

Reconceptualising the Role of Law in Countering Terrorism: A Case Study of Boko Haram in Nigeria

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Abstract

Over the years, Boko Haram has raised international headlines due to its terrorist activities which caused significant security threat to the peace and stability of Nigeria. This raises concern on the role of law in curbing the menace. Such role appears questionable due to the presence of stringent laws such as the Terrorism (Prevention) (Amendment) Act, 2013 enacted to punish and dissuade terrorism. Based on an exploratory case study of empirical research and scholarly peer-reviewed articles, it appeared apparent that, while there is need to strengthen the criminal justice system such as the courts in the dispensation of justice, however, trust and effective collaboration with the police is important. In addition, such collaboration should also take into consideration, issues of public trust on the police as this plays a crucial role in receiving intelligence and reporting violent extremism imperative for countering terrorism. Thus, the paper argued that, without addressing the efficiency of the court in dispensing justice alongside effective collaboration with relevant stakeholders, chances are that the purpose of the law to curb and deter terrorism might not be achieved. Hence the need for reconceptualising the role of law in countering terrorism in order to further improves its efficacy.

Keywords: Boko Haram, Counter-terrorism, Extremism, Law, Nigeria

1. Introduction

Terrorism is an ever evolving and highly complex phenomenon which forms a central theme of discussion globally. This is evident in the September 11 (9/11) terrorist attack on the World Trade Centre in the United States of America: an incident which shaped the way terrorism is being construed by government, security experts and academics globally. The incident led to the promulgation of stringent anti-terrorism laws in both the United States and globally aimed at countering terrorist finance among others². While this reaction seems spurred by the 9/11 attack, however, it appears evident that no country is immune to terrorism. This is made apparent with the ongoing Boko Haram terrorism in Nigeria.

Although extensive research have been carried out on Boko Haram terrorism in Nigeria, emphasis have focused on the causes attributed to deficits in socio-economic issues, governance and religion³. While acknowledging the role of these factors as contributing factors to terrorism, the objective of this paper departs from these underlying approaches and undertakes a critical inquiry into the role of law in combatting terrorism.

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²Walker, C., King, C. & Gurule J. (2018). Criminal and terrorism financing law: An introduction. In King, C., Walker, C., & Gurule, J (Eds.), *The Palgrave Handbook of Criminal and Terrorism Financing Law* (pp. 3-12). Palgrave Macmillan, Cham.

³Ajala, O. (2018). Formation of Insurgent Groups: MEND and Boko Haram in Nigeria. *Small Wars & Insurgencies*, 29(1), 112-130; Bagaji, A. S. Y., Etila, M. S., & Ogbadu, E. E. (2012). Boko Haram and the Recurring Bomb Attacks in Nigeria: Attempt to Impose Religious Ideology through Terrorism. *Cross-Cultural Communication*, 8(1), 33; Agbiboa, D. E. (2013). The Nigerian burden: religious identity, conflict and the current terrorism of Boko Haram. *Conflict, Security & Development*, 13(1), 1-29; Anyadike, N. O., & Nkechi, O. (2013). Boko Haram and national security challenges in Nigeria; causes and solutions. *Journal of Economics and Sustainable Development*, 4(5), 12-23 (identified poverty as a cause of Boko Haram).

In addition to this objective, the paper further explores factors impeding the efficacy of stringent anti-terrorism laws in curbing and deterring terrorism. As a result, it was found that factors such as trust and collaboration with requisite stakeholders' plays a role in the efficacy of the law alongside speedy dispensation of justice. On this premise, the paper argued that, there is need to rethink the role of law in combating terrorism within the context of Nigeria. Drawing from findings emanating from the study, the paper proffer recommendations on approaches that could be adopted to improve the efficacy of law in countering terrorism in Nigeria. Thus, in undertaking this study, it is imperative to provide an overview of Boko Haram.

2. Background of Boko Haram

Boko Haram whose official name is 'Jama'atu Ahlis Sunna Lidda'awati Wal-Jihad which literally means the 'Association for propagating the Prophets' teaching and Jihad'⁴ has become one of the most dangerous terrorist groups in the world which evokes insecurity and fear. Allegedly formed by Muhammad Yusuf, the group have carved a niche for itself in Nigeria as the most vicious and violent religious group ever witnessed by the country. Ideologically, Boko Haram is geared at imposing strict sharia law across Nigeria and abolishing western education. This fact is further compounded with the literal meaning of Boko Haram which comprised of the combination of Hausa word 'Boko' meaning book and 'Haram' an Arabic word translated to mean forbidden⁵. Collectively, both words suggest that 'western education is forbidden'⁶. While this appears to represent the widely held perception of Boko Haram, it seems however that, clarification on the extent to which western education is rejected has been made by the group. An instance is from the deceased leader of the group who stated that, while western education is not totally forbidden, if it contravenes with the provision of the Holy Quran, such western beliefs will be rejected⁷. On a similar vein, according to Onuoha, a leader of the group has proffered the view that Boko Haram does not necessarily oppose western education but rather affirms their belief in the supremacy of Islamic culture over education⁸. The rationale being that culture has a wider connotation which includes education and as such not determine by education⁹. However, these views appear inconsistent with the operational tactics adopted by Boko Haram.

In terms of mode of operation, Boko Haram has engaged in diverse attacks following the death of its leader Muhammad Yusuf in 2009. Although prior to his death, the group has engaged in altercation with the security representatives such as the police, however, the death of its leader marks the dynamic transformation of Boko Haram into a full fledge terrorist group. Examples of the group's attack include the use of suicide bombing: a practice alien to Nigeria. Other attacks comprise of the kidnap of 276 Chibok girls in 2014¹⁰, bombing of the Nigerian Force Headquarters in the same year and the kidnap of over 100 Dapchi school girls in 2018¹¹. The group consistent target of schools appears to be at variance with the perceived narratives proffer by its leaders and mirrors the generally held notion as portrayed in the literal meaning of its name Boko Haram meaning western education is forbidden. In essence, these views coupled with the group's operational tactics necessitated the need to explore arguments on the factors that triggered Boko Haram's emergence. Most studies on Boko Haram have focused on Nigerian political platform, socio-economic decline, religion and poor governance as some of the reasons attributed to the group's emergence.

⁴Egbeji, F.R., Ajah, B.O. and Ogbonnaya, C. (2018). Combatting Boko Haram insurgency through a superior ideology: the role of the federal government. *European Journal of Political Science Studies*, 1(2), 13-23.

⁵ Okemi, M.E. (2013). Boko Haram: a religious sect or terrorist organization, *Global Journal of Politics and Law*, 1(1), 1-9.

⁶ Agbibo, D.E. (2013). Why Boko Haram exists: the relative deprivation perspective. *African Conflict and Peacebuilding Review*, 3(1), 144-257.

⁷ Agbibo E. D. (2015). The Socio-economic dynamics of the Nigerian taliban: fresh insights from the social identity theory. *Social Dynamics*, 41(3), 415-437.

⁸ Onuoha, F. C. (2012). Boko Haram: Nigeria's Extremist Islamic Sect. *Al Jazeera Centre for Studies*, 29(2), 1-6.

⁹ Onouha' Boko Haram ibid.

¹⁰ Foyou, V.E., Ngwafu, P., Santoyo, M. & Ortiz, A. (2018). The Boko Haram insurgency and its impact on Border Security, Trade and Economic Collaboration between Nigeria and Cameroon: an exploratory study. *African Social Science Review*, 9(1), 7.

¹¹ Onuoha, F. C. & Oyewole, S. (2018). Anatomy of Boko Haram: the rise and decline of a violent group in Nigeria. *Al Jazeera Centre for Studies*, 1-10.

On this premise, some scholars have argued that the weak economy evident in underdevelopment, illiteracy and poverty does appear to serve as breeding ground which made the group feasible¹². Comolli insists on the impact of these economic declines in her research which demonstrates an alarming difference of 75% to 27% poverty rate between the northern region of Nigeria and its southern counterpart¹³. In essence, several studies have put forth the argument that the exploitation of resources meant for the masses by few persons resulted in Boko Haram's insurgency. The rationale for this argument is not far off given the alleged economic marginalization inherent in the north when compared to the south. In contrast, other studies have demonstrated findings which suggest no relationship between socio-economic resources and the emergence of insurgency¹⁴. In fact, these studies argued that, even when socio-economic factors play a role such role is significant to low-level types of conflicts and not violent insurgencies.

As far as the causes of Boko Haram is concern, other scholars have also presented an alternative argument which suggests the significant role political conditions play in the onset of an insurgency. Fearson and Laitin¹⁵ while adopting a state-centered theory argued that, political instability could serve as a breeding ground to terrorism. In contrast to this view, other scholars have debunked this argument on the ground that it failed to show sufficiently, the role played by politically elites in nurturing this instability especially in democratic society where the insurgency is not of significant value¹⁶. In spite of these findings of the causes of terrorism, little emphasis appears to be accorded the role of law in combatting terrorism in Nigeria.

As demonstrated in the literature, although extensive research has been carried out on Boko Haram, the fact remain that emphasis is accorded the causes hence this study which specifically address why stringent law yet terrorism in Nigeria is on the increase and appears undeterred. Thus far, the section has provided a summary of the literature relating to the emergence and causes of Boko Haram, the next section moves on to provide a brief overview of Nigeria Counterterrorism approaches. This is followed by a section which considers the role of law in combating Boko Haram: an issue which is the main theme of this paper.

3. Nigerian Counterterrorism Measures

Since the advent of Boko Haram and its transformation into a full-fledged terrorist group, diverse measures have been adopted to counter the terrorist threats. These ranges from the use of hard approach such as the military to the adoption of soft approach which comprised of the Criminal Justice System (CJS). However, more emphasis appears to be accorded the use of the military to combat the Boko Haram than the later approach. This takes the form of combined forces that includes military troops, civilian vigilante and the police force which forms a component of the CJS. The use of this measure has been argued as overly aggressive and as such, exploited by the terrorist group to support its recruitment¹⁷. A study commissioned in 2016 by Finn Church Aid, Religious and Traditional Peacemakers and the International Dialogue Centre suggest that, approximately 60% of previous members (fighters) of Boko Haram specifically emphasised on revenge against the Nigerian military as a major factor which influences their decision to join Boko Haram¹⁸.

¹²Adesoji, A. O. (2011) Between Maitatsine and Boko Haram: Islamic fundamentalism and the response of the Nigerian state. *Africa Today*, 57(4), 98-119; Anyadike, N. O. (2013). Boko Haram and the national security challenges in Nigeria: Causes and Solution. *Journal of Economic and Sustainable Development*, 4(5), 12- 23.

¹³ Comolli, V. (2011). *Boko Haram: Nigeria's Islamist insurgency*. London: Hurst.

¹⁴ Regan P. M. & Norton, D. (2005). Greed, grievance, and mobilization in civil wars. *Journal of Conflict Resolution* 49(3), 319–36; Hegre, H. & Sambanis, N. (2006). Sensitivity analysis of empirical results on civil war onset. *Journal of Conflict Resolution* 50(4), 508–35.

¹⁵ Fearson, J. D. & Laitin, D. D. (2003). Ethnicity, Insurgency, and Civil War. *American Political Science Review*, 97 (1), 75.

¹⁶ Iyekekpolo, W. O. (2018). Political Elites and the Rise of the Boko Haram Insurgency in Nigeria. *Terrorism and Political Violence*, 1-19.

¹⁷Dyrenforth, T. (2018). Countering violent extremism in Nigeria and Uganda. *International Affairs*, 25, 24-49.

¹⁸ Botha, A. & Abdile, M. (2016). Getting behind the profiles of Boko Haram members and factors contributing to radicalisation versus working towards peace. Commissioned by the Network for Religious and Traditional Peacemakers, The International Dialogue Centre (KAICIID) and Finn Church Aid. Accessed, May 26, 2018: https://frantic.s3-eu-west-1.amazonaws.com/kua-peacemakers/2016/10/Boko_Haram_Study_Botha_Abdile_SUMMARY_disclaimer_included_2016.pdf

It has further been argued by Amnesty International that, the brutal human rights abuses such as torture, unlawful arrest and detention allegedly perpetrated by the Nigerian security forces could constitute crimes against humanity and war crime¹⁹.

In addition to military use, the Nigeria government have also explored negotiation and amnesty as a possible solution to curbing the menace of Boko Haram. This so far appears to have yielded some positive result as seen in the released of 103 captured Chibok girls and the 104 Dapchi school girls in recent time²⁰. Having provided a brief overview of the measures adopted by the Nigeria government, the paper specifically focus on law an aspect of the CJS.

4. Nigerian Counterterrorism Laws and Criminal Justice System

So far, Nigeria response to countering terrorism have revolved around the use of the hard and soft approach. The latter is of utmost importance to this paper as it focused on the law and criminal justice agencies such as the police and judiciary.

Prior to the emergence of Boko Haram, laws countering terrorism was alien to Nigeria. However, following the draconian attacks perpetrated by the group since 2009, this spurred the need for the country to enact its first counterterrorism legislation entitled the ‘Terrorism Prevention Act of 2011. This Act was signed into law by the then president of Nigeria Goodluck Jonathan on the 3rd of June, 2011. The legislation was subsequently amended in 2013 and renamed as the Terrorism (Prevention) (Amendment) Act, 2013. The primary aim of this legislation is to criminalize and dissuade terrorism in Nigeria. An excerpt from the Act’s explanatory memorandum aptly capture this thus: This Act [which has been amended by the [Terrorism Prevention\) \(Amendment\) Act, 2013](#)] provides for measures for the prevention, prohibition and combating of acts of terrorism, the financing of terrorism in Nigeria and for the effective implementation of the Convention on the Prevention and Combating of Terrorism and the Convention on the Suppression of the Financing of Terrorism. It also prescribes penalties for violating any of its provisions (Terrorism (Prevention) (Amendment) Act, 2013).

Based on the excerpt, it could be deduced that, the Act not only address the prevention and prohibition of terrorism but also provides for the possible implementation of international conventions which specifically deals with terrorist prevention and financing. An interesting ambit of the Act is the penalty imposed for persons found guilty by a court of competent jurisdiction for engaging in acts of terrorism. The penalties range from imprisonment to forfeiture of any property funds or assets accrued by the convicted person in the course of the terrorist activities. In essence, it appears arguable that, the law essentially contains the key requirements of what law entails as it is made by the requisite law-making authority in Nigeria which is the National Assembly and proffers sanctions in the advent of its violation.

In addition, it could also be argued that, despite the fact that such penalties contained in the Act could extend to life imprisonment depending on the gravity of the crime, it appears Boko Haram is still not deterred by the sanction. This is made apparent in their recent kidnap of over a 100 Dapchi school girls though the girls were eventually recovered few weeks later through negotiation. A report by the USA Bureau of Counterterrorism published in 2017 suggests that, as at 2016, the criminal justice institutions of Nigeria were not strengthened though countries such as the United Kingdom have continued to work alongside the Nigeria Ministry of Justice to assist on how to grant priority to investigate and prosecute suspected cases of terrorism²¹. The findings of this report appear relevant due to the fact that for the effective implementation of the law, there is the need for the Judiciary to work in synergy with the Nigerian Police as both forms part of the criminal justice system. Such relationship is relevant especially in areas of investigation and intelligence which forms the remit of the police responsibility. In essence, without trust for the system by the relevant stakeholders (e.g. the public) chances are that exposing and bringing suspected Boko Haram terrorist within the purview of the law will be limited as evidenced in a plethora of empirical research examined below.

¹⁹ Amnesty International (2015). Stars on the shoulder, blood on their hands: War crimes committed by the Nigeria Military. Accessed, May 26, 2018: <https://www.amnesty.org.uk/files/webfm/Documents/issues/afr4416572015english.pdf>.

²⁰ Onuoha, F. C., & Oyewole, S. (2018). *Anatomy of Boko Haram. AljazeeraCentre for Studies report*, 1- 10.

²¹ Bureau of Counterterrorism (2017) *Country Report on Terrorism 2016*. United States Department of States publication. Available at <https://www.state.gov/documents/organization/272488.pdf>

A recent study conducted by Elntib, Nass, Ioannou, Ryan and Christiansen in 2018 sought to investigate the perception of approximately 200 Nigerians on their willingness to assist and cooperate with the country's police force in addressing the Boko Haram insurgency²². To analyse the results, the study adopted structural equation modelling and an explanatory factor analysis. The result emanating from the analysis suggests a strong correlation between the effectiveness of the police and willingness on the part of the public to report suspected activities of Boko Haram to the police. In addition, the study also notes that respondents from the northern part of Nigeria where Boko Haram activities is frequently committed are less willing to report. Several numbers of factors could be attributed to the findings. An example according to Ayodele and Aderinto²³ is fear which has been argued to constitute one of the reasons why females are less likely to report as they can easily succumb to this factor. In addition, while the research suggests issues of effectiveness as a key determinant of public perception of assisting the police in countering the terrorist threat, it is arguable that such effectiveness is attributed to the limited or low level of trust accorded the police force.

On a similar vein, similar findings was reached in another study conducted by Shoyode in 2018²⁴[18]. The study sought to investigate public trust on the police force in Nigeria. To achieve this, a descriptive statistics and multiple regression analysis of Afrobarometer data on the quality of governance and democracy in Nigeria was adopted. In sum, the study found that approaching the police for assistance, reporting crime, being a witness and providing volunteer information to help solve crime pose a problematic issue. The study further suggests that, this affects the trust accorded the police and is more apparent from those with low socio-economic status in the country. In essence, it appears apparent that there is need to build public trust whilst strengthening collaboration in the criminal justice system.

5. Conclusions

The paper has sought to address the issue on the role of law in countering Boko Haram terrorism in Nigeria. Relying on an exploratory review, very little was found in the literature addressing this issue as emphasis appears to be accorded the root causes of terrorism and Nigeria counterterrorism measures such as the use of military. However, to boost the efficacy of the law in combatting and reducing terrorism, it was argued that there is need for both the Judiciary and the police to work collaboratively in ensuring suspected terrorist cases are brought before the court and prosecuted. The paper further admits that, this cannot be achieved without including relevant stakeholders such as the public whose trust for the police force appear questionable as demonstrated in empirical research reviewed. Hence, building and strengthening public trust is essential in order to ensure cooperation in effective intelligence gathering aimed at reporting suspect terrorist activities in the country to the police for subsequent prosecution.

Despite its exploratory nature, the paper offers some insight into the role of law in countering terrorism alongside other measures in Nigeria. In essence, given the fact that less emphasis is placed on this area, further empirical research is needed to address the efficacy or otherwise of the impact of possible synergies between the judiciary and police force in reducing and deterring terrorism.

References

- Adesoji, A. O. (2011) Between Maitatsine and Boko Haram: Islamic fundamentalism and the response of the Nigerian state. *Africa Today*, 57(4), 98-119.
- Agbibo E. D. (2015). The Socio-economic dynamics of the Nigerian taliban: fresh insights from the social identity theory. *Social Dynamics*, 41(3), 415-437.
- Agbibo, D. E. (2013). The Nigerian burden: religious identity, conflict and the current terrorism of Boko Haram. *Conflict, Security & Development*, 13(1), 1-29.

²² Elntib, S. et al (2018). Is the public willing to help the Nigerian police during the Boko Haram crisis? A look at moderating factor. *Journal of Police and Criminal Psychology*, 33(1), 55-62.

²³ Ayodele, O. J. & Aderinto, A. A. (2014). Public confidence in the police and crime reporting practices of victims in Lagos, Nigeria: A mixed methods study. *International Journal of Criminal Justice Sciences*, 9, 46- 63.

²⁴ Shoyode, A. (2018). Public trust in Nigerian police: A test of police accessibility effects. *Journal of Social Science Studies*, 5(22), 1-16.

- Agbibo, D.E. (2013). Why Boko Haram exists: the relative deprivation perspective. *African Conflict and Peacebuilding Review*, 3(1), 144-257.
- Ajala, O. (2018). Formation of Insurgent Groups: MEND and Boko Haram in Nigeria. *Small Wars & Insurgencies*, 29(1), 112-130.
- Amnesty International (2015). Stars on the shoulder, blood on their hands: War crimes committed by the Nigeria Military. Accessed, May 26, 2018: <https://www.amnesty.org.uk/files/webfm/Documents/issues/afr4416572015english.pdf>.
- Anyadike, N. O. (2013). Boko Haram and the national security challenges in Nigeria: Causes and Solution. *Journal of Economic and Sustainable Development*, 4(5), 12- 23.
- Anyadike, N. O., & Nkechi, O. (2013). Boko Haram and national security challenges in Nigeria; causes and solutions. *Journal of Economics and Sustainable Development*, 4(5), 12-23.
- Ayodele, O. J. & Aderinto, A. A. (2014). Public confidence in the police and crime reporting practices of victims in Lagos, Nigeria: A mixed methods study. *International Journal of Criminal Justice Sciences*, 9, 46- 63.
- Bagaji, A. S. Y., Etila, M. S., & Ogbadu, E. E. (2012). Boko Haram and the Recurring Bomb Attacks in Nigeria: Attempt to Impose Religious Ideology through Terrorism. *Cross-Cultural Communication*, 8(1), 33.
- Botha, A. & Abdile, M. (2016). Getting behind the profiles of Boko Haram members and factors contributing to radicalisation versus working towards peace. Commissioned by the Network for Religious and Traditional Peacemakers, The International Dialogue Centre (KAICIID) and Finn Church Aid. Accessed, May 26, 2018: https://frantic.s3euwest1.amazonaws.com/kuapeacemakers/2016/10/Boko_Haram_Study_Botha_Abdile_SUMMARY_disclaimer_included_2016.pdf
- Bureau of Counterterrorism (2017) *Country Report on Terrorism 2016*. United States Department of States publication. Available at <https://www.state.gov/documents/organization/272488.pdf>
- Comolli, V. (2011). *Boko Haram: Nigeria's Islamist insurgency*. London: Hurst.
- Dyrenforth, T. (2018). Countering violent extremism in Nigeria and Uganda. *International Affairs*, 25, 24-49.
- Egbeji, F.R., Ajah, B.O. and Ogbonnaya, C. (2018). Combatting Boko Haram insurgency through a superior ideology: the role of the federal government. *European Journal of Political Science Studies*, 1(2), 13-23.
- Elnitib, S. et al (2018). Is the public willing to help the Nigerian police during the Boko Haram crisis? A look at moderating factor. *Journal of Police and Criminal Psychology*, 33(1), 55-62.
- Fearson, J. D. & Laitin, D. D. (2003). Ethnicity, Insurgency, and Civil War. *American Political Science Review*, 97 (1), 75.
- Foyou, V.E., Ngwafu, P., Santoyo, M. & Ortiz, A. (2018). The Boko Haram insurgency and its impact on Border Security, Trade and Economic Collaboration between Nigeria and Cameroon: an exploratory study. *African Social Science Review*, 9(1), 7.
- Hegre, H. & Sambanis, N. (2006). Sensitivity analysis of empirical results on civil war onset. *Journal of Conflict Resolution* 50(4), 508–35.
- Iyekekpolo, W. O. (2018). Political Elites and the Rise of the Boko Haram Insurgency in Nigeria. *Terrorism and Political Violence*, 1-19.
- Okemi, M.E. (2013). Boko Haram: a religious sect or terrorist organization, *Global Journal of Politics and Law*, 1(1), 1-9.
- Onuoha, F. C. & Oyewole, S. (2018). Anatomy of Boko Haram: the rise and decline of a violent group in Nigeria. *Al Jazeera Centre for Studies*, 1-10.
- Onuoha, F. C. (2012). Boko Haram: Nigeria's Extremist Islamic Sect. *Al Jazeera Centre for Studies*, 29(2), 1-6.
- Onuoha, F. C., & Oyewole, S. (2018). *Anatomy of Boko Haram. AljazeeraCentre for Studies report*, 1- 10.
- Regan P. M. & Norton, D. (2005). Greed, grievance, and mobilization in civil wars. *Journal of Conflict Resolution* 49(3), 319–36.
- Shoyode, A. (2018). Public trust in Nigerian police: A test of police accessibility effects. *Journal of Social Science Studies*, 5(22), 1- 16.
- Walker, C., King, C. & Gurule J. (2018) Criminal and terrorism financing law: An introduction. In King, C., Walker, C., & Gurule, J (Eds.), *The Palgrave Handbook of Criminal and Terrorism Financing Law* (pp. 3-12). Palgrave Macmillan, Cham.