



EFFICACY OF PENAL METHOD OF SOCIAL CONTROL IN TACKLING INSECURITY IN NORTH-EAST OF NIGERIA

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ABSTRACT

The twin evils of insurgency and insecurity continually exist as negative social factors characterizing North-East of Nigeria, as if they are particular preserves of the region. Many reasons have been propounded and advanced as immediate and remote causes and drivers of insecurity in the region; and militarized and penal solutions have been proffered, yet insecurity rendering human and economic lives meaningless in the region persists. The persistence of insecurity problem is a clear attestation to the fact that solutions applied against it, are merely palliatory in effect. It is basically the concern of this paper, therefore to look at the efficacy or otherwise of the militarized and penal methods of social control so far applied against insecurity in the North-East Region of Nigeria. To that extent, this paper adopts doctrinal research methodology and taps into statute, books and internet materials in resolving its thematic concerns and makes recommendations for improvement of security situation in the region.

Keywords: *Efficacy, Penal Method, Social Control, Insecurity, North-East, Nigeria.*

INTRODUCTION

Banditry, kidnapping, insurgency and insecurity are fast becoming front burner issues in Nigeria; and the North-East Region of the country is arguably the epicentre of insecurity. Insecurity entails a condition of being open and subject to danger, or threat of danger. It is a state of lack of protection over lives, businesses and property within a geographical space. For Boland cited by the duo of Ndubuisi and Anigbuogu, insecurity is the state of fear or anxiety stemming from concrete or alleged lack of protection.¹³³ It may also mean a situation of weak and undependable security system that exposes persons and

133 Ndubuisi-Okolo, P.U. & Anigbuo, T. citing Boland in "Insecurity in Nigeria: The Implication for Industrialization and Sustainable Development," International Journal of Research in Business Studies and Management (2019), Vol.6, Iss. 5, P. 9.

their property to destruction. Insecurity connotes absence or near absence of security or deterioration in security which jeopardizes human lives and livelihood. Insecurity is a direct contradiction of security. According to United Nations Development Programme (UNDP) security is the protection from hidden and hurtful disruptions in the daily activities at homes, offices or communities et cetera.¹³⁴ There is no gain saying that security is a desideratum for sustained and meaningful human existence. Thus, when it comes to maintaining security as against insecurity, everyone is a responsible stakeholder. However, emphasis needs be laid that by virtue of section 14 (2) (b) of the Constitution of the Federal Republic of Nigeria, 1999 as amended, maintenance of security and welfare of the people is generally the primary purpose of government. It is worrisome that this purpose of maintaining security, peace and order has been elusive and unfulfilled by the Government in the North-East Region of the Country.

In the North East Region, the reign of insecurity engendered by insurgents has become a household knowledge. Loss of lives and property resulting because of insurgency and insecurity is numerous to count. This loss knows no bounds at the moment. This assertion remains largely true because in the region, a great number of persons are still internally displaced and scattered in make-shift camps, as insecurity is yet to end. Farming life have not resume at the interior villages of Borno and Yobe states, for example. There is no doubt that government has a significant role to play in bringing an end to insurgency, insecurity, kidnapping and killing of persons as well as destruction of property in the North-East of Nigeria. Admittedly, government is not standing idle amidst the deteriorating security situation in the region, as it has been applying penal and military methods to control the social menace of insecurity. Yet, the menace persists and losses are still being counted. This paper, seeks to interrogate the issue of efficacy or otherwise of the penal method and militarized approach applied by the Nigerian Government to control the wave of insecurity in the North-East of the Country, since the advent of life-terminating activities of insurgents in the region. This paper therefore would also highlight the causes and effects of insecurity and make suggestions to the effect that other methods of social control through law in addition to the penal method be adopted and applied against insecurity.

OBJECTIVES OF THE PAPER

The main objective of this paper is to assess the efficacy or otherwise of the penal method of social control in tackling insecurity in the North-East Region of Nigeria. The paper also sets out to identify the causes and effects of insecurity problem in the region, and makes recommendations to solve the problem

134 United Nations Development Programme (UNDP), Accelerating Development Investment in Famine Response and Prevention: A Case Study of North-East Nigeria. <https://www.undp.org/library>. Accessed on 11th July, 2021

against the backdrop of the ineffective military campaigns and penal method of social control so far applied without expected success against insecurity in Nigeria, and particularly in the North-East Region of the Country.

METHODOLOGY

The doctrinal methodology is adopted and applied in the discussion of thematic issues within the framework of this paper. The doctrinal approach aids in explaining relevant principles, rules and conceptual issues within the coverage of this paper. Besides, the paper also admires and adopts content analysis methodology as a tool with which its assess certain provisions of the law and approaches applied in tackling insecurity in the area of this study. The paper draws and taps primary materials from statutes in its analysis to fulfill its objectives. Thus, secondary materials from the cyber space also form part of the building blocks enhancing the development of the subject matter and key concerns of this paper.

NORTH-EAST REGION OF NIGERIA

The North-East geo-political Region of Nigeria is made up of six (6) states to wit: Adamawa, Bauchi, Borno, Gombe, Taraba and Yobe States. The region is largely an agrarian area with huge deposit of untapped solid mineral resources. It has a population of people estimated at 23, 558, 674 or 13.5% of the total Nigeria's population as at 2011.¹³⁵ It is a valid statement to say that this population must have skyrocketed tremendously by now. The region expands through a land mass of about 272.395km² which constitutes 29.45% of the total land resource of Nigeria.¹³⁶ The region is indigenously inhabited mainly by Fulani and Hausa peoples, with some persons of Kanuri tribal extraction seen particularly at Borno State.¹³⁷ The region depends on its agrarian economy for livelihood, until it was destroyed by insecurity that threw the region into a serious humanitarian crisis, causing paucity of food.

INSECURITY IN THE NORTH-EAST REGION OF NIGERIA

The death of Mohammed Yusuf, the leader of an anti-government group in Borno State in 2009 triggered the current conflict and insecurity in the North-East Region of Nigeria. The death of Yusuf was a consequence of armed confrontation between Boko Haram and government forces.¹³⁸ The group, Boko Haram translated as "Western education is a sin," as was led by Mohammed Yusuf does not believe in Western style of education and secular political governance in operation in Nigeria, and so seeks to establish its own caliphate to be run based on its promulgated Sharia laws. Hence, the group adopts non-

¹³⁵ Nyako, A.M. "Concept Note, North-East Development Commission." en.m.wikipedia.org. Accessed on 11th July, 2020.

¹³⁶ Mayomi, K. "Mapping and Creation of Database for Analysis of the North-East Population Distribution in Nigeria," *Journal of Geography* (2014) Vol. 1, No. 1. www.researchipjournal.com Accessed on, 11th July, 2021

¹³⁷ Nyako, A.M. *Opcit.*

¹³⁸ United Nations Development Programme (UNDP), *Opcit.*

peaceful means to overthrow the present political authority to establish its Islamic caliphate.

Summarily, the immediate causes of the exacerbation of the conflict yielding huge insecurity in the North-East Region of Nigeria are traced to the following:

- (i) Destructive activities of Boko Haram insurgency.
- (ii) Terrorist attacks on civilians populations.
- (iii) Military actions —land and aerial bombardments.
- (iv) Exacerbation of pre-existing conflicts¹³⁹

The remote causes of insecurity in the region include:

- (i) Deep social and economic development disparities of the North-East compared to the other regions in the country.
- (ii) Deep scaled poverty of the region
- (iii) Weak governmental institutions, including security system in the region
- (iv) High level of illiteracy resulting in low human capital.
- (v) Weak economic production leading to over dependence on subsistent agriculture.¹⁴⁰
- (vi) Joblessness among the people.
- (vii) Porous borders allowing inflow of militants and Jihad believing people outside Nigeria to infiltrate the region.
- (viii) Wrong perception and interpretation of religion by the youths

The shocking effects of these conflict and insecurity can equally be summarized as follows:

- (i) Death, rape, maiming and displacement of persons. As at January, 2021 internally displaced persons stood at 2,035,232.¹⁴¹
- (ii) Destruction of private and public buildings which include churches, mosques, markets and schools.
- (iii) Kidnapping and hostage taking of persons including school students for ransom.
- (iv) Destruction of rural agriculture as a means of peoples' livelihood.
- (v) Food scarcity due to little or no agricultural production in the region.
- (vi) Disruption of inter-state transportation business in the region.
- (vii) Disruption of schools in the rural areas in the region¹⁴².

EFFICACY OF PENAL METHOD OF SOCIAL CONTROL

It is reiterated that maintenance of security and welfare of the people is a primary function of government¹ as can be confirmed in section 14 (2) (b) of the Constitution of Nigeria earlier cited in this paper. Thus, the security or

¹³⁹ *ibid*

¹⁴⁰ *ibid*.

¹⁴¹ UNHCR Nigeria: Population of Concern Snapshot. <https://econet>local>. Accessed on 11th July, 2021.

¹⁴² UNDP. *Op cit*.

insecurity of a country or any part thereof is a matter regulated by law, even of a Constitutional dimension. To this end, the Government of Nigeria has by law adopted and applied militarized and penal methods in fighting insecurity recently in the North-East part of the country. The penal method as a technique of social control through law “involves the setting out of acts and omissions which are regarded as violation of the criminal law.”¹⁴³ As stated by a writer, the penal technique is one in which the law pronounces some actions as prohibited and provides punishment for engaging in such actions.¹⁴⁴ In a more comprehensive assertion, Malemi states that:

*Penal method or the criminal justice system means enforcement of criminal laws by the government through the court and other law enforcement agencies and the punishment of crimes, rehabilitation and reintegration of persons who have served their prison terms back in society as applicable, where it is not a death sentence.*¹⁴⁵

The penal justice system defines and prohibits criminal conduct and spelt out various punishments including death sentence against certain offences. This death sentence is sustained in section 33 (1) (c) of the Constitution of Nigeria against offences such as insurrection or mutiny. Insurgency reigning in the North East of Nigeria may fall into the category of offences punishable with death under section 33 (1) (c) of the Constitution cited above. Some penal laws also exist under the constitution stipulating capital punishment for certain offences. These laws include Penal Code applicable in the North of Nigeria and Criminal Code applicable in southern Nigeria. The penal justice system seeks to use the law enforcement officers such as the Police to arrest, arraign and prosecute offenders before the courts. The Law Officers, Attorneys-General of either the Federation of Nigeria or State in Nigeria are generally empowered by law to prosecute offenders for various crimes.¹⁴⁶

In all, the essence of penal justice system is seen in the use of various prosecuting agencies to enforce penal laws through the hierarchy of courts with the aim of punishing criminals to ensure security, peace and order in the society. Punishments in this context, may include a term of imprisonment or fine or both, or a sentence of death et cetera. Arguably, Nigeria has been applying penal method in a bid to term the tide of insecurity in the North-East of the Country. This fact is supported by the report made by the Operation Safe Corridor Commander (OSCC), Major General Bamidele Ashafa to the effect that 1000 Boko Haram members have been prosecuted and 500 have been

¹⁴³ Nwagbara, C. “The Efficacy of the law as an Instrument of Social Control in Nigeria.” *International Journal of Business & Law Research*, (2015) Vol. 3 (1), P. 46. www.seahipaj.org.

Accessed on 11th July, 2021.

¹⁴⁴ Olamide, O. Method of Social Control through Law. <https://djetlawyer.com/methods-social-control-law/>. Accessed on 11th July, 2021.

¹⁴⁵ Malemi, E. *The Nigerian Legal Method* (2nd ed.) (Lagos: Princeton Co., 2012). P. 212.

¹⁴⁶ See Sections 174 & 211 of the Constitution of the Federal Republic of Nigeria, 1999 as amended which empower the law Officers to institute action and prosecute criminal elements in the country.

jailed.¹⁴⁷ Recently, the Attorney General of the Federation (AGF), Abubakar Malami, SAN ordered the resumption of prosecution of more Boko Haram insurgents detained in various locations in Nigeria.¹⁴⁸ The Chief Law Officer of the Federation remarked that persons without prima facie cases would be discharged to undergo a process of de-radicalization from the Office of the National Security Adviser (ONSA).¹⁴⁹ In another report, it is stated that about 350 million was earmarked for the prosecution of suspected Boko Haram insurgents in the 2021 budget proposal.¹⁵⁰ Human Rights Watch (HRW), however stated that Nigeria's prosecution of suspected Boko Haram members which began in October, 2017 was fraught with flaws which include:

*Prosecution of those not responsible for atrocities; secret trials conducted at make-shift court rooms at military base; vague and ambiguous charges without specific date, place and details of offense alleged; lack of official interpreters and use of unofficial interpreters; reliance on confessional statements; charging of previously charged persons on same offences; unclear court orders for rehabilitation for some persons and lack of sufficient access to Counsel by the accused.*¹⁵¹

According to the Human Rights Organisation, the persons were prosecuted for offences of murder, kidnapping including gruesome attacks in Damaturu in Yobe State; Bama and Baga in Bomb State in 2015; and abduction of 276 school girls in Chibok in Borno State in April, 2014.¹⁵² That most of the persons were prosecuted for providing materials (food), laundering of clothes, and repairing of vehicles to Boko Haram members.¹⁵³

As can be seen from the above presentation, the prosecutorial efforts made by Nigeria in line with the penal method are remarked as being flawed. The flaws notwithstanding, the method as money consuming as it is, is not yielding the expected result of eliminating insurgency and insecurity in the North-East Region. As it is, the application of the penal method against insecurity is of little efficacy. It lacks clouts to control insecurity in the manner expected. The method, where efficacious suppose to prohibit crimes and sanction criminals to ensure a three-fold justice to the North-East under the grips of insecurity, the country, Nigeria and the convicts themselves, such that the country as a

147 Abu-Bashel, A. "500 Boko Haram Members Jailed in Nigeria since February." <https://www.aa.com.tr/africa/500...> Accessed on 25th July, 2021.

148 Odunsi, W. "Boko Haram: Nigerian Government Resumes Prosecution of Suspects." Daily Post, 12th February, 2018. <https://dailypost.ng/2018/02/12>. Accessed on 2nd August, 2022.

149 Ibid.

150 Iroaanusi, Q.E. "Justice Ministry Proposes 2 Billion Naira for Prosecution of Boko Haram Suspects, Prison Decongestion, Others." <https://www.premiumtimeng.com>. Accessed on 25th July, 2021.

151 Human Rights Watch, "Nigeria": Flawed Trials of Boko Haram Suspects." <https://www.hrw.org>. Accessed on 25th July, 2021.

152 Ibid.

153 Ibid

whole would have security, peace and progress expected. As observed, the penal method only deals with the symptoms of crime, and not the root causes of crime.¹⁵⁴

Furthermore, the military approach of ground and aerial bombardments applied simultaneously with the penal techniques is also critically flawed. Justify this assertion on the International Criminal Court (ICC) Representative's primary examination report that Nigerian Security Forces (NSF) also worsens the precarious security situation by committing murder, rape, torture, forcible transfer of population and enlisting of children under 15 years of age into armed force¹⁵⁵ to confront insecurity. This defect in military approach-might have informed the observation that equipping the Nigerian Military and Police Forces with exotic weapon will not end insurgency faster than creating enabling environment that will help the people to dream would.¹⁵⁶ In all, militarized approach and penal technique do not put in place ameliorating measures such as free or affordable education, vocational training, employment, poverty alleviation programmes, empowerment programmes and opportunities for self actualization to prevent a person from becoming a criminal.¹⁵⁷ It is absence of these things mentioned above that is one of the root causes of crime which begets insecurity.¹⁵⁸ To this end, the point needs to be made that in view of the short comings of the militarized approach and penal technique, other methods of social control through law needs to be introduced to tackle insecurity from the root.

OTHER METHODS OF SOCIAL CONTROL THROUGH LAW

Apart from penal method which catches a criminal and punishes him, but does not help the criminal not to be a criminal¹⁵⁹ other methods of social control also exist. Two of these methods would be discussed in this paper.

(i) Conferral of Social Benefits Method.

The role of government have gone beyond maintenance of law, peace and order in the country. Governmental role essentially extends to provision of socially beneficial infrastructures which include network of good roads, qualitative education, efficient electricity, livable houses, functional healthcare system and social financial support system etcetera. It is imperative to state that the government of Nigeria through conferral of social benefits method created North-East Development Commission (N.E.D.C) to confer social benefits on the North-East Region of the Country. It was expected that N.E.D.C. Act promulgated against the mischiefs of underdevelopment and insecurity would translate into concrete amenities that would help to cure social ills affecting the North-East Region. So far N.E.D.C is not performing

154 Malemi, E. Opcit. P. 220

155 International Criminal Court (ICC), "Nigeria-Boko Haram: Prosecutor Urges ICC Inquiry. <https://www.bbc.com>news>. Accessed 25th July, 2021.

156 Boma, M.M. "The Issue of Insecurity in Nigeria." <m.gaurdian.ng>opinion>theissue-of-1...> Accessed on 25th July, 2021.

157 Malemi, E. Opcit. P. 220

158 Boma, M.M. Opcit.

159 Malemi, E. Opcit. P. 220

practically well to bridge the development gaps in the region. These gaps exist in the nature of poverty, illiteracy, unemployment and lack of vocational skills et cetera.

The rationale behind the application of conferral of social benefit method is that of creation of amenities and enabling economic environment that would provide opportunities for people to engage in productive ventures. These productive engagements are then expected to take minds of the people away from crimes and the society would have security and peace in the end. Thus, application of this method could be seen as a useful alternative to over-application of penal method of social control which criminalizes and punishes criminals without stopping them from committing crimes which render the society insecure.

(ii) Fiscal Technique

This technique or method enables government to depend on law to use taxation as a means of social control. Social control entails the adoption of methods of law to enforce conformity of people's behavior with legal norms in the society. Under the fiscal method, the government promulgated Personal Income Tax Act (PITA), 2004; Value Added Tax Act (VAT), 2004; Company Income Tax Act (CITA), 2004 and Customs and Excise Management Act (CEMA), 2004 et cetera to the raise funds for the development of the country. It is pointed out that the combination of this fiscal method with conferral of social benefits technique would result in a better budgetary allocation to help out the North-East Region under the yoke of insecurity.

FINDINGS

The findings of this paper are:

- i. The government of Nigeria is over-depending on militarized approach and penal method in fighting insurgency and insecurity in the North-East Region of the country, yet the expected security is not achieved.
- ii. The remote causes of insecurity outlined in this paper are not effectively tackled through non-penal methods herein identified, and so grudges arising from poverty, illiteracy, under development; and joblessness and disenchantment with extant governance structure are still making the youths prone to commission of crimes which result in insecurity in the region. This makes harnessing of local intelligence for fight against insecurity less possible.
- iii. Wrong perception of western-style of education from Islamic view point held by youths who submit themselves as ready tools for recruitment into Boko Haram group to prosecute violent religious agenda for creation of Islamic caliphate.
- iv. Infiltration of non-Nigerians with light and sophisticated weapons into Nigeria is not thoroughly checked at entry points.

RECOMMENDATIONS

It is recommended that:

The government of Nigeria should engender a paradigm shift by adopting and applying non-penal methods to create social amenities which would make for opportunities for productive social and economic engagements of the youths. To this end, affordable and functional education of the youths on civilized standards of living in the pluralistic Nigeria is needed. A robust 21st century financial empowerment programme is also needed to activate the entrepreneurial spirit among the youths and take them away from being attracted to insurgent activities. This paper is by no means suggesting the abandonment of military and penal methods of restoring security in the country, and particularly in the North-East Region of the country. The suggestion made is to the effect that an eclectic methodology of penal, military, conferral of social benefits and fiscal techniques be adopted to tackle the social problem of insecurity, root and branch. Along this line, the North East Development Commission (N.E.D.C.) should be making practical efforts to bring about tangible socio-economic development into the region. Thus, procurement of military weapon in the country should be balanced with procurement of social amenities for reconstruction of the region and alleviation of poverty among the people.

A programme of town hall meetings at local levels is equally necessary to discourage youths who may offer themselves as willing tools for insurgency. This meeting may also help to harness local security intelligence for restoration of peace. Grant of amnesty, de-radicalization and reintegration of repentant militants should also be encouraged. Establishment of forest guards, using the youths may help to restore security for rural farming and also provide employment for them; and to a large extent, fix the problem of food insecurity in the region.

CONCLUSION

It is not a hyperbole to state that Nigeria is under siege as a result of insecurity; and the North-East Region of the Country is particularly the worst hit by the social menace. Militarized approach and penal method of social control have been applied to fight against insecurity, yet security and peace are still elusive in the country. Thus, the time is ripe now for the country to consider adoption and application of method of eclecticism which entails the use of a combination of non- penal measures in a balanced proportion with penal methods to restore security to the North-East Region and the Country as a whole.

Acknowledgement

With the support of CLEEN Foundation, Nigeria.

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