the spirit of national integration and cohesion envisaged by the constitution<sup>61</sup>. Some of the above issues identified may be classified as socio-legal problems of terrorist invasions in Nigeria, particularly the Boko Haram insurgency.

The terrorist attacks have resulted into the derogation of the fundamental rights of people who are victims of terrorism, particularly, those who have lost their lives and property in the course of the attacks. The rampant killing of citizens by guns or explosives in churches, mosques, schools and colleges, market squares, banks, police check points, army barracks and police stations is a complete derogation on the right to life and the maiming of some persons in the process constitute an infraction on the right to human dignity guaranteed by the constitution to every citizen of Nigeria.<sup>62</sup> The unlawful violence which have resulted in the destruction of homes, houses, goods and other valuables of the victims constitute and arbitration on the right to own and acquire moveable and immovable property, as well as the right to private and family life guaranteed by the constitution.<sup>63</sup>

The prevalence of terrorist hostilities of Boko Haram and others have constituted a serious obstruction on the citizen's right to move freely in Nigeria and to reside in any part of the country of their choice.<sup>64</sup> These attacks have made many citizens to free from

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<sup>61</sup> See section 15(2)(e) of the Constitution of the Federal Republic of Nigeria, 1999(as amended)

<sup>62</sup> See section 33 and 34 of the constitution of Federal Republic of Nigeria, 1999 (as amended)

<sup>63</sup> See section 43 and 44 of the constitution of the Federal Republic of Nigeria, 1999 (as amended)

<sup>64</sup> See section 41(1) constitution of the Federal Republic of Nigeria, 1999 (as amended)

certain places in Northern Nigeria that are affected by these incessant acts of terrorism. Others who have chosen to reside in the terrorist affected states are compelled to abandon their immovable properties like residential houses they have developed in these areas.

Citizens of Nigeria are also permitted by the constitution as a right to assemble peacefully and associate with one another for whatever purposes, such as political gatherings, economic activities, trade union or any other association for the promotion of their interest. The need to assemble may be for receiving and imparting education into the pupils by teachers, politics, commerce and trade union purpose, etc. Unfortunately, Boko Haram attacks has affected the freedom of association and assembly as it has invaded market places, churches, mosque and schools as events have shown in the evasion and adoption of 270 girls in a school in Chibok, Borno State. The kidnapping and abduction of pupils attending secular schools and the intimidation it has caused to parents has affected the number of enrolment of children in schools in affected states of Northern Nigeria. This has further affected the freedom of parents to send their children to the schools of their choice and the type of knowledge they want to be imparted in their wards.<sup>65</sup>

In the process of contending with the terrorist attacks, curfews are imposed in towns and cities in the states of terrorist invasions and in attempt of the securities operatives to dictate the terrorist, road blocks are mounted on some public high ways, which affect the free movement of the citizens for their normal business or pursuit their allocations in life across Nigeria.<sup>66</sup> By 2015, the hostilities of Boko Haram largely affected the exercise of the right of franchise by many citizens of Nigeria, resident in Borno and Yobe States, during the general election of 2015 that voted General Buhari to power in the country. The political hostilities engendered in some states such as, Rivers, Enugu and

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<sup>65</sup> See Bishop Okogie vs Attorney General of Lagos State (1981) 1NCLR, 218

<sup>66</sup> See section 35(1) and 41(1) of the constitution of the Federal Republic of Nigeria, 1999 (as amended)



Imo States made the Independent Electoral Commission to defer elections in these states in the 2015 general elections in the country.

Since the Boko Haram terrorist invasions have religious connotations to do away with the secular nature of Nigeria<sup>67</sup> and evolved a state based on the principles of the Koran. such demand of the terrorist is perceived as an outright violation of the secular nature of Nigeria provided in section 10 of the 1999 constitution. This demand becomes more disturbing when this terrorist behave as if the opinion of other citizens they wish to super-impose their will upon, do not matter or count. From the demand of these terrorists, it is evident that they are seeking for the over throw of the current constitution and its replacement with a new one that is founded on the principles of the Holy Koran. Here, a forceful attempt to overthrow the constitution that is believed to be enacted in the collective name of the people<sup>68</sup>, without any consensus, is a clear invitation to anarchy in Nigeria.

### **Solutions**

For the current wave of terrorism in Nigeria to be suppressed, the state should endeavour to identify those behind these attacks, if possible engage them into dialogue as President Musa Yar'adua had done with the militant youths in the Niger Delta region. By assembling the grievances of the various terrorist groups will enable the Federal Government to see if their demands can be met, through peaceful negotiations. Where they have refused to come forth, for negotiation, the protagonist, as well as, those arrested in the process of attack should be made to face the spirit and the letter of the Terrorism Act and other laws in Nigeria that frowns at hostilities. To effectively check acts of terrorism in the country, especially Boko Haram invasions, the security of those states under constant siege, should be increased and maintained, while the borders of Nigeria with her neighbouring countries like Cameroon, Chad and Niger should be placed under strict check or surveillance

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<sup>67</sup> See section 10 and 38 of the constitution of the Federal Republic of Nigeria, 1999 (as amended)

<sup>68</sup> See the preamble to the 1999 constitution.

in order to dictate the incursion of terrorists and the support they enjoy outside the country.

Nigeria should also maintain its current memorandum of understanding and bilateral agreement it has reached with her neighbouring countries in the fight against terrorism, and to seek the co-operation of such countries where need arise on the extradition of any terrorist in Nigeria that has escaped from the country to these countries. The security units of Nigeria should be repositioned and trained to live up to the current waves of attacks and strategy of invasion evolved by the terrorists and to develop appropriated techniques of dictating those who are members of these groups and where they are hiding. They should also be supplied with sophisticated arms that can effectively meet the challenge of the terrorist attackers. Members of the public who have useful information about the hiding places of terrorists should be motivated to volunteer such information in confidence to the security operatives and the identity of such volunteers should not be revealed.

### **Conclusion**

In conclusion, fighting of Boko Haram and other terrorist activities in Nigeria has become very difficult because, some of the members of the law enforcement agents are discovered to be sympathizers/apologists of the terrorist cause and often reveal security information about, the strategy of the state to combat these militant groups. Also the suppression of terrorism in Northern Nigeria appears to have being a difficult task due to the double standard adopted by the Federal Government by sometimes deploying security operatives and giving them inadequate armaments to confront the terrorists and also the refusal to give express order to the security operatives in certain areas of attacks, to deal decisively with the militants, has being a serious obstacle. Therefore, the law on terrorism exist in beautiful phrases on the pages of the statutes but cannot be used effectively to deal with the problem of terrorism, in the country, except the policy makers and

implementers in the country cease to sympathize and stop playing politics with terrorist invasions ravaging the country. Nigeria will continue to experience devastating acts of terrorism in different forms and different parts of the country for a long time.