ISSN 1996-9023
3 (1) March 2017

KIU Journal of Social Sciences



EXPLORING THE HEIGHTS

College of Humanities and Social Sciences
Kampala International University

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Kampala International University ISSN: 1996902-3; 3(1): 75–85

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 Muhmmed 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

KIU Journal of
Social Sciences

ISSN 1996-9023
Volume 3 Number 1
March, 2017

Contents

1 **Oyetola Oniwide,** Editorial

3 **Health Psychology**
5 **O. L. Dominic, I.O. Ojo and R.A. Adedoyin,** A Comparative Study of the Physiological Variables Associated with Cardiovascular Disease Risk Factors Among Retirees in Ile -Ife, Nigeria
13 **Lukman Naflu and Umaru Hamidu,** Prevalence of Five-Child-Killer Diseases and Under-Five Mortality in Adamawa State, Nigeria
21 **Olukunmi Olaitan, et. al,** Factors Influencing the Choice of Family Planning Among Couples in South West Nigeria
29 **A.A Garaje, I.A. Njodi and A. Inuwa,** Assessment of Stigmatization and Coping Strategies of People Living with HIV/AIDS in Taraba State, Nigeria
37 **A.O. Onifade, R.O. Ogungboye, J.O. Adigun, A.I Abikoye, O.O. Abiola and S. Aliyu,** Socio-Cultural Factors Influencing Choice of Bilateral Tubal Ligation Among Women Attending University of Ilorin Teaching Hospital
47 **O.I. Dominic, T.O. Ibraheem, I.Y. Seidina and F. Niyi -Odumosu,** Influence of ICT Use on Body Composition and Sedentary Death Syndrome (SeDS) Risk among University of Ilorin Sandwich Students

57 **Social Psychology**
59 **Olukunmi Olaitan**Socio-Economic Determinants of Child Labour in Ilorin, Kwara State, Nigeria
67 **M. Esere, O. Akande, B.R. Iruloh,**Bullying, Self-Disclosure and Sexual Incompatibility as Correlates of Marital Instability among Newly Married Adults in Nigeria
75 **B. Orubebe, S. Olokooba, N.O.A. Ijaiya,**Using Torture to Extract Information from *Bokko-Haram* Group: A Mere Scourge or Panacea to Halt Terrorism in Nigeria?
87 **Bashir Sani and Kennedy Imbuki,** Effective Counseling and Behavior Control in Secondary Schools in Kano State, Nigeria.
91 **E.S. Nwokoye,**Major Inhibitors to Female Formal Labour Force Participation in Selected Towns of Awka South Local Government Area, Anambra State, Nigeria

105 **Entrepreneurship Studies**
107 **Amina Sani and Maimuna A. Shika,** Entrepreneurship Skills and Career Performance Among Self Employed University Graduate in the North West of Nigeria
121 **Sani Ibrahim,** Relevance of Microfinance Banks in Financing of Small and Medium Entrepreneurs in Nigeria
125 **Ahmed Rakiya, Sofia Sal Gaite and Samuel Salami,** Entrepreneurial Skills Acquisition and Utilization Among Home Economics Education Graduates of Ahmadu Bello University Zaria, Nigeria
133 **I.J. Adakole, K.H. Danja and K. Muhammad,** Product Innovation and Success of Telecommunication Companies in Nigeria
153 **M.S. Mansur and Isaac Abuga,** Environmental Based Activities and Technology Entrepreneurship Growth in North Western Nigeria
163 **Abdu Danjuma Yusuf,** Youth Business Empowerment and Entrepreneurship Skills in Doguwa Local Government, Kano State, Nigeria
169 **Atolagbe A., O. Oparinde, S. Oyeniran and A. Omosidi,** Challenges of Financing Public Education in Kwara State: Options and Implications for Development.

177 **Governance and Development**

179 **S.M. Olokooba, J.O. Olatoke and B.B. Orubebe,** Internal Tax Regime of WTO: A Clog in the Wheel of Economic Progress of the Developing Countries
187 **J.O. Olatoke,** Millennium Development Goals, Sustainable Development Goals and the Nigerian Constitution: Veritable Tools for Overcoming Nigeria's Health Challenges?
199 **S.M. Abdulmalik and L.A. Ayinla,** Pervasive Corruption in Nigeria: A Holistic Approach
209 **M.E. Etudaiye and M.A. Etudaiye,** A Critique of the Unanticipated Powers Of The State Security Service In Nigeria and the Validity of their Source

221 **Educational Administration**
223 **H. D. Abba, I.B. Anumaka and W. Mugizi,** Employee Identification and Productivity Among Academic Staff of Nigerian Polytechnics
233 **Adebola Alaba,** Contributions of Organisational Transparency, Communication Flow and Intrinsic Motivation to Teachers Job Performance in Ogun State Public Secondary School.
245 **T.O. Ibraheem, T.O. Olaoye, D.F. Odufoye,** Sporting Activities as an Agent of Peace and Unity Among Secondary School Students in Ilorin South Local Government
251 **S.S. Amoor and Z.B. Magaji,** Comparative Analysis of Using Computer Tutor Guide and Demonstration Methods of Teaching on Students' Skills Acquisition in Word Processing in Nigerian Universities
257 **R.T. Umar,** Comparative Study of Direct and Cooperative Method of Teaching Financial Accounting in Federal Colleges of Education, North-East Geo-Political Zone, Nigeria.

263 **Legal Studies**
265 **A.S. Ishola and A.I. Abikan,** Curbing Delay of Justice on Ground of Jurisdiction in the Nigerian Courts: Lessons from the Islamic Law
279 **Olusegun Onakoya,** Landlords Versus Tenant: A Critical Appraisal of Conflict in Tenancy Law in Nigeria.
293 **K. I. Adam, I. A. Yusuf,** Originality in Copyright and the Debate on Protection of Traditional Knowledge: A View on Nigerian Law
303 **A.I. Abikan and I.B. Ahmad,** Shariah Governance of Islamic Financial Institutions (IFIS): An Analysis of the Central Bank of Nigeria (CBN) Regulatory Guidelines

317 **Creative Writing**
319 **Sunny Awhefeada,** Women, Individual and National Aspirations in Mariama Ba's *So Long a Letter*
327 **Abubakar Bappayo and Zannah Maidunoma,** An Assessment of Newspapers' Reportage of Health Issues in Daily Trust and National Mirror
335 **Y.I. Arowosalye,** General Legal and Opinion Writing Skills: Issues and Explanations
345 **Baba Jimeta Usman and A.B. Mustapha,** Pre-Reading Activities in Facilitation of Efficient Reading Among English Language Students in Adamawa State, Nigeria.

Published by:
College of Humanities and Social Sciences,
Kampala International University,
P. O. Box 20000, Kampala, Uganda.
Tel: +256788806612
Fax: +256414501974
E-Mail: principal.chss@kiu.ac.ug
http:// www.chss.kiu.ac.ug

ISSN 1996902-3