

## Using Torture to Extract Information from *Bokko-Haram* Group: A Mere Scourge or Panacea to Halt Terrorism in Nigeria?

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**Abstract:** This paper examines the constitutionality of the use of force in extracting information from the captured insurgents considering both the domestic as well as other International Treaties against torture which Nigerian is a signatory. In doing this, the paper examines the human rights issues in the insurgency mishandling in Nigeria, made case for better option and concludes that using torture is a mere scourge but that if government can embark on programme that will be of direct benefit to the citizenry, strengthened the rule of law and improve fire arms regulations, the case of terrorism will be a thing of the past in Nigeria.

**Key Words:** Nigerian Security Personnel, *Bokko-Haram*, Terrorism, Human Rights Abuse.

### 1. Introduction

Insecurity and terrorism is a rising menace that has engaged and attracted the global attention especially since the September 11 2001's World Trade Centre bombing in the USA. The hullabaloo and cry over the September 11 incidence and the way and manner the United States government turned itself to the world police since then and the UN to swiftly pass the

UNSC Resolution 1367 made most African countries see terrorism as the apex upheaval facing the continent and that the use of force as the most effective solution. This thinking and belief is too restrictive. To appreciate and appraised security, it is better done holistically from a broader perspective than purely military terms (Makinda).

Human security according Kofi Annan in its broadest sense, "...embraces far more than the absence of violent conflict. It encompasses human rights, good governance, access to education and health care and ensuring that each individual has opportunities and choices to fulfill his or her potential..." Security is the protection of the people and the preservation of their norms, rules, interests, institutions and resources, in the face of military and non-military threats (Kofi *supra*). Human Security is "the vital core of all human lives in ways that enhance human freedoms and human fulfillment (Makinda *supra*)". "Human security means protecting fundamental freedoms – freedoms that are the essence of life"

Terrorism according to Hornby (2004) is the use of violent action in order to achieve political

aims or to force a government to act. Terrorism is an act which is deliberately done with malice aforethought and which may seriously harm or cause damage to a country and or its citizenry. Terrorism is an act deliberately done with the view of destabilizing or destroys the fundamental political, constitutional, economic or social structures of a country. In the third paragraph of India's Terrorist and Disruptive Activities (Prevention) Act, No. 16 of 1989, terrorism is defined in detail as 'Whoever with intent to take over the Government as by law established or to strike terror in the people or any section of the people or to alienate any section of the people or to adversely affect the harmony amongst different sections of the people does any act or thing by using bombs, dynamite or other explosives substances or inflammable substances or lethal weapons or poisons or noxious gases or other chemicals or by any other substances(whether biological or otherwise) of a hazardous nature in such a manner as to cause, or as is likely to cause, death of, or injuries to, any person or persons or loss of, or damage to, or destruction of, property or disruption of any supplies or services essential to the life of the community, or detains any person and threatens to kill or injure such person in order to compel the Government or any other person to do or abstain from doing any act, commits a terrorist act.' In the case of Kenya, the Penal Code of Kenya does not define terrorist activity. However, any act that causes danger to life or property is prosecuted through various provisions of the Penal code Chapter 63 and in Protection of Aircraft Chapter 68 of Laws of Kenya. Similarly, in the Nigerian Anti-Terrorist Act passed in 2013, the word terrorism is not defined but, both terrorist and what constitute terrorist act were outline. (Terrorism (Prevention)(Amendment) Act, 2013). The unauthorized procurement or possession of explosives or of nuclear, biological or chemical weapons, as well as research into, and development of biological and chemical weapons without lawful authority; the release of dangerous substance or causing of fire explosions or floods, the effect of which is to endanger the society are all acts or omissions that are within the classification of the definition

of terrorist act (Nigerian Terrorism Prevention Act, 2011 Section 1(2))

The Nigerian historical past have a long history of insecurity and violence which includes 1916 tax resistance against the colonial administration (Olokooba: 2013:40). The riots and disorderliness in Sapele and Warri in 1927 and the Aba Women Riot of 1929 was a typical example. It is evident that violence and insecurity in Nigeria predates her independence in 1960(Uwah: 2012:20). After independence, Nigeria became a federation where each federation embarked on separate developmental course (Oscar:2013:180). Practically therefore, there seems not to be unity in the Nigerian federation and this has precipitated various forms of incessant and or sporadic ethno-religious conflicts over the years. Agitation by the youth from different part of the country is now at the apex level and great challenges to the peaceful co-existence of the Nigeria as a nation.(Olokooba, Olatoke:2012:58-60)

Due to years of continuous marginalization, political cum economic subjugation and frustration, many youth in the North Eastern part of Nigeria are now pushed into joining 'self – help' Islamic extremist religious group called the *Bokko Haram*. This group is hostile to the Nigerian state as presently structured. Despite the fact that some act of terrorism especially in the North Eastern part of Nigeria where *Bokko Haram* operates are as a result of reaction to some sort of maladministration, corruption, political and economical oppression and bad governance (Olokooba,Olatoke, *supra*:55). The way and manner the security personnel are handling the insurgency and terrorist cases is far from the realm of human right. To the Nigeria Security personnel, once you are suspected of being a terrorist, you are morally condemned and instantly presume guilty without any formal trial! The Nigerian government's response to the activities of this group largely has been military solution via war, raid and force to get information from the captured terrorist. Consequently, there are raging accusations that government personnel are using torture, cruel and degrading treatment in the interrogation of the group which clearly violates the constitution

as well as the international human right treaties which Nigeria is a signatory.

## 2. Conceptual Framework and Operational Definition of Key Terms

In consideration of the concept at hand one must note that there are some key words which meaning is to be ascertained from the beginning for better appreciation as well as understanding of the theme of the paper. The words are 'Human Rights Abuse', 'Security Personnel', "Terrorism" and "*Bokko-Haram*."

Human Rights Abuse' is used in this work as a misuse of both political as well as administrative power on some members of Nigerian citizenry under the pretence of fighting terrorism. It also connotes the unconstitutional as well as illegal actions taken by the Nigerian army under the pretence of fighting against insurgency without respecting their rights under both the Nigerian constitution and other international treaties that has to do with rights. "Terrorism" is the use of threat of action designed to influence the government or intimidate the public in order to advance a political, religious or ideological cause. *Bokko Haram* is the latest of insurgent/terrorist group operating in Nigeria.

## 3. Brief History of *Bokko Haram* Terrorist Group in Nigeria

The emergence as a radical fundamental Islamic sect, the *Boko-Haram* came to the limelight after the killing of their leader, the late Muhmmmed Yussuf by the security operative in Maiduguri. Though the group had been in existence, but they were confined to their mosque at *Angwa Doki* Millionaire quarters where their preaching outlet was situated and later their mosque named *Ibn Taimiyya Masjid*. According to Ahmad Salkida, it was in *Ibn Taimiyya Masjid* that late Yusuf together with his hard-line top lieutenant Abubakar Shekau alias '*Darul Tauhid*' began to build an imaginary sate within a state. Together they set up *Laginas* (departments), they had a cabinet, the *Shura*, the *Hisbah* (security), the brigade guards, a military wing, a large farm, an effective micro finance scheme, and late Yusuf played the role of a judge in settling disputes, each state had an *Amir*

(leader) including *Amirs* in Chad and Niger that gave accounts of their stewardship to Yusuf directly (Salkida, *supra*).

If not recently that the activities of the *Bokko Haram* is now done in open and the identities of some key members disclosed, the secretive nature of the operation of the *Boko-Harram* group at the formative stage of the sect made the actual year of establishment of the sect a mirage. While some opined that it was founded in 1995 under the name *Shaabba*, Muslim Youth Organisation (Abimbola, Adesote; 2012:17, Danjibo: 2009:11), others were of the opinion that the group came in to existence in the early part of 2000/2001 (Sunday Tribune (Nigeria) 2/2/2012:3). One thing that is however certain is that it was the entry of the slain Mallam Muhammed Yussuf that radicalised the group and opened it to foreign collaboration, especially with the *Al-Qaeda* in Islamic Maghreb.

The large and committed followers of the *Boko-Haram* sect are the *Almajiris* (the *Quranic* trainees). This has however changed. The group now parades some numbers of elite as well as educated persons as members. In 2014, it was reported in the news that a serving senator of the Federal Republic on Nigeria and a lecturer in Kogi State University are among those funding *Bokko Harram* in Nigeria (Ejiofor, 2015). The mission of the sect was to establish an Islamic state where Orthodox Islam is practiced. Orthodox Islam according to him (Yusuf, leader of the sect) frowns at Western education and working in the civil service because it is sinful and un-Islamic.

The *modus operandi* of the *Boko Haram* terrorist group in the North Eastern part of Nigeria are, kidnapping, as it occurred on 8 march 2012 when an Halina and a Briton who were staff of Stabilim Visioni Construction firm were abducted by Boko Haram and later killed. Students and women were also kidnapped on several occasions, killing and maiming the innocent citizen especially in the public places, just as it occurred in Jos killing of 24 December, 2010, where 8 people died, Maiduguri bomb explosion of 24 April, 2011. Attack of place of worship, this occurred on 25 December, 2011

when St. Theresa Catholic Church Mandala was bombed and close to 50 people died and institutions of learning, Bayero University Kano was attacked on 29 April 2012, Government Day Secondary School Maiduguri were attacked on 17 June 2013. The gravity of the insurgency activities in the Northern Nigeria made the United State of America in 2013 promised a bounty of \$7m for any information that may lead to the arrest of Abubakar Shekau, the *Boko Haram* sect leader in Nigeria.(Olalekan, Emma, 2013). All these terrorist acts do not only constitute a great threat to the nation's democracy, national stability and security but also consistently and stubbornly throw up the issue of the national question in Nigeria(Ikelegbe:2003:37).

#### **4. The Nigerian Government Efforts in Tackling Terrorism**

Nigeria's response to terrorism reached a new dimension with Boko Haram's purported declaration of an Islamic caliphate in the North East of the country. The government has reluctantly admitted that the terrorists have actually taken over some towns and villages in Borno, Yobe, Adamawa and that "appropriate military operations to secure that area from the activities of the bandits is still ongoing." the dynamics of the crisis has effectively changed into an armed war and in a bid to extract information from the captured terrorists, series of tactics in form of torture are said to have been used by the Nigerian security personnel.

The government has also been engaged diplomatic activities with its West African neighbors; Chad, Niger and Cameroun designed to reduce support for the terrorist organizations and practically deny these groups access to operational territory, informal source of funding and urgently needed counter terrorism weapons. In the legal and policy front, the Nigeria government has introduced land mark legislations such as the Terrorism Prevention Act 2011 and the Terrorism Prevention Amendment Act 2013.

In recognition of the national security implications of the activities of Boko Haram and other terrorist groups to the cooperate existence

of Nigeria, the Nigeria government has explored series of options in tackling terrorism. Notably amongst these options were the use of amnesty programme which though unconstitutional but used as a political solution to the problem. The latest effort is the military assault and the use of torture to extract information from the terrorists and the involvement of the international community in the effort to counter terrorism in the country.

#### **5. Constitutionality of using Torture to extract Information from the Insurgents**

The Nigerian government's international legal obligation to prevent torture and cruel, inhuman or degrading treatment of detainees of *Boko Haram* (howsoever) described, in its custody is set forth in the United Nations Convention Against Torture And Other Cruel, Inhuman, or Degrading Treatment ["CAT"], Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, opened for signature Feb. 4, 1985, G.A. Res. 46, U.N. GAOR 38<sup>TH</sup> sess., Supp. No. 51 at 197, U.N. Doc. A/RES/39/708(1984) reprinted in 23 I.L.M. 1027 (1984) ("CAT"). In fact, Nigeria was among the early Sub Saharan African countries to sign and ratify the global torture instrument. Nigeria signed the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, only on the 28 July 1988 three years after it opened for signature because the country was then under military dictatorship. Under the convention there are no exceptional circumstances that could justify torture of detainees. The convention established a novel Human Right Committee mechanism to which every country reports. The committee monitors human right adherence by member states issues detailed decisions concerning specific allegations of human right violations. The committee's work has brought certainty to the preemptory norms concerning torture, which now includes the rending of detainees to other countries that would likely torture such detainees are also prohibited.

Article 1 of CAT defines torture thus:

*For the purposes of this Convention, torture means any act by which severe pain or suffering, whether physical or mental, is intentionally inflicted on a person for such purposes as obtaining from him or a third person information or a confession, punishing him for an act he or a third person has committed or is suspected of having committed, or intimidating or coercing him or a third person, or for any reason based on discrimination of any kind, when such pain or suffering is inflicted by or at the instigation of or with the consent or acquiescence of a public official or other person acting in an official capacity. It does not include pain or suffering arising only from, inherent in or incidental to lawful sanctions.*

This article is without prejudice to any international instrument or national legislation which does or may contain provisions of wider application.

From the above, any act or omission that is linked with cruel, inhuman and degrading treatment or punishment or ill-treatment falls within the definition of torture. However, under certain conditions torture may not be an act of its own. In other words it is the legal summation of events regardless of intensity but subject to the circumstances, nature of events or acts and almost always determined by the vulnerability of the victim and the prevailing environment. These constituent elements are dominant variables in the threshold analysis of what act or omissions amount to torture in law.

The UN in further demonstration of its commitment against torture after due consultations with its members passed a resolution codifying what is now known as the UN Body of Principles, which provide inter alia that:

Principle 1

*All persons under any form of detention or imprisonment shall be treated*

*In a humane manner and with respect for the inherent dignity of the human person...*

Principle 6

*No person under any form of the detention or imprisonment shall be*

*subjected to torture or to cruel, inhuman or degrading treatment or*

*punishment. No circumstances whatever may be invoked as a justification*

*for torture or other cruel, or inhuman or degrading treatment or*

*punishment.( Body of Principles for the Protection of All Persons under*

*Any Form of Detention or Imprisonment, G.A. res. 43/173, UN. GAOR*

*Supp. (No. 49) at 297, U.N. Doc. A/43/49(1988)) ( Weissbrodt,2001:118)*

The effect of this all important international legal instrument is that Nigeria is duty bound to conform to the legal standards entrenched in the convention. It is against this backdrop, current allegations documented or verbal are worrisome to legal scholars and observers alike. The convention established human right investigation and reporting mechanism has in the past interpreted measures such as severe sleep deprivation, the threat of torture, and forcing detainees to sleep on the 'bare' floor of a cell while 'hand-cuffed during and/or following interrogation amounts to torture and degrading treatment. This was in consonance with the concluding observations concerning the Republic of Korea (1996), U.N. Doc.No. a/52/44, at para. 56 and the the concluding observations in the matter concerning New Zealand (1993) contained in UN Doc. No. A/48/44, at para. 148. Similarly, same was in the Report of the Inquiry commissioned under Article 20 of the CAT, Committee Against Torture, Findings concerning Peru (2001), contained in U.N. Doc. No. A/56/44 at para. 35. The subject of torture is also addressed in lucid terms in the Nigerian Constitution. According to Section 34(1) of the Constitution of the Federal Republic of Nigeria, 2004:

*Every individual is entitled to respect for the dignity of his person,*

*and accordingly*

*No person shall be subjected to torture or to inhuman*

*Or degrading treatment;*

The above constitutional proviso *inter alia* prohibits torture in Nigeria. Yet there are several torture related cases reported in Nigeria,

particularly in the governments fight against the Boko Haram insurgency. The government's grave human right violations forced Boko Haram members to go underground with the ensuing bloodletting. The group's early leader, the charismatic preacher Mohammed Yusuf, tried to do so non-violently. Yusuf became increasingly critical of the government and official corruption, his popularity soared, and the group expanded into other states, including Kano, Bauchi and Yobe. "After the politicians created the monster" a senior security officer commented, "they lost control of it. A series of clashes between *Boko Haram* members and the Nigerian police escalated into armed insurrection in 2009. Nigerian troops crushed the rebellion, killing hundreds of the followers and destroyed the group's principal mosque. Yusuf was captured handed over to the Nigerian police and shortly thereafter extra judicially executed....(African Crisis Group Reports)

Similarly, the Geneva Conventions which essentially comprise four treaties, and three additional protocols establish the standards of contemporary international law and practice for the humanitarian treatment of people in conditions of war. Thus the Geneva Conventions extensively defined the basic, wartime rights of prisoners (civil and military); established protections for the wounded; and established protections for the civilians in and around a war-zone. The treaties of 1949 were ratified, in whole or with reservations, by 196 countries including Nigeria (African Crisis Group Reports). In practice the Geneva Conventions remain the most authoritative guide and defines the rights and protections afforded to people in war - non-combatants, protected persons and Prisoners of War (POWs).

No doubt, contemporary international humanitarian law as codified in the Geneva conventions are elaborate and intended to end torture, cruel or inhuman and degrading treatment of detainees in war or armed conflict situations. Violations if proven by the United Nations Committee on Human Rights may lead to Nigerian officials (including the president) been indicted and tried for war crimes with devastating consequences.

In the same vain the African Charter offers unique but precise details of international humanitarian legal standards that can also guide Nigeria's fight against terrorism and insurgency. The provisions of articles three, four and five are instructive and relevant:

Article 3(2)

*Every individual shall be entitled to equal protection of the law.*

Article 4

*Human beings are inviolable. Every human being shall be entitled to respect for his life and the integrity of his person. No one may be arbitrarily deprived of this right.*

Article 5

*Every individual shall have the right to the respect of the dignity inherent in a human being and to the recognition of his legal status.*

*All forms of exploitation and degradation of man particularly slave trade, torture, cruel, inhuman or degrading punishment and treatment shall be prohibited.* (African Charter on Human and Peoples' Rights (Ratification and Enforcement) Act, Cap. A9 LFN (2004).

The combined effects of the above provisions suggest that torture, cruel degrading or inhuman treatments are prohibited in the African region. Nigeria signed and ratified this regional international human right treaty. The Nigerian government in conformity with section 12 of the Nigerian constitution enacted the treaty provisions through an act of the Nigerian National Assembly. Nigerian Supreme Court in the case *Ogugu v. State* (1994 NWLR pt. 366, at p. 1, 9) held that the provisions of the Africa charter has become part of the domestic laws of Nigeria and have the force of law, and are binding on Nigeria. The Court in the case of *Fewehimmi v. Abacha* (1996 NWLR, pt. 475, p. 710) held further that, by virtue of incorporation the African charter form part of Nigerian domestic laws and the courts have judicial powers to enforce it *Fewehimmi v. Abacha supra*

Axiomatically, flowing from the reasoning of the court is the view that the United Nations Universal Declaration of Rights, African Charter on Human and Peoples Rights, United Nations Covenant on Torture and Other Cruel, Inhuman

or Degrading Treatment, ICCPR, the Geneva Conventions, etc are peremptory norms or *jus cogens*. That is reasoned practice “accepted and recognized by the international community of nations as a whole as a norm from which no derogation is permitted and which can be modified only by a subsequent norm of general international law having the same character.”(Vienna Convention on the Law of Treaties, 1969, Art. 531155 U.N.T.S. 331.). The position that is clear from the above exposition of the law, however, is that cruel, inhuman and degrading treatment or punishment is prohibited by customary international law and is binding on Nigeria, regardless of whether the country is fighting terrorism or a bloody insurgency; hence using torture to extract information from the insurgents is unconstitutional.

### **5.1 Human Rights Issue in Insurgency Mishandling in Nigeria**

The Nigerian military authorities are made to fight an avowed enemy they sometimes do not even understand what motivates them. Some do not even understand the physical environment. Only recently did the Nigerian authorities acknowledge the fact that the troops are ill equipped where they are operating. So in undertaking the central counter terrorism activities, military operatives are usually keen at obtaining urgent information concerning ‘planned attacks’ and in the process employ several interrogation techniques. The fight against terrorism and insurgency is not a ‘text book’ documented war game or ‘rekey intelligence drill’ so the extent officials can go in their concerted attempt to obtain ‘life saving information’ sometimes is what is in issue.

Sometimes government personnel are faced with novel interrogative dilemma, for example if a high-level military operational manual is not accompanied by a detailed or better still, simplified legal annotations detailing interrogation techniques that are legal or appropriate. Most interrogation techniques are military doctrinaire driven and the legality or otherwise could be mere severity and not type.

The Nigerian public has now realized that there are serious allegations of interrogation techniques long considered to be torture or cruel, inhuman or degrading treatment. For example forcing detainees to be blindfolded for several hours, subjecting captured militias to loud noise and other disorienting externalities, compelling detainees to kneel or stand in awkward positions, solitary confinement, infliction of physical bodily injury, making them not to know where they are, retribution, flogging and extra judicial killings(Nigerian Human Rights Reports,2013).

Although the Nigerian military authorities and indeed the administration officials have consistently argued that it is treating *Boko Haram* detainees “humanely and, to the extent appropriate and consistent with military exigencies, in a manner consistent with the rules of engagement in counter terrorism” (Nigerian Human Rights Reports,2013). This and other rebuttals carefully avoid reference to the ‘Geneva conventions’ that govern detention and broader human rights in conflict and war situations. To most observers this deliberate avoidance presupposes that these Nigerian officials may be alluding to the existence of ‘Nigerian military rules of engagement during insurgency’. It is these twists to the unfolding series of hash and open ended questioning, interrogation techniques and general detention patterns that make compliance to the Geneva Conventions imperative.

There is the likely hood that interrogation techniques such as physical restraints in painful conditions, using mechanical or hand held devices to cool or chill detainees, tying to strange positions, etc. Interrogation measures the Nigerian military personnel are accused of have been held to be cruel, inhuman or degrading treatments abhorred by the CAT Human Right Committee.

Commenting on recent human right violations by purported Nigerian Soldiers against Nigerian civilians, broadcasted on a UK based television channel 4 TV. A Nigerian Medical Doctor based in England noted:

*It is really a tragedy that fundamental human rights seem to mean very little to the president of Nigeria...Does it then mean that the Nigerian president, in spite of all his religious prostration has no conscience and his mind unaffected, when the innocent suffer and men abuse their power to defend the weak, to plunder and oppress them? I thought that this channel 4 TV report would have compelled the president, his ministers and advisers to review the way the security forces are prosecuting this war on terror (Eke)*

He further asked rhetorically,

*...How can a democratic government justify impunity and summary execution of suspects? How can a government turn a blind eye, when its citizens are being abused by the security forces and still believe that it has the moral right to lead....*

In the concluding part of his statement, he posited that:

*The right cause of action would be for the government to hold the soldiers responsible for these atrocities accountable and remove them from the Nigerian army to save the image of Nigeria and her security agencies. Nigerian government should stand on the side of rule of law, justice, due process and fundamental human rights no matter the barbarity of her opponents (Eke).*

The Nigerian government however maintains that its troops and officials act within the law and that the government takes human right violations seriously. However the Amnesty International in its report signed by the groups secretary general Salil Shetty insist that:

*...the Nigerian military and Boko Haram were committing war crimes in the operations in the northern part of the country, saying that fresh evidences have proved human rights violations and heinous abuses as well as extrajudicial killings. Video footage, images and testimonies it gathered had provide horrific images of detainees having their throats slit one by one and dumped in mass graves by men who appear to be members of the Nigerian military and the "Civilian Joint Task Force" (CJTF),*

*state-sponsored militias (Amnesty International Reports, 2014).*

The Nigerian military high command through the Director Defense Information, Maj. Gen. Chris Olukolade in its specific reaction to the above claim by Amnesty International addressed the press on August 05 2014. In the address, he agreed that it is expedient to particularly address the recent allegation of gross human rights abuses leveled against the military by the Amnesty International and those circulating video footage purportedly showing Nigerian military carrying out extra-judicial killing of suspected terrorists. Consequently, according to him "the Defence Headquarters in addition to the already existing Joint Investigation Team (JIT) has constituted a team of senior officers and legal forensic experts to study the video footage and the resultant allegations of infractions in order to ascertain the veracity of the claims with a view to identifying those behind such acts."

One striking development on the part of the Nigerian government's role in this all important human right crisis is the fact that in spite of these astonishing revelations the general public has not been informed as to what extent and scope human right abuses has taken place in the Country. Also the government has not held any top ranking minister particularly the Attorney General or even some level military commander or 'actual soldiers' accountable because of its business as usual and culture of silence posture.

Another element of these allegations that could be easily 'over looked' by the Nigerian government including its military and intelligence authorities is the variety of corporal punishment measures alleged to have been imposed by the Nigerian military on any arrested Boko Haram suspect devoid of any form of trial. All these have been held to constitute cruel, inhuman and degrading treatment (U. N. Center for Human Rights, Human Rights Machinery Fact Sheet No. 1, at 15-16(1988).

## **5.2 Terrorism Handling in Nigeria: A Case for Better Options**

Since concerns for human rights now dogged the fight against terrorism, the question now is, to

what extent can the counter terrorism measures derogate from the basic non derogatory fundamental rights? What better option should be adopted in handling terrorism in Nigeria?

First, the conditions that make terrorism thrive in Nigeria should be eradicated. Poverty, unemployment and corruption should be tackled head on. According to Gilman:

*...the human tendency toward, and preparations for, open warfare are certainly the most spectacular obstacles to peace, but they are not the only challenges we face. For much of the world's population, hunger, not war, is the pressing issue, and it is hard to imagine a genuine peace that did not overcome our current global pattern of extensive poverty in the midst of plenty (Gilman).*

The billions of dollar that is spent on the war against terrorism can be better channeled towards addressing issues of poverty and hunger and other social causes of terrorism. Structural violence must be eradicated or at least reduced to the barest minimum. It might be argued that religious fundamentalists are not propelled by hunger and poverty as most of the known international terrorists are not poor. However, though those who are the brain behind terrorism might not be poor, they are able to recruit their members from the society where hunger and deprivation is prevalent.

Furthermore, using most national legislation against terrorism as tools by the Nigerian government to muzzle and stifle opposition rather than the instrument of justice should be abated. War on terror will be more effective if both domestic as well as international obligations and provisions in handling terrorist case in Nigeria are followed. A situation where extra judicial killing take precedence over proper judicial process should be discouraged. Therefore, any arrested terrorist should be allowed to explore his or her fundamental right to the fullest, tried in the competent court of law and if found guilty sentence according to the provisions of the law.

Further still, adaptation of workable and efficient strategy from other jurisdiction may also be a better option. For instance, Mr. Brister

while advising Nigerian government on better option to tackle terrorism said that Nigerian government

*... should study how Britain handles Northern Ireland case, Russia in Chechnya, Sri-Lanka against the ITTE and India government against Sikh Separatist terrorist in Punjab etc.*

Similarly, an experience in the Irish republic validates the viability of the better option. According to the Irish Ambassador to Nigeria:

*... after failure of armed campaign of over 30 years battle with IRA Irish Republican Army, an Irish Republican Revolutionary Military Organization, Irish government resolved to dialogue with the group when military actions were not yielding results. And that it was after dialogue that the IRA members were granted amnesty and since then we have been enjoying peace. (Daily Trust (Nigeria)18/5/2013:4)*

In addition to dialogue, the Nigerian government should embark on programmes that will be of direct benefit to the citizens. Programmes like the provision of free education up to university level, strengthening of the rule of law and improve firearms regulations will be a better option.

## 6. Conclusion and Recommendations

Despite the menace terrorism and insurgency pose to the imminent disintegration of Nigeria. The use of torture and cruel, inhuman or degrading treatment by Nigerian law enforcement personnel in the interrogation of captured insurgent has no doubt brought shame and indignation to Nigeria. It has also affected our standing among nations particularly in the sphere of human right observance. The valid concerns that the Nigerian personnel are violating human right laws in the execution of the war on terror and insurgency are grievous allegations the Nigerian authorities must address comprehensively. A situation where by a suspect would be arrested and only to be set free by the court on the “ground of want of diligent prosecution” among others should be avoided, As it occurred in the case of Aminu Ogwuche, the alleged mastermind of the April, 14 2014

bomb blast that killed over 75 persons in Nyayan, a suburb of Abuja Nigeria who was later released by the court for shoddy prosecution. Accordingly, this paper recommends that, the Attorney General of the Federation (AGF) been the chief law officer must as a matter of urgency develop the right tools as manuals for the law enforcement agencies to address the apparent poor legal architecture currently surrounding the country's execution of the war on terrorism and insurgency.

Furthermore, rather than encourage or condone the further damaging excuses or trivialize Nigeria's current failed human right responses, Nigeria must investigate all genuine allegations of human right violations, and punish all responsible for these avoidable lapses. The Nigerian government must also demonstrate leadership and commitment to the Nigerian constitution, the Geneva Conventions, the United Nations CAT, ICCPR, the African Charter on Human and People's Rights by reporting to the appropriate authorities efforts aimed at compliance and accept the time-bound interpretations of these bodies on what constitute torture, cruel and other inhuman or degrading treatment to detainees in custody.

Finally, government must make public to the fullest extent possible the reports and government white paper on the reports of investigations commissioned to investigate human right violations across the country. Doing this will re-establish the Nigerian government's credibility in the face of Nigerians and the International community. In nut shell, the war on terror must be fought in compliance with the lucid provisions of National and International humanitarian laws.

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