

## TERRORISM AS A MONSTER TO THE RIGHT TO LIFE: BEYOND LEGISLATION ALONE.

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### Abstract

*Municipal laws of countries of the world uphold right to life and prohibit arbitrary killing which is also prohibited by all international and regional human rights instruments. However, the unfortunate monster of terrorism, which is currently ravaging the world, has turned many human societies of the world to slaughtering grounds where human lives are terminated with reckless abandon almost on a daily basis. Though, there are laws enacted to curb this heinous act, yet it has proved unabated. This paper focuses on domestic terrorism, as opposed to transnational terrorism, and interrogates some human created societal problems/factors responsible for its emergence such as unequal access to economic and social benefits, wide social inequality, lose of faith in judiciary, lack of education, poverty, bad leadership among others. It concludes that States` reliance on legislations and battle of arms may prove to be effective in tackling terrorism in the short run, it will not completely*

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*subdue it. It is finding solution to the above named societal problems that will kill the monster of terrorism in the long run.*

**Keywords:** Domestic terrorism, freedom, justice, inequality, liberation the right to life.

## 1. Introduction

Human rights are rights that are reserved for human beings by virtue of being human beings and they are enjoyed through the standard of human behaviour to one another as regulated and controlled by international and municipal laws. It is safe to state that the right to life is the most important of all these human rights because man needs to remain alive before any right can be useful to him.<sup>1</sup>

Article 3 of the Universal Declaration on Human Rights<sup>2</sup> emphasises the importance of the right to life, hence the need for liberty and security of man in order to ensure that his right to life is not under threat. It is the same with article 6 of the International Covenant on Civil and Political Rights<sup>3</sup> which declares the right to

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<sup>1</sup> For instance, General Comment No. 3 on the African Charter on Human and Peoples' Rights: The Right to Life (Article 4) Adopted during the 57th Ordinary Session of the African Commission on Human and Peoples' Rights held from 4 to 18 November 2015 in Banjul, The Gambia, p. 9 describes "the right to life" as the foundation of all human rights.

<sup>2</sup> The Declaration was proclaimed by the United Nations General Assembly in Paris on 10 December 1948 (General Assembly resolution 217 A) as a common standard of achievements for all peoples and all nations. It sets out, for the first time, fundamental human rights to be universally protected.

<sup>3</sup> Adopted and opened for signature, ratification and accession by General Assembly resolution 2200A (XXI) of 16 December 1966. It entered into force on 23 of March, 1976.

life as the inherent entitlement of every human being which shall be protected by law and which shall not be arbitrarily denied.<sup>4</sup>

Equally, article 4 of the African Charter on Human and Peoples' Rights<sup>5</sup> provides for inviolability of human life and human entitlement to respect for his life. It goes further to prohibit unauthorised killing.<sup>6</sup> All these provisions emphasise and support the biblical injunction which forbids shedding of human blood,<sup>7</sup> and they constitute part of the customary international law and are accepted to be binding in all nations of the world at all times.<sup>8</sup> Constitutions and other statutes of countries also support the right not to be arbitrarily killed.<sup>9</sup> For this reason, most municipal legal systems criminalise murder and any form of unauthorised killing.

In Nigeria,<sup>10</sup> arbitrary killing is prohibited with the constitutional declaration that "every person has a right to life and no one shall be intentionally deprived of his life." The Nigeria's Criminal Code Act also declares as unlawful any killing not authorised, justified or

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<sup>4</sup> Article 6 of the International Covenant for Civil and Political Right.

<sup>5</sup> It was adopted in Nairobi on 27 of June, 1981 and entered into force on 21 of October, 1986. It is an international human rights instrument that is intended to promote and protect human rights and basic freedoms in the African continent.

<sup>6</sup> Article 4.

<sup>7</sup> Thou shall not kill: Exodus, 21:13.

<sup>8</sup> A preamble of the Universal Declaration for Human Rights states as follows: "...now, therefore the general assembly proclaims this universal declaration of human rights as a common standard of achievement for all peoples and all nations..."

<sup>9</sup> For example, section 33(1) of the Constitution of the Federal Republic of Nigeria, 1999 (as amended)

<sup>10</sup> Section 33 (1), *Ibid.*

excused by law.<sup>11</sup> Any person who commits the offence of murder is to be sentenced to death.<sup>12</sup>

In the Republic of Ghana, arbitrary killing is forbidden with the declaration that “no person shall be deprived of his life intentionally.”<sup>13</sup> It is likewise unequivocally maintained by the Constitution of the Republic of South Africa that everyone has the right to his life.<sup>14</sup>

Protecting lives of citizen’s ranks first among the duties and responsibilities of a government. This is why in Nigeria, security and welfare of the people is the primary purpose of government.<sup>15</sup> The task of protecting lives places on the shoulders of the government the responsibility to prevent termination of life of individuals and peoples in a country either by State or non-State agents. To achieve this, government has the duty to adequately equip law enforcement agencies to ensure that law and order are maintained under the right atmosphere necessary for protection of human lives. There is also the duty to ensure that the country’s military is made strong enough to combat internal conflicts and ward off external aggressions. Where unauthorised death occurs, the State has the responsibility to investigate it transparently, thoroughly, impartially to ascertain the cause and where any individual or persons are found to be responsible for it in any way whatsoever, the State must hold such perpetrator accountable.

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<sup>11</sup> Section 306, Criminal Code Act, Cap C38, Laws of Federation of Nigeria, 2004.

<sup>12</sup> Section 319(1), *Ibid.*

<sup>13</sup> Section 13 (1), Constitution of the Republic of Ghana.

<sup>14</sup> Section 11, Constitution of the Republic of South Africa.

<sup>15</sup> Section 14 (2) (b), *Ibid.*, no. 9.

## **2. Terrorism**

It is saddening that the world all over is, currently, faced with horrendous acts of terrorism; and this has significantly constituted a threat to the enjoyment of the right to life - The evils that nature will not do to us are done by our fellow men! Although, terrorism is a very difficult word to define, because “one man`s terrorism is another man`s fight for liberation,”<sup>16</sup> there is, however, no doubt, that the use of intentional and indiscriminate violence as a means to create terror or fear or in order to achieve a political, religious or ideological aim, is generally regarded as a deplorable and condemnable social menace.

It is an act of deliberate use of violence or threat of violence to pursue political change.<sup>17</sup> It is also a form of violence inspiring activities employed either by clandestine individuals, group or state machineries for creation of fear, despair and anxiety for self serving criminal or political reasons in which, most times, the recipients of such violent activities are not the main targets because the immediate human victims of such violence are usually chosen randomly or selectively from a target population and serve to send a message and to arm twist the main target into submission.<sup>18</sup>

Understanding how terrorism evolves in a particular setting and at a given period of time will go a long way in knowing how to fight and subdue it. This work, therefore, looks at terrorism from socio-economic angle.

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<sup>16</sup> L. Weinberg, *Global Terrorism: A Beginner`s Guide*, (England, Oneworld Publication), 2005, p. 2.

<sup>17</sup> B. Hoffman, *Inside Terrorism*, (London, Victor Gollancz, 1999), p. 43.

<sup>18</sup> A. Schmid and P. Jongman, *Political Terrorism*,(New Jersey, New Brunswick), 1988, p. 28.

Many factors lead to evolution of terrorism – either transnational or domestic terrorism; and different reasons are also behind the joining and supporting either of them by individuals or groups. These factors and reasons vary over time and from region to region. This may include feelings of social alienation or rejection, deprivation from economic, social and other societal benefits, ignorance, faulty legal or political system, bad leadership and, most importantly, poverty.

Some researchers<sup>19</sup> find it difficult to see a direct link between terrorism and the above named societal factors. They rather consider factors such as political power play, political instability, religious beliefs and extremism of ideas, personal beliefs, values, and struggle for control of resources as important causes of terrorism.

For instance, Krueger, Alan B. and Laitin,<sup>20</sup> find no evidence suggesting poverty may generate terrorism. Their work suggests that among countries with similar levels of civil liberties, poor countries do not generate more terrorism than rich countries. Rather, richer countries seem to be preferred targets for transnational terrorist attacks.<sup>21</sup>

Some other researchers, however, disagree with the above line of thought and opine that it is difficult to discuss terrorism without sparing a thought for social and economic deprivation and uneven wealth distribution in societies of the world, especially in Africa,

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<sup>19</sup> A. Abadie, “Poverty, Political Freedom, and the Roots of Terrorism”, 4 September, 2005, *American Economic Review*, <<https://www.nber.org/papers/w10859>> accessed 15 of July, 2020.

<sup>20</sup> B. Krueger Alan and D. Laitin David, Faulty Terror Report Card, Washington DC, *The Washington Post*, 2004, p. 21.

<sup>21</sup> *Ibid*, p. 21.

and that many of these terrorist organisations are products of economic hardship and societal inequality.

This position is consistent with the results of most of the literature on the economics of conflicts which show that economic factor constitutes powerful determiner of civil wars. For example, the results in Alberto Alesina<sup>22</sup> suggest that poor economic conditions increase the possibility of political unrests. If citizens of a country are denied the means to satisfy their basic human needs; if they are deprived of access to reasonable economic opportunities or are faced with glaring reality of socioeconomic inequality, and experience total lack, especially, in the midst of inherent plenty, as it is the case in Nigeria and some other African countries, they will become hopeless and enraged and may view political violence as an acceptable means for redressing their grievances.

Further to the above, former Ethiopian president, Girma Wolde-Giorgis, commented, in 2005, at an international summit in Madrid, that “poverty, injustice, instability and absence of democratic governance are the primary causes of terrorism.”<sup>23</sup> Poverty creates marginalized people who serve as fertile ground for terrorists. It is the same with former Mauritanian president, Maaouiya Ould Sid' Ahmed Taya, who also noted<sup>24</sup> that the cause of terrorism is most

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<sup>22</sup> A. Alesina, Income distribution, political instability, and investment, *European Economic Review*, volume 40, issue 6, Elsevier, June, 1996, p. 1203-1228.

<sup>23</sup> D. Shinn, Poverty and Terrorism in Africa: The Debate Continues, *Georgetown Journal of International Affairs*, (Georgetown University Press), 2018, p. 7.

<sup>24</sup> At an international summit in Madrid, Spain.

of all, the frustration brought about in men by poverty and ignorance.<sup>25</sup>

E.W. Udoh,<sup>26</sup> on his own, is of the view that insecurity and terrorism, especially in Nigeria, are caused by porous borders, illegal arms importation, proliferation of illegal arms, ethnicity, emergence of ethnic militia groups, corruption, marginalization, poor leadership, religious fanaticism/extremism, and unemployment.

In the same vein, Olawale<sup>27</sup> pinpoints unemployment, imbalanced development, corruption, weak judicial system, and porous coastal borders as causes of insecurity in Nigeria.

S. Nadabo<sup>28</sup> sees bad leadership, corruption, and illiteracy among other factors breeding insecurity in Nigeria while G. Odidi<sup>29</sup> points to politics of bitterness in which ascendance to political power is seen as a do-or-die business as a factor which leads to political thuggery, insecurity and domestic terrorism.

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<sup>25</sup> *Ibid*, no. 26.

<sup>26</sup> E.W. Udoh, "Insecurity in Nigeria: Political, religious and cultural implications", *Journal of Philosophy, Culture and Religion*, <[http://www.academia.edu/7554217/insecurity\\_in\\_Nigeria:\\_Political\\_religious\\_and\\_cultural\\_implications,2015,>](http://www.academia.edu/7554217/insecurity_in_Nigeria:_Political_religious_and_cultural_implications,2015,>) accessed 5 August, 2020, p. 1-5.

<sup>27</sup> A. Olawale, "Top 5 causes of insecurity in Nigeria", <<http://nigerianfinder.com/top-5-causes-of-insecurity-in-nigeria/>>, 2016, accessed 5 August, 2020.

<sup>28</sup> S. Nadabo, "Insecurity in Nigeria: Causes and resolutions", <[>](http://www.nigeriavillagesquare.com/articles/insecurity-in-nigeria-causes-and-resolutions.html), 2013, accessed 5 August, 2020.

<sup>29</sup> G. Odidi, "Opinion: The problems, challenges and solutions to insecurity in Nigeria" <<http://thewillnigeria.com/news/opinion-the-problems-challenges-and-solutions-to-insecurity-in-nigeria/>>2014, accessed 5 August, 2020.



A.A. Akintokunbo<sup>30</sup> links insecurity, especially in Nigeria, to massive and unchecked corruption, greed, selfishness, lack of patriotism, political will and conscience, and of course, lack of vision and purpose.

The recent happenings in Mali, in which some elements of the Malian Armed Forces staged a mutiny, speaks volume of African situation. Protests in Mali had been ongoing since 5<sup>th</sup> of June, 2020 with protesters calling for the resignation of President Ibrahim BoubacarKeïta.<sup>31</sup> On the 18<sup>th</sup> of August, 2020, soldiers on pick-up trucks had stormed the Soundiatamilitary base in the town of Kati.<sup>32</sup> Weapons were distributed from the armoury. Gunfire was, then, exchanged and some senior officers, in the military, got arrested. Tanks and armoured vehicles were seen on the streets of Kati and military trucks headed to Bamako, the capital of Mali. The soldiers, later, arrested and detained several top government officials including the President Ibrahim BoubacarKeïta who resigned and dissolved the government.<sup>33</sup>

### **3. Terrorism as a Monster to the Right to Life**

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<sup>30</sup> A.A. Akintokunbo, "The problems and challenges of insecurity in Nigeria", <[http://transparencyncg.com/index.php?option=com\\_content&view=article&id=6006:the-problems-and-challenges-of-insecurity-in-nigeria&catid=45:akintokunbo-adejumo&Itemid=37](http://transparencyncg.com/index.php?option=com_content&view=article&id=6006:the-problems-and-challenges-of-insecurity-in-nigeria&catid=45:akintokunbo-adejumo&Itemid=37),> 2011, accessed 5 August, 2020.

<sup>31</sup> "Mali Coup Soldiers Take to Airwaves, Promise Elections, New York, *The New York Times*, Associated Press. 19 August, 2020, accessed 23 of August, 2020, p. 17.

<sup>32</sup> Kati is an urban commune and the largest town in Mali's Koulikoro Region. The town is situated 15 km northwest of Bamako, Mali's capital, on the Dakar-Niger Railway. In the 2009 census, the commune had a population of 114,983.

<sup>33</sup> *Ibid*, no. 23.

Every country of the world, either developed or developing, has a share of act of terrorism in varying degree at one time or the other. The area of difference is how a country responds to it, especially through management of internal security, social, economic and political re-engineering.

Various organisations such as the Islamic State (ISIS), Taliban, Al-Qaida, Al-Shabaab and recently, Boko Haram, mastermind various acts of terrorism. The modern day terrorism is defined by the coordinated terrorist attacks by the Islamic terrorist group known as al-Qaeda on the United States of America on Tuesday, 11 of September, 2001, resulting in the death of about 2,977 persons with more than 25,000 sustaining varying degree of fatal injuries in addition to at least \$10 billion in infrastructure and property damage.<sup>34</sup>

Four passenger airliners which had departed from airports in the north-eastern United States bound for California were hijacked by some al-Qaeda terrorists. Two of the planes were crashed into the North and South towers, respectively, of the World Trade Centre complex in Lower Manhattan. The third plane was crashed into the Pentagon (the headquarters of the U.S. Department of Defence) while the fourth plane which was initially flown toward Washington, D.C. later crashed into a field in Stony creek Township, Pennsylvania, after passengers thwarted the hijackers.<sup>35</sup>

Ever since then, the world has known no peace as there are many countries of the world where terrorism has become a recurrent

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<sup>34</sup> L. P. Bergen, “September 11 Attacks”, <[https://www.britannica.com/event /September-11-attacks](https://www.britannica.com/event/September-11-attacks)>, 2001, accessed 21 May, 2020.

<sup>35</sup> *Ibid.*

decimal and part of way of life as they experience one form of terror attack or the other every now and then, leading to avoidable deprivation of the right to life.

For instance, on 27 of January, 2003, at the time AtalBihari Vajpayee, the then Prime Minister of India was to visit Mumbai, a bomb, which was placed on a bicycle, exploded near the busy Vile Parle railway station in Mumbai, India, killing one person and injured 28 others.<sup>36</sup> That was the second in a series of five bombings against the city within a period of eight months. Other terror attacks included the 2002 Mumbai bus bombing; 2003 Mumbai train bombing; and 25 of August.<sup>37</sup>

In 2008, two mentally disabled women were strapped with explosives and sent into busy Baghdad markets in Iraq where they were blown up by remote control. The bombs killed at least 98 people and wounded more than 200 in two popular pet markets in the country.<sup>38</sup>

Also in 2008, two explosive devices were detonated near the Abu Jaafar al-Mansour fuel station in the neighbourhood of Mansour in the west of Baghdad, Iraq, killing thirteen people and wounding twenty-five others.<sup>39</sup> The following year, 2009, in the same Baghdad, Iraq, there was a suicide bomb blast at a Shiite religious shrine which killed at least 35 people and injured about 79 people.<sup>40</sup>

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<sup>36</sup> A. Katakam, "Return of terror", *Frontline Indian's National Magazine*, <<https://frontline.thehindu.com/other/article30218602.ece>>, 29 of August, 2003, accessed 5 August, 2020.

<sup>37</sup> *Ibid.*

<sup>38</sup> *Ibid.*

<sup>39</sup> *Ibid.*

<sup>40</sup> *Ibid.*

Year 2020 has also witnessed a handful of bloodletting. One of such includes the killing of 111 Yemeni soldiers and five civilians in mosque on the grounds of a military training camp in Ma'rib, Yemen which was targeted with drones and missiles during evening prayers when dozens of people were inside praying. The attack was blamed on the Houthis.<sup>41</sup>

### 3.1 Terrorism and Loss of Lives

Nigeria, which, hitherto, seemed immune to terrorist activities, is now witnessing horrendous acts of terrorism masterminded by various organisations like the Niger Delta militant groups,<sup>42</sup> bandits,<sup>43</sup> Fulani herds men<sup>44</sup> and the dreaded Boko Haram<sup>45</sup> with deleterious consequences for the country's image, economy, general welfare and the right to life of citizens.

Boko Haram announced its activities with the launch of an uprising against the military on 26 and 29 of July, 2009 in which about 100 soldiers were reportedly killed.<sup>46</sup> That clash marked the beginning

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<sup>41</sup> The Guardian, "Houthi rebels kill at least 80 Yemeni soldiers in missile attack in mosque", <<https://www.theguardian.com/world/2020/jan/19/houthi-rebels-kill-at-least-70-yemeni-soldiers-in-missile-attack-on-mosque>>, accessed 13 July, 2020.

<sup>42</sup> Such as the Niger Delta Avengers (NDA) and the Ijaw Youth Council.

<sup>43</sup> Such as Katsina Motorcycle Bandits terrorising the Northern part of Nigeria.

<sup>44</sup> Herdsmen attacks on unprotected villages in Nigeria have involved disputes over land resources between herders and farmers across Nigeria but more devastating in the Middle Belt (North Central) since the return of democracy in 1999.

<sup>45</sup> The Islamic State in West Africa or the Islamic State's West Africa Province (ISWAP) formerly known as Jamā'atAhl as-Sunnah lid-Da'wahwa'l-Jihād.

<sup>46</sup> Vanguard Nigeria, "Boko Haram: Splinter group Ansaru emerges", 2 of February, 2012, <<http://www.Vanguardngr.com/2012/02/boko-haram-splinter-group-ansaru-emerges/>>, accessed 13 June, 2020.

of Boko Haram insurgency in Nigeria; and ever since, the group has not relented in its activities in the country with documented spate of attacks, ranging from detonation of explosives to sporadic raid and shooting of people in high level operations. Their activities also include kidnapping of men and women, especially young school girls.

In the year 2012, up to 792 people were killed by the group:<sup>47</sup> out of which around 37 Christians targeted and killed Between 5 and 6 of January, while 183 people, 32 out of which were police officers, killed in Kano State on the 20 of January; 38 people fared killed in Kaduna on the 8 of April, following bombing of a church.

In the year 2013, the number of people killed by Boko-Haram, in Nigeria, was not less than 1007 through bomb detonation, shooting, ambush of military men and massacre of students. There was the Yobe State School shooting on the 6 of July in which more than 42 were killed.<sup>48</sup>The year 2014 was not different. In Chakawa, Borno State, 11 Christians were killed by Boko-Haram on the 31of January<sup>49</sup> and on 14 of February, another 121 Christians were killed in Konduga.

The kidnap of students of a secondary school in Chibok<sup>50</sup> in Bornu State in the North-eastern part of Nigeria, on 22 of July, 2014 is still fresh in memory. The town was also attacked on the 25 of November, same year, leaving 51 people dead. The group`s

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<sup>47</sup> O. Femi" Boko Haram: How a Militant Islamist Group Emerged in Nigeria", Gatestone Institute, <<https://www.gatestoneinstitute.org/4232/boko-haram-nigeria>>, 31 of May, 2018, accessed on 21 of July, 2020.

<sup>48</sup> *Ibid*, no. 39.

<sup>49</sup> *Ibid*.

<sup>50</sup> *Ibid*.

activities has continued unabated and no one knows when the carnage will stop.

The act of kidnap of secondary school students was repeated by Boko Haram when in the evening of 19, February, 2018, 110 schoolgirls, between the age of 11 and 19 years old, were, again, kidnapped by them from Government Girls' Science and Technical College (GGSTC), Dapchi in Bulabulin, Yunusari Local Government Area of Yobe State. In the year 2019, carnage was, again, recorded in Nigeria in which suspected Fulani gunmen attacked an Adara settlement named Ungwar Bardi, killing 11 people in the process. A few days later, a reprisal attack was carried out on the Fulanis in Kajuru Local Government Area by an Adara militia men leaving up to 141 people dead with about 65 people declared missing.<sup>51</sup>

On the 29<sup>th</sup> of November, 2020, suspected Boko Haram insurgents reportedly killed at least 70 farmers working on a rice field in town called Jere near Maiduguri, Borno state. The attackers were said to tie up many of the victims before slitting their throats. This incident was vehemently condemned by the United Nation which described it as the most violent direct attack against civilians in the year 2020.<sup>52</sup>

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<sup>51</sup> K. Busari, “Miyetti Allah releases names of 131 victims of Kajuru, Kaduna violence”, *Premium Times*, <<https://www.premiumtimesng.com/news/headlines/314665-miyetti-allah-releases-names-of-131-victims-of-kajuru-kaduna-violence.html>>, 22 of February, 2019, accessed on 5 of August, 2020.

<sup>52</sup> A. Ewang, Gruesome Boko Haram Killings in Northeast Nigeria, <<https://www.hrw.org/news/2020/12/01/gruesome-boko-haram-killings-northeast-nigeria>>, accessed 5May, 2021.

Again, in the early hours of Tuesday 25<sup>th</sup> of February, 2021, gunmen suspected to be Boko Haram members stormed a Federal Government boarding school in BuniYadi, Yobe State, which is about 65km from the state capital, Damaturu. The attackers locked one of the school's dormitory and set it on fire, killing many students inside. Students who tried to escape were either shot or knifed to death. In all, there were 59 fatalities. All killed were males. Some female students were abducted. Other females left behind were said to have been ordered to quit school and go get married or be killed in future attacks. The school's 24 buildings were completely burned down.<sup>53</sup>

#### **4. Legislations for Combating Terrorism**

States of the world have also enacted series of laws to combat terrorism. This is because States' actions against terrorism must, still, be guided and regulated by law. Rule of law must exist and prevail even in the face of threat of terrorism. There is, therefore, the US Patriot Act of the United States of America.<sup>54</sup> An Act enacted to strengthen America by providing appropriate tools required to intercept and obstruct terrorism act against her, and to deterring and punishing terrorist acts in the United States and around the world.

There is also the Terrorism Act<sup>55</sup> of the United Kingdom. The Act created new offences on terrorism and amended the existing ones. The Act is divided into two parts. Part one creates a series of new criminal offences intended to assist the police in tackling terrorism

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<sup>53</sup> *Ibid*

<sup>54</sup> An Act to deter and punish terrorist acts in the United States and around the world, to enhance law enforcement investigatory tools, and for other purposes.

<sup>55</sup> It was a response to the famous London Bombings of 2005.

while part two of the Act deals with miscellaneous provisions which gives wider power to the Home Secretary to proscribe terrorist groups and amends the law to allow the proscription to continue when the group changes its name.

#### **4.2 Anti-Terrorism Legislation in Nigeria**

In Nigeria, legislative response to terrorism was first expressed in the Terrorism (Prevention) Act of 2011.<sup>56</sup> The legislation was amended by the Terrorism (Prevention) (Amendment) Act of 2013. The two laws are, hereinafter, collectively referred to as Terrorism (Prevention) Act (as amended).

The Act contains 41 sections, arranged into Eight Parts with a Schedule, listing relevant statutes. Part I defines acts of terrorism and related offences while Part II contains provisions relating to terrorist funds and property. Part III is on mutual assistance and extradition and Part IV is on information sharing on criminal matters. Parts V and VI set out investigative and prosecution processes, respectively while Part VII deals with charities and the last Part contains miscellaneous provisions.

The Act gives an all-encompassing definition of terrorism. Importantly, the Act sees terrorism as an act which is deliberately done with malice, aforethought and which may seriously harm or damage a country or an international organization or intended or can reasonably be regarded as having been intended to unduly compel a government or international organization to perform or abstain from performing any act.<sup>57</sup>

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<sup>56</sup> The Terrorism (Prevention) Act was enacted against the backdrop of upsurge in terrorist activities, especially as masterminded by the Boko Haram.

<sup>57</sup> Terrorism (Prevention) Act (as amended), section 1(2), (a), (b).



It is an offence under the Act to knowingly giving training or instruction in the making or use of any explosive or other lethal device or in carrying out a terrorist act to a member of a terrorist group or a person engaging in the commission of a terrorist act.<sup>58</sup> Also, failure by a person to disclose to a law enforcement officer any information which he knows or believes to be of material assistance in preventing the commission by another person or an organization of an act of terrorism or securing the apprehension, prosecution or conviction of such person for an offence under the Act renders such person liable.<sup>59</sup>

However, a person charged for the offence shall not be liable if he can prove that he has reasonable excuse for not making the disclosure.<sup>60</sup> Obstruction of terrorism investigations through disclosure to another anything that is likely to prejudice a terrorist investigation or interference with material which is likely to be relevant to a terrorist investigation is an offence under the Act.<sup>61</sup> However, it shall be a defence for anyone charged for this offence to prove that he did not know and had no reasonable cause to suspect that the disclosure was likely to affect a terrorist investigation; or had a reasonable excuse for the disclosure or interference.<sup>62</sup>

The Act also makes provisions for declaring a person a suspected international terrorist by the President of the Federal Republic of Nigeria on the recommendation of either the National Security Adviser or Inspector General of Police, if he reasonably suspects

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<sup>58</sup> *Ibid*, no. 27, Section 6.

<sup>59</sup> *Ibid*, Section 7.

<sup>60</sup> *Ibid*, Section 7(2).

<sup>61</sup> *Ibid*, Section 8.

<sup>62</sup> *Ibid*, Section 8(2).

that the person is or has been involved in the commission, preparation or instigation of acts of international terrorism or is a member of, or belongs to an international terrorist group or recognized as such in conformity with provisions of the Act or he has a link with an international terrorist group and he believes that the person is a risk to national security.<sup>63</sup>

A group may also be declared an international terrorist group if the group is subject to the control or influence of persons outside Nigeria and the group is reasonably suspected to have been involved in the commission, preparation or instigation of acts of international terrorism or it is listed among groups or entities involved in terrorist acts in any resolution of the UN Security Council or any instrument of the African Union and ECOWAS or considered as such by the competent authority of a foreign State.<sup>64</sup>

Furthermore, any person who, directly or indirectly, provides or collects funds with the intention or knowledge that they will be used, in full or in part, in order to commit an offence in breach of an enactment specified in the Schedule to the Act; or do any other act intended to cause death or serious bodily injury to a civilian or any other person not taking active part in the hostilities in a situation of armed conflict, when the purpose of such act, by its nature or context, is to intimidate a group of people or to compel a government or an international organization to do or abstain from doing any act is deemed to have committed an offence.<sup>65</sup>

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<sup>63</sup> *Ibid*, Section 9(1).

<sup>64</sup> *Ibid*, no. 27, (4).

<sup>65</sup> *Ibid*, Section 10.

Importantly, hostage-taking is an offence under the Act. Thus, any person who knowingly seizes, detains or attempts to seize or detain; or threatens to kill, injure or detain another person in order to compel a third party to do, abstain from doing any act or gives an explicit or implicit condition for the release of the hostage, commits an offence and is liable under the Act.<sup>66</sup>

The Act prescribes varying severe penalties for different offences under the Act. The penalties range from imprisonment between five and twenty years and death penalty where terrorist acts result in loss of life.<sup>67</sup> In *Adamu Ali Karumi v. Federal Republic of Nigeria*,<sup>68</sup> the Court of Appeal ruled that the courts have the power to exercise discretion in matters of sentence in respect of charges of act of terrorism, and appellate court will not interfere with such exercise of such discretion.

Where a person is standing trial for any act relating to terrorism, he will not be admitted to bail pending trial. This underscores the magnitude of the threat that terrorism constitutes to the nation's security. In the case of *Dokubo Asari v. Federal Republic of Nigeria*,<sup>69</sup> the Supreme Court gave its nod of approval to the refusal to grant bail pending trial to the appellant on the ground of threat to national security.

As it is the case in *Ogwu Achem v. Federal Republic of Nigeria*,<sup>70</sup> where a person is found guilty of act of terrorism by court, he loses his presumption of innocence guaranteed him under section 36(5)

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<sup>66</sup> *Ibid*, Section 11.

<sup>67</sup> Section 4(2), *Ibid*.

<sup>68</sup> (2018) LPELR-40473 (CA).

<sup>69</sup> (2007) 12 NWLR (1048) 322, 358-359.

<sup>70</sup> (2014) LPELR-24202(CA), p. 12, para. F-A.

of the Constitution of the Federal Republic of Nigeria, 1999 (as amended). He is, therefore, not entitled to bail pending the determination of his appeal except in very exceptional circumstances.

## **5. Fight against Terrorism is beyond Enactment of Legislations alone**

Even though there are obviously comprehensive legislations for combating terrorism in nations of the world, terrorism occasioning deprivation of the right to life has continued. In a country like Nigeria, terrorism, banditry, militancy and violent killings have become nightmares. This is so because the fundamental causes of it are yet to be addressed and given the serious attention that they truly deserve. This includes poverty, inequality through corruption, unemployment, injustice and loses of confidence in the judiciary and other created societal problems. They are yet to be addressed and given the serious attention that they truly deserve.

### **5.1 Poverty**

There is poverty in many African countries, especially, Nigeria. The poverty is not due to lack of resources. Rather, it is leadership induced, and it is due to the ill-use, misallocation and misappropriation of resources due to the elite`s capture of public resources management. Culture of corruption pervades the surface of the continent of Africa.

For example, Nigeria is the biggest producer of oil in Africa and the sixth in the world, yet she is ranked among the world`s poorest countries as it is significantly dominated by poverty, social inequality, corruption, unemployment and lose of faith in the

judiciary.<sup>71</sup> About 76.6% of her citizens are living in absolute poverty.<sup>72</sup> The country's ever-growing wealth is in the hands of a small group of elites who controls and enjoys it while the remaining massive population languish in poverty. The social gap between the rich and the poor is too wide and has continued to grow wider. The scale of economic inequality has reached extreme levels, and it finds expression in the daily struggles of the majority of the population in the face of accumulation of obscene amounts of wealth by a small number of privileged individuals who have captured the country's public resources management.

The amount of money that the richest Nigerian man can earn annually from his wealth is sufficient to lift 2 million people out of poverty for one year.<sup>73</sup> Lifting all Nigerian people living below the extreme poverty line of \$1.90 out of poverty for one year will cost about \$24 billion. This amount of money is just lower than the total wealth owned overall by the five richest Nigerians in 2016, which was equal to \$29.9 billion.<sup>74</sup>

Economic and social inequalities are catalyst for social tensions within communities, with citizen frustrations finding expression in increased crime rates and violence of various forms, including communal, domestic, electoral, religious and inter-tribal violence.

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<sup>71</sup> 2010 World Bank report released at a United Nations summit rated Nigeria as second poorest country in the world with most Nigerians living below poverty line.

<sup>72</sup> According to the National Bureau of Statistics (NBS 2012)

<sup>73</sup> Oxfam, "Inequality in Nigeria", <<https://nigeria.oxfam.org/latest/stories/inequality-nigeria>>, 21 of January, 2020, accessed 23July, 2020.

<sup>74</sup> *Ibid.*

## 5.2 Injustice

The Niger Delta region which is the source of Nigeria's wealth suffers injustice, alienation, degradation of natural resources and, consequently, abject poverty in the midst of plenty. About 70% of people in the region live below the poverty line.<sup>75</sup>

The discovery of oil in commercial quantity and the unsustainable oil exploration practice of the multinational oil companies have rendered the vast tracks of their land in waste, making land unproductive and unsuitable for agriculture use.<sup>76</sup> Water from rivers is also rendered undrinkable as a result of their contamination with hydrocarbon generated by heavy pollution by oil. As a result of this, vast aquatic life gets destroyed.

For instance, Shell Oil, Nigeria admitted that it spilled up to 40,000 barrels of crude oil, which was likely to be the worst for a decade, seventy five miles off the Nigerian coastal fishing communities of Niger delta. The spill was claimed to have occurred in the process of transferring the oil from a floating oil platform to a tanker.<sup>77</sup>

The Nigerian National Petroleum Corporation (NNPC) also estimated the quantity of oil spewed into the environment of some communities yearly to measure around 2,300 cubic metres with an average of 300 individual spills annually.<sup>78</sup> In addition, official reports from the National Oil Spill Detection and Response Agency

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<sup>75</sup> According to a World Bank report captured in the Niger Delta Development Commission (NDDC) (2008)

<sup>76</sup> B. Odagme, Oil Bunkering Activities in the Niger Delta-The Way Forward, *American Journal of Engineering Research (AJER)*, 2016, p. 6.

<sup>77</sup> B. Skylar, "In Nigeria, Shell causes worst oil spill in a decade", <<https://www.theguardian.com/environment/2011/dec/22/nigerian-shell-oil-spill>>, 5 of January, 2012, accessed 15 September, 2020.

(NOSDRA), covering the period of 2006 and 2015, indicate that there were over 9,343 incidents of oil spills from over 5000 spillage sites in the last ten years.<sup>79</sup>

Between 17 of August and end of September, 2016, three spills occurred all of which had devastating impacts on the agriculture, the environment and general well-being of the local communities.<sup>80</sup> One occurred in Delta State wherein ten Ijaw communities along the Escravosriver in Warri South West Local Government Area were affected from a spill traced to the facility of the Pipelines and Products Marketing Company (PPMC) which is the products marketing and distribution subsidiary of the Nigerian National Petroleum Corporation (NNPC).<sup>81</sup> The communities affected by the spill were Tebujor/Okpele-Ama, kpokpo, Okerenkoko-Gbene, Opuedebubor, Opuede, Opuendezion, Atanba, Oto-Gbene, Meke-Ama Communities in Gbaramatu Kingdom, along the Escravosriver in Warri South West Local Government Area of the state.<sup>82</sup>

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<sup>78</sup> J. Nriagu, E.A. Udofia, I. Ekong, G. Ubuk, Health Risks Associated with Oil Pollution in the Niger Delta, Nigeria, *International Journal of Environmental Research and Public Health*, 2016, p. 15.

<sup>79</sup> *Ibid*, no. 81, p. 13.

<sup>80</sup> S. Oyadongha, "N/Delta Twin Oil Spills: We are breathing contaminated, deadly air; down with different kind of ailments", *Vanguard*, July 29, 2018, 4:56 am, <<https://www.vanguardngr.com/2018/07/n-delta-twin-oil-spills-we-are-breathing-contaminated-deadly-air-down-with-different-kinds-of-ailments/>>accessed 3September, 2018.

<sup>81</sup> M. J. Watts &I. S. Ibaba, "Turbulent Oil: Conflict and Insecurity in the Niger Delta", <[https://www.researchgate.net/publication/233028503\\_Turbulent\\_Oil\\_Conflict\\_and\\_Insecurity\\_in\\_the\\_Niger\\_Delta](https://www.researchgate.net/publication/233028503_Turbulent_Oil_Conflict_and_Insecurity_in_the_Niger_Delta)> 18 of March, 2017, accessed 23 o August, 2020, p. 1-19.

<sup>82</sup> *Ibid*, p. 18.

Another one occurred in the same August, 2016 in Kalaba community of Bayelsa State from a facility operated by the Nigerian Agip Oil Company.<sup>83</sup> The oil spill continued for months into the forests and swamps, threatening local ecosystems and agriculture capacity.

The people of the area had to continuously make “save our soul” appeal to the Federal Government before Agip was prevailed upon to make necessary clean up and remediation.<sup>84</sup> The ugly incidence reared its head again, this time in Ahoada East, Rivers State in September, 2016.<sup>85</sup>

The occurrence led to a confrontation between military officers attached to the management staff of Total Oil and Gas, Nigeria and Ahoada East community youths. Out of frustration, the youths had previously denied the officials from the company access to the spill site whilst attempting to carry out an inspection tour. The officials, with their military attachment, therefore retreated and later returned with reinforcements and shot at the youths in order to gain access, and burning down six houses in the process.<sup>86</sup>

A reconciliation meeting between community representatives and Total was eventually held paving the way for arrangement for clean-up and negotiations for compensation.<sup>87</sup> The people grapple with abject poverty as a result of day to day pollution they suffer.

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<sup>83</sup> *Ibid*, p. 19.

<sup>84</sup> *Ibid*, p. 21.

<sup>85</sup> *Ibid*, p. 23.

<sup>86</sup> *Ibid*,p. 23.

<sup>87</sup> *Ibid*, p. 23.



The people of the area have, therefore, resulted to “social self-help” in form of vandalism of oil companies installations and facilities, attacks on persons, armed agitations, militancy or kidnap of oil companies’ and, sometimes, government officials, for ransom due to their lack of awareness to understand that there is no justification for crime.

There is the need for the country to free millions of people from poverty by building a new political and economic system devoid of alienation and rejection and which will work for everyone, not just fortunate few. The current system enriches only a few, while impoverishing the greater majority of the populace. Poverty, social inequality and unemployment can create an environment where terrorism thrives.

### **5.3 Unemployment**

Mismanagement of the resources, especially, in Africa results to high rate of unemployment. For instance, in Nigeria, between 12.1% and 21.5% of youth were reported to be without a job in the year 2016. Rate of unemployment and underemployment are even higher now.<sup>88</sup> The inability of the economy to generate enough jobs results from the insufficient allocation of resources to the creation of new economic opportunities, combined with a difficult business environment, which discourages domestic investment and induces capital flight.

The situation of the unemployed reached desperate levels when on 15 of March 2014, 6.5 million people visited recruitment centres to apply for 4000 vacant positions in the Nigeria Immigration Service. At least 16 people died in the stampede that ensued during the

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<sup>88</sup> *Ibid*, no. 75.

process.<sup>89</sup>All these have given birth to insecurity which is manifested by the existence of Boko Haram, Niger Delta militants, political assassination, ritual killings and, currently, banditry and kidnapping especially in the northern part of Nigeria.

For more than a decade now, Nigeria has been under the siege of Boko Haram despite the country's concerted run of onslaught and battle of arms as well as application of all instruments of national and regional fire powers and influence to end the ravaging insurgency and to deny them safe haven or control of any part of the country. It is important to hint that the permanent solution to domestic terrorism is critical address of certain fundamental socio-economic disorder of the country such as poverty, ignorance, social inequality and corruption.

#### **5.4 Education**

In communities of the marginalized and disadvantaged and teaming uneducated youths, terrorism can spread like a wild fire or virus. Education is, therefore, one of the world's "vaccines" against terrorism. In many parts of the world, especially, in Africa, young people and children are living lives of hopelessness as a result of lack of education. They face a future of thwarted ambitions and broken dreams. They lack the capacity/skills to gain meaningful employment and, thereby unemployable even when their desire is to be gainfully employed and lead a meaningful life with sense of belonging to their societies.<sup>90</sup>

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<sup>89</sup> *Ibid.*

<sup>90</sup> A. Dambazau, 2014, *Education, security and national development: The case of Nigeria*, Paper presented for the 61st Interdisciplinary Research Discourse, at Postgraduate School, University of Ibadan on 5 of November, 2019, p. 15.

Out of anger, frustration and ignorance of the fact that there is no justification for crime, some of them will turn to extremism, militancy or violence. The sad reality is that terrorism appears to give a false sense of hope, purpose and belonging to the desperate and the hopeless youths. Education is not only a public good, it is also a human right that is essential for the exercise of all other human rights, especially in promoting individual freedom and empowerment.<sup>91</sup> Its acquisition gives genuine wealth, happiness and accomplishment. Whereas lack of it exacerbates one's level of ignorance and leads to blunders, poverty, unhappiness. It diminishes opportunities to social and economic advancement, and sometimes, leads to criminality.

The highest number of children out of school in the world with about 10.5 million children not being educated partly due to cultural factors, poor orientation, cold attitude to western education, especially in the northern Nigeria, parents' lack of money to finance their wards' education, nomadic communities, poor government funding on education manifesting in dilapidation of class rooms, overcrowding of pupils in class rooms and ill-equipment of schools and the ravaging Boko Haram insurgency.<sup>92</sup>

## **5.5 Forced child marriage**

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<sup>91</sup> Article 26, Universal Declaration of Rights proclaimed by the United Nations General Assembly in Paris on 10 December 1948 (General Assembly resolution 217 A) as a common standard of achievements for all peoples and all nations.

<sup>92</sup> United Nations Educational, Scientific and Cultural Organization (UNESCO), "BBC Minute: On Nigeria's education crisis - Finding solutions", <<http://www.unesco.org/open-access/terms-use-ccbysa-en>>, 2017, accessed 5 August, 2020.

Marriage, which is a legal relationship between a husband and a wife,<sup>93</sup> is supposed to be an adult affair. However, in Nigeria and some other poor African countries, female children are married off before attaining the age of puberty. For instance, in Nigeria, 44% of girls are married before age of eighteen and 18% are said to be married off before the age of 15.<sup>94</sup> The country is reputed to have the 11th highest prevalent rate of child marriage in the world with 57% of them getting married before their 18th birthday in the northern part of the country.

This is said to be driven by factors such as gender inequality, belief of inferiority of a girl child to a boy child, low level of education, political and economic ties among parents, violence against girls, poverty, religious belief and men preference to getting married to girls among other social factors. This usually lead to lack of good parenting of children produced by such marriages. This is because at the time such underage girls are given away in marriage, they are not matured enough to have parenting capacity to build a good family and raise children with such care that will promote or enhance positive emotional health and well-being that will support children overall mental health giving capacity to a positive sense of self, ability to cope with stressful situations, overcome fears, and accept disappointments and frustrations. This can lead to behaviours associated with anxiety, depression, lack of self-belief, extreme fearfulness, helplessness, hopelessness, apathy, depression

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<sup>93</sup> A.S Hornby, *Oxford Advanced Learner`s Dictionary*, England, Oxford University Press, 2000, p. 723.

<sup>94</sup> N. C. Okafor, "Nigeria and Child Marriage: Legal Issues, Complications, Implications, Prospects and Solutions", <[https://www.researchgate.net/publication/284183893\\_Nigeria\\_and\\_Child\\_Marriage\\_Legal\\_Issues\\_Complications\\_Implications\\_Prospects\\_and\\_Solutions](https://www.researchgate.net/publication/284183893_Nigeria_and_Child_Marriage_Legal_Issues_Complications_Implications_Prospects_and_Solutions)>, accessed 5 August, 2020.

or extremism of ideas/beliefs leading to aggression and acts of terrorism.

No doubt there is a direct link between poverty and insecurity. Unemployment, bad governance, corruption and lack of basic services provide an avenue for disgruntled members of the society to be radicalized. The situation is such that no day passes without news of one form of killing or the other by either insurgents, bandits, kidnappers or militants in the Niger Delta. Properties have been destroyed and lives lost to these elements. Insecurity in the North led to the declaration of a state of emergency in three states in the zone namely; Yobe, Adamawa and Bornu states. Despite this, the killing continues and the worst aspect of it is that in recent times, educational institutions have become targets with many male students killed<sup>95</sup> and hundreds of young girls abducted.<sup>96</sup>

## **6. Conclusion**

It is clear that poverty, adverse economic conditions, bad leadership and a host of other created societal problems play important role in the emergence of terrorism. It, therefore, goes without saying that for terrorism to be completely nipped in the bud; these same factors responsible for its evolution or occurrence have to be well taken care of with deserved seriousness.

There is also the need for nations of the world and International Communities to take some concepts such as “justice”, “freedom” and “liberation” very seriously. Majority of the crises bedeviling nations and the world, as a whole, are traceable to some groups’ feeling or sense of deprivation of one or all of these concepts. This

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<sup>95</sup> *Ibid*, no. 97.

<sup>96</sup> *Ibid*.

is one of the reasons it is very difficult to give a consensual definition to the word “terrorism” as “one man`s terrorist is another man`s freedom fighter”<sup>97</sup>

For some, the very idea of terrorism is a snare and delusion. It is a way of diverting the public attention from the failing of Western governments, as terrorism is the logical and just resistance of the people against state terrorism, capitalism, racism and imperialism, injustice, slavery, deprivation or, in other words, terrorism is a semantic technique employed by the government spokespersons to change the subject, a slick way of transforming the victims of injustice into its perpetrators.<sup>98</sup>

These comments convey some sense of feelings of anger against establishments which is born out of racism, imperialism, capitalism and a sense of deprivation, lack of justice, lack of freedom and lack of liberation.

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<sup>97</sup> L. Weinberg, *Ibid*, no. 16.

<sup>98</sup> The sentence was part of a letter to the editor published in the Dutch newspaper *Leidsch Dagblad* of 17 of March, 1989. The writer objected to a conference on terrorism then underway at the University of Leiden.