

BOKO HARAM AND AMNESTY: A PHILO-LEGAL APPRAISAL

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Abstract

Boko Haram figuratively implies that western or non-Islamic education is a sin, is a very controversial Nigerian militant Islamist group that seeks for the imposition of Sharia law in the entire northern states of Nigeria. The hierarchical structure of the group is not presently well defined. The official name of the group is Jama'atu Ahlis Sunna Lidda'awati Wal-Jihad, which in Arabic translates to "people committed to the propagation of the prophet's teachings and Jihad." Literally therefore, the group means "Association of Sunnis for the propagation of Islam and for Holy War." From this, it is clear that Boko Haram is a group of Islamic fundamentalists that are committed to carry out Holy War (Jihad) and Islamized northern states of Nigeria and probably conquer the entire country through Jihad. So far, the group has been waging the war successfully in its area of stronghold. However, a legal twist has been introduced into a religious matter. This legal twist is the call for amnesty to be granted to the group by certain interest groups with Islamic interest. Amnesty as a legal concept is usually given to people by a state to restore those who may have been guilty of an offence against it to position of innocent people. Amnesty is more than pardon as it obliterates all legal remembrance of the offence. Here, what is the offence of Boko Haram that amnesty is sought to obliterate? In this paper therefore, effort will be made to philosophically and legally appraise the group activities and the call for amnesty. We will look at the socio-economic conditions that give birth to Boko Haram. Also, we will attempt justification or otherwise for the call for amnesty within the constitutional framework of Nigeria as a secular state.

INTRODUCTION

The recent surge of the menace of Boko Haram through serial bombings that have killed several innocent Nigerian citizens is a serious breach and challenge to national security. The bombing of the United Nations building in Abuja on Friday 26th August, 2011 killing not less than 23 people and wounding scores of others has further demonstrated not only the wickedness of the group but its potency, determination and destructive capabilities. These bombings by the Islamic fundamentalist group referred to as Boko Haram is a serious crime against the Nigerian state, which has threatened its national security. This has posed the greatest challenge to the grand strategy for national security the primary objective of which is "... to strengthen the Federal Republic of Nigeria, to advance her interest and objectives to contain instability, control crime, eliminate corruption... improve the welfare and quality of life of every citizen."¹

Clearly, the activities of Boko Haram have created a situation of insecurity, instability, increase in crime and has worsened the welfare and quality of life of Nigerians. This can be attested to by the mass movement of residents from other states of the federation out of the North Eastern part of the country, especially Maiduguri, which is the capital of Borno State.

¹ Dambazau, A. B. *Crime and Criminal Justice* (2nd Ed.) Ibadan: Spectrum Books Limited, 2007, p. 151

This situation has made it impossible for the citizens in that part of Nigeria to carry on their legitimate businesses. Students have been forced to flee their schools. Indeed so grave is the problem that some state Governors have vowed never to allow Nigerian students from their states to go back to the northern part of Nigeria where the presence of the group is growing exponentially. Again, the activities of Boko Haram have affected the postings of students of Southern extraction on national youth service to the north. Parents are strongly resisting the posting of their children as corporals to the north. This, in itself is a fatal blow to the noble objective of the scheme as a unifying strategy. Indeed, the unity of Nigeria is seriously threatened by Boko Haram. However, the reality of this threat is worsened and manifested in the statements credited to some well placed northern Nigerians that no military action should be taken against the group. Rather than condemn this crime of Boko Haram against the Nigerian state and her people, these Northern Nigerians of Islamic faith are demanding for dialogue and amnesty for this fundamentalist sect. The question therefore is, is it right and proper to dialogue and grant amnesty to criminals that have declared war against the Nigerian state and the people? What purpose will dialogue and amnesty serve? What are the implications if government succumbs to this demand? Will this measure strengthen our national security? What impacts will dialogue and eventual amnesty have on Nigeria?

It is on this basis that this paper is inspired to look at the historical background of Boko Haram. Effort will also be made to x-ray the socio-economic conditions that led to the formation and sustenance of the sect. Again, we will try to locate the real aim and objectives of Boko Haram as a religious sect within a speculative framework. In doing this, we will take a critical look at the legal implications of their activities within the scope of Nigerian law and the constitution of Nigeria as it relates to the secularity status of the country.

Furthermore, there will be a general appraisal of the measures taken by security agencies and the government towards combating the menace of Boko Haram. This will be done in relation to National Security and Crime. Finally, the paper will highlight the various implications of the Boko Haram surge. Recommendations will be made to fill the gaps discovered.

HISTORICAL SKETCH OF BOKO HARAM

Boko Haram is not the official name of the group. The official name of the sect is Jama'atu Ahlis Sunna Lidda-awati Wal-Jihad. The translation of this in Arabic means "people committed to the propagation of the prophet's teachings and Jihad"². However, Boko Haram is the local dubbing of the sect by residents of Maiduguri, when it was formed in 2002. Boko Haram according to the local Hausa language simply translates to "Western education is forbidden or is a sin."³ The resident gave the group this name because of its strong aversion to western education, which it viewed as corrupting Muslims. The term "Boko Haram" is a derivative of the Hausa word *boko*, which means "Animist, western or otherwise non-Islamic education," while *haram* is a word with Arabic origin that figuratively means "sin" but literally, "forbidden".⁴

Ideologically, Boko Haram opposes not only western education, but western culture and modern science. This according to Wikipedia is anchored on the 2009 British Broadcasting Corporation (BBC) interview granted by Yusuf, who is believed to be the leader of the group. In the said interview, Yusuf declared that the belief that the world is spherical in shape is a sharp contradiction to Islamic thought and therefore should be rejected along with Darwinism and the theory that rain comes from water evaporated by the sun.⁵

Historically, the group according to Wikipedia is said to have been in existence right from the 1960s but only started to draw attention in 2002. Ustaz Mohammed Yusuf is said to have assumed the leadership of the group in that year. In 2004, the group moved to Kanamma in Yobe State where a base was established and named "Afghanistan", from which attacks were launched at nearby police outposts and several police officers killed. Its leader, Yusuf, was very hostile to democracy and the secular educational system. He vowed then that the war, which is yet to start, would continue for a long time if the political and educational system are not altered or changed.

² Wikipedia, "Boko Haram", 17/07/2011, p. 1

³ Ibid.

⁴ Ibid.

⁵ Ibid, p. 2

The followers of the sect are said to be influenced and indoctrinated by the Koranic phrase that says “Anyone who is not governed by what Allah has revealed is among the transgressors.”⁶ Boko Haram promotes the version of Islam that makes it “haram”, or forbidden, for Muslims to participate in any political or social activity associated with western society. This activities that are “forbidden” or “haram” includes voting in elections, wearing shirts and trousers or receiving secular education. To Boko Haram, the Nigerian state is run by non-believers, even when the country had a Muslim president. Since the Sokoto caliphate that ruled parts of what is now northern Nigeria, Niger and Southern Cameroon, fell under British control in 1903, there has been a strong resistance among the Muslims in the area to western education. Several Muslim families still refuse to send their children to government – run “Western schools”, and the problem is compounded by the ruling elites which does not see education as a priority. It is as a result of this that the Muslim cleric, Mohammed Yusuf, formed Boko Haram in Maiduguri, 2002⁷. He established a religious complex that included a mosque and an Islamic school. Many poor Muslim families from across Nigeria and neighbouring countries enrolled their children in the school. Boko Haram is not only interested in education. The political goal is to create an Islamic state, and the school has been a recruiting ground and centre for Jihads to fight the state.⁸

ACTIVITIES AND ATTACKS OF BOKO HARAM

In order to appreciate the enormity of the challenge posed to national security by the activities of Boko Haram, it is proposed to briefly draw attention to some of the attacks which the sect has carried out.

The activities of Boko Haram started with the clash with the Nigerian Police in July, 2009. This was when the Nigerian Police started investigating the group, which was engineered by reports that the group was arming itself. Several leaders were arrested in Bauchi and this led to deadly clashes with security agencies in Nigeria that resulted in the death of about 800 people.⁹

Before these clashes, several Muslims leaders and at least one military official had warned the authorities about Boko Haram. The warnings were reportedly ignored.

In Yobe State, the fighters employed fuel-laden motorcycles and bows with poison arrows to attack police stations. On July 30th, 2009, there was the allegation that Yusuf, the leader of the group was killed by Nigerian security forces after he was arrested.¹⁰

In January, 2010 the sect struck again in Borno State, killing four people in Dada Alemderi ward in Maiduguri.¹¹ To demonstrate their disdain for the Nigerian state and undermine its criminal justice system, on September 7, 2010, Boko Haram set free over 700 inmates from the prison in Bauchi State.¹²

In December 2010, Boko Haram was said to have bombed a market leading to the arrest of 92 of its members by the police.¹³ On Friday January 28, 2011, a gubernatorial candidate was assassinated along with his brother and four police officers by the group.¹⁴

Further, on March 29, 2011, the Police foiled a plot to bomb an All Nigerian Peoples Party (ANPP) election rally in Maiduguri, Borno State. This was linked with Boko Haram. On April 1, 2011, a day before the legislative elections in Nigeria, Boko Haram members attacked a police station in Bauchi. In April 9, 2011, a polling booth was bombed in Maiduguri. Again, on April 15, 2011, the Maiduguri office of Independent National Electoral Commission (INEC) was bombed and several people were shot in a separate incident that same day. Boko Haram killed a Muslim cleric and ambushed several police officers in Maiduguri on April 20th, 2011. Also, in April 22, Boko Haram freed 14 prisoners in a jail break in Yola, Adamawa State.¹⁵

⁶ Ibid, p. 3

⁷ Ibid, pp 3-4

⁸ The Nation, July 3, 2011, p. 17

⁹ <http://www.bbc.co.uk/new/world-africa>

¹⁰ The Nation, 31 July, 2009, p. 6

¹¹ The Nation, February 2, 2010, p. 8

¹² The Sun, September 8, 2010, p. 12

¹³ The Nation 28 Dec. 2010

¹⁴ The Nation, 29 January, 2011, p. 12

¹⁵ The Nation, April 25, 2011, pp 14-16

On Tuesday, February 8, 2011, the group gave conditions for peace. The radicals sect demanded that the Borno State Governor, Senator Ali Modi Sheriff, should step down from office with immediate effect and also allow its members to reclaim their Mosque in Maiduguri, the Borno State capital.¹⁶ On 9th May, 2011 Boko Haram rejected an offer for amnesty made by the Governor – elect of Borno state, Kashim Shettima.¹⁷

On May 29, 2011, Boko Haram carried out series of bombings in northern Nigeria that left 15 people dead.¹⁸

Before the bombing of the United Nations building on August 16th, 2011 the most daring activity of the fundamentalist group was on June 17, 2011 when it bombed the police force headquarters in Abuja. This attack which was the first suicide bombing in the history of Nigeria appeared to be specifically targeted at the Inspector General of Police, Hafiz Ringim.¹⁹

After the bombing of the police Headquarters, the sect has carried out other attacks in Maiduguri on 27th June, the sect attacked a beer parlour. According to an official and eye witness' accounts, militants on motorcycles threw explosives into the drinking spot, killing over 25 people. There was another bomb attack in Maiduguri in 27 June, 2011 that killed two girls and wounded three custom officials.²⁰

Another bombing of a beer garden in Maiduguri was carried out on 3rd July, 2011 in which twenty people were killed.

A Christian Fellowship Church in Suleja, Niger State was bombed on July 10, 2011. This culminated in the closure of the University of Maidghuri by the University authority on July 11, 2011 citing security concerns as the reason for the closure.²¹

BOKO HARAM, CRIME AND NATIONAL SECURITY

From our analysis of the activities of Boko Haram, it is very glaring that these constitute a crime against the state and also posed a serious threat to our national security. Although it is difficult to provide a universal definition of crime due largely to the issue of time and space, crime has been defined by the United Nations Research Institute. According to the institute:

*Crime, in the sense of a breach of a legal prohibition is a universal concept, but what actually constitutes a crime and how seriously it should be regarded, varies enormously from one society to another. Perceptions of crime are not determined by any objective indicator of the degree of injury or damage but by cultural values and power relations.*²²

In strict legal terms, a crime is a violation of the criminal law, which is subsequently followed by legal punishment. In criminal law, a crime is an act of omission which attracts sanctions, such as fine, imprisonment, or even death. Crime, legally consists of two fundamental elements namely, the *actus reus* and the *mens rea*. The *actus reus* is the physical element or the guilty act, and it requires proof where there is no *actus reus*, there is no crime. It includes all the elements in the definition of the crime with the exception of the mental element.²³

The second element, which is *mens rea*, is the mental element or the guilty mind. It is basically the intention and a man is said to intend doing something if he foresaw and desired it. The desire for the consequences is the basic factor of intention. Crime can be dichotomized into serious and minor; felony and misdemeanor; *Mala in se* and *Mala prohibition*,²⁴ crimes against persons and crimes against property among others.

From this, we can conveniently situate the activities of Boko Haram as falling under the serious crimes and felony.

¹⁶ The Guardian, February, 10th 2011, p. 6

¹⁷ The Nation, 10th May, 2011, p. 7

¹⁸ The Nation, 30th May, 2011, p. 6

¹⁹ The Nation, 18th June, 2011, pp 1-2

²⁰ The Sun, 28th June, 2011, p. 4

²¹ The Nation, 3rd July, 2011, p. 16

²² States in Diaspora: The Social Effects of Globalization, UN Research Institute for Social Development, 1995

²³ Smith, J. C. and Hogan, B. *Criminal Law*, London: Butterworth, 1985

²⁴ *Mala in se* crimes are those which are almost universally accepted as wrong or bad themselves, such as murder, assault and rape. *Mala prohibition* are those which are statutory in nature and may pass in and out of criminal law.

Also, it is *Mala in se* because there are cases of murder and *Mala prohibition* because their activities have to do with a breach of our constitutional provisions. To promote clarity of analysis, two points may be made. First, the activities of Boko Haram are unconstitutional in that they offend specific constitutional provisions. Secondly, their activities are criminal and reprehensible as such. On the breach of the constitution, reference may be made the desire to force, every Nigerian to accept Islamic religion and practices is a violation of the fundamental rights to freedom of thought, conscience and religion as guaranteed in section 38(1), (2), (3) of the 1999 Nigerian constitution.

Specifically section 38(1) states:

*Every person shall be entitled to freedom of thought, conscience and religion, including freedom to change his religion or belief, and freedom (either alone or in conveniently with others, and in public or in private) to manifest and propagare his religion or belief in worship, teaching, practice and observance.*²⁵

On the basis of this constitutional provision and in view of a portion in the Koran that says that everybody is free to practice his or her religion, so long there is no interference or hindrance; where then is the justification for the activities of Boko Haram? Undoubtedly, the activities of the sect are not only illegal and morally reprehensible but unconstitutional. Further, the activities of Boko Haram are tantamount to treason, which is an offence punishable under section 37 of the Criminal Code. Section 37(1) of the Code defines treason as:

*Any person who levies war against the state, in order to intimidate or overawe the president or the Governor of a state, is guilty of treason, and is liable to the punishment of death.*²⁶

It is clear from this definition that the fundamentalist sect known as Boko Harm has levied a war against the state of Borno and Nigeria. The use of bomb to kill innocent citizens of Nigeria amounts to war. The president and the state governors have been overawed by their bombings and killings in Borno, Bauchi and in Abuja among others.

Also, by the use of foreign elements the activities fall under section 38 of the Criminal Code, which is “instigating invasion of Nigeria.” this section says:

*Any person who instigates any foreigner to invade Nigeria with armed force is guilty of treason, and is liable to the punishment of death.*²⁷

From our historical analysis and from media reports, it has been established that there are foreigners from Niger Republic and Chad who are used in carrying out the dastardly activities of bombing police stations, churches, public places, and privates places where Nigerians are gathered in groups such as beer gardens. On 15th August, 2011, it was reported by channels Television that there was an attempt by a suicide bomber to bomb the police headquarters in Maiduguri where Nigerians were gathered for police recruitment. The aim of the suicide bombers was to drive into the crowd and straight into the headquarters’ building of the police. Facts available from authorities show that there are no suicide bombers in Nigeria. The implication of this therefore is that Boko Haram had instigated foreigner(s) to invade Nigeria with armed force (bombs). This can be seen in the arrest of a Niger national in connection with bombing of the United Nations building in Abuja among others.

Again, several innocent and unarmed Nigerians including security operatives such as police officers, soldiers, custom officers and others have been murdered through the activities of Boko Haram. Murder is a criminal offence as defined by section 316 sub-section (1)-(6). Specifically section 316(1)-(3) says:

Except as hereafter set forth, a person unlawfully kills another under any of the following circumstances that is to say;

- (1) If the offender intends to cause the death of the person, or that of some other person,*
- (2) If the offender intends to do to the person killed or to some other person some grievous harm;*
- (3) If death is caused by means of an act done in prosecution of an unlawful purpose, which act is of such a nature as to be likely to endanger human life.*²⁸

²⁵ Section 38(1), 1999 constitution of Nigeria

²⁶ Section 37(1), Criminal Code

²⁷ Section 38 of Criminal Code

²⁸ Section 316(1)-(3) of Criminal Code

Furthermore, the activities of Boko Haram constitute a breach of sections 204 and 205(1) and (2) of the Criminal Code. For proper understanding and clarity, it is considered pertinent to reproduce these sections of the Code. Section 204, which is on insult to a religion states as follows:

*Any person who does an act which any class of persons consider as a public insult on their religion, with the intention that they should consider the act such an insult, and any person who does an unlawful act with the knowledge that any class of persons will consider it such an insult, is guilty of a misdemeanor, and is liable to imprisonment for two years.*²⁹

Section 205(1), which is “offering violence to officiating Ministers of religion”, says that any person who by threats or force prevents or attempts to prevent any Minister of religious worship, or from performing his duty in the lawful burial of the dead in any cemetery...³⁰

Section 205(2) states:

*By threats or force obstructs or attempts to obstruct any minister of religion while so officiating or performing his duty.*³¹

The bombing of churches in Suleja and Borno are clear evidence to establish this crime. The menace of Boko Haram is a serious terrorist act against Nigeria. This view is shared by Falana in an article in *The Nation* newspaper captioned “Boko Haram: The Way Out”, when he says “... Boko Haram is nothing but terrorism against the State.”³²

With the identified crime of the sect, it is a fact that as a terrorist group, Boko Haram is a serious security threat to Nigeria as a nation. This is made worst by the non-challant attitude of the government and the untactical approach of the security agencies towards checking the insurgency of this fundamentalist terror group. This view is graphically captured by *The Nation*'s newspaper Editorial comment as follows:

*The spate of sporadic violence inflicted on the nation by the Boko Harm sect underscores the failure of the country's intelligence network. The situation unfortunately is becoming helpless, especially in some northern states of Borno, Bauchi among others where its terror is becoming routine. Boko Haram, as rightly observed in our previous editorials, has no respect for constituted authorities. It targets are not only vulnerable civilian members of the society but the police and military institutions that have lost men and properties to its destructive activities.*³³

The injurious activities of this sect are monumental to Nigeria as a country. It portrays the security agencies as squirrels targeted by experienced hunters with sophisticated hunting tools. This raises questions about the efficacy of our national intelligence network and security. This apparent weakness and inefficiency of the security agencies in Nigeria was admirably captured by *The Nation* editorial earlier mentioned as follows:

Owing to it injurious activities, the sect is almost making Borno state for example ungovernable. Not less than 800 people have been killed including the younger brother of the Shehu of Borno, Alhaji Abubakar Ibn Umar Garbai El-kanemi, Abba Anes Umar Garbai El-kanemi who was shot at his residence... The apogee of the sect's heartlessness was reflected in the killing early this year of Alhaji Modu Fannami Gubio of ANPP along with Alhaji Goni Sheriff, a brother of Ali Modu Sheriff, the immediate past Governor of Borno and their guard of four police officers.

*The country helplessly watched how police and military barracks/stations including market places were bombed by the sect. Since July 26, 2009 when the unscrupulous sect launched a blitzkrieg on security forces in Maiduguri destroying and setting ablaze government offices and schools, it has been... prison warders were not spared of Boko Haram killings while at a point about 800 prisoners from Bauchi were also set free.*³⁴

²⁹ Section 204 of the Criminal Code

³⁰ Section 205(1) of the Criminal Code

³¹ Section 205(2) of the Criminal Code

³² Falana, W. A. “Boko Haram, The Way Out”, *The Nation*, July 10, 2011, p. 13

³³ *The Nation* Newspaper Editorial, July 3, 2011, p. 13

³⁴ Op. cit, 2011, p. 13

Without doubt, the activities of this sect are clear testimony that our national security has been seriously compromised and overwhelmed. National Security has been defined as the "... aggregate of the security interest of all individuals, communities, ethnic groups, political entities and institutions which inhabit the territory of ... Nigeria." In line the vein, Lt. General Aliyu Mohammed, the former National Security Adviser asserts that;

*National security from any perspective is about safeguarding the interest of the citizenry and providing the type of atmosphere that is free of threats that could inhibit the pursuit of the good of all. It is about the processes and measures required to preserve law and order.*³⁵

Mohammed further identifies what he considered as the most potent threat to Nigeria's national security. According to him, out of the seventeen threats that are "... adjudged potential sources of disaffection, discontentment and instability..." nine are directly related to crime. On the impact of crime on national security, Sunday Ehiendero, the former Inspector General of Police opines that "perhaps the most potent threat to national security of any country is crime..."³⁶

These views show the extent to which crime impact on national security. It is therefore on the strength of this that the Boko Haram insurgency should be viewed as constituting grave danger beyond occasional attacks. The reason for this is anchored on the criminal nature of their activities as contained in our Criminal Code. The religious tag is a deceptive colouration and orchestrated intelligence cover to out-smart and blackmail some of the security operatives who may share the Islamic sentiment. The criminal theory or perspective of the Boko Haram activities can be seen in their killings of fellow Muslims and even a Muslim cleric. These Muslims killings have no Koranic support anywhere. The Muslims killed never denounced their religious belief, even where they were to do so, they are protected by the constitution as enshrined in section 38(1).

Again, section 10 of the constitution clearly in an unambiguous term prohibits the adoption of state religion in Nigeria. So, the call for the Islamization of the northern states by the sect is diversionary just as it is criminal and unconstitutional with grave implication of destabilizing the country. The secular status of the country cannot be altered by the cheap blackmail of unschooled religious zealots and criminals. Nigeria as a country is too big to be swallowed or overwhelmed by some criminals who parade themselves as religious revolutionaries. It is as a result of the sanctity of the country's constitution and national security that *The Nations* called on the government and the security agencies to take some drastic steps to curb the Boko Haram cankerworm. The paper maintains that since "the amorphous criminal group is becoming borderless, all Nigerians irrespective of religion should be bothered and must show concern. We should be our brother's keeper in the attempt to rid our country of Boko Haram threat... The country should not be turned to a banana republic..."³⁷

From our analysis, the basis for the criminal activities of Boko Haram has been established. It is also discovered that the criminal activities constitute a potent threat for our national security. However, Boko Haram is a product of our social environment. It is therefore pertinent that we survey the socio-economic conditions that produced this criminal group.

SOCIO-ECONOMIC CONDITIONS IN NIGERIA AND MILITANCY

The platonic notion that society is man-writ-large is a truism that cannot be debunked by any logical tool. Nigeria as a country is generally considered to be corrupt. Indeed, the problem of corruption is endemic and regrettably almost all Nigerians are associated with in varying degrees. This has in various ways retarded the development of the nation. This is reflected in the 2011 May Day address by the president of the Nigeria Labour Congress (NLC), Comrade Abdulwahed Omar. He says;

³⁵ Goffman, A. *Asylums*, Garden City: Anchor Books, 1961, p. 125, Sakes, G. M. *The Society of Captives*, Princeton: Princeton University Press, 1958 Richard, R. K. and Lloyd, W. M. *Criminology*, New York: Holt, Rinehart and Winston, 1959

³⁶ Silverman, C. E. *Criminal Violence, Criminal Justice*, New York: Vintage Books, 1980, pp. 318-319

³⁷ Op cit. July 3, 2011, p. 13

The problem of corruption which continues to hold back any meaningful development in our nation needs to be addressed. As endowed as we are with human and natural resources, these resources now appear to be a curse. A major reason is corruption! Can we today in good conscience say how many barrels of oil are actually pumped from our reserves? Many fear that a huge number of barrels are unaccounted for or “privatized” daily. Huge allocations, running into billions and trillions of naira, are made to power development, roads, agriculture, and other sectors annually without measurable and meaningful corresponding impact.

...we must work with patriotic forces in our land to reverse these negative forces underdeveloping our nation....³⁸

Corruption is a potent instrument of underdevelopment. This is because corruption makes it possible for our elected political leaders and public official to covert public wealth to private wealth. This helps to drastically reduce the resources available for development and the provision of social services such as education, health and quality transport system. Corruption breeds poverty in the midst of wealth, and the nation’s leadership is most culpable. This has also in turn breed instability in our body polity. Ekanem in his book *How the Military Underdeveloped Nigeria* heaped the blame of the social ills of the country on the military when he writes:

... the military played a major role in the establishment of the terrible social, political, economic and moral conditions Nigerians now live with. The educational system became sick and suffered serious financial aneamia during military rule. The militarized psyche of the nation is the cause of high rate of violence now experienced in Nigeria. This started in 1966 and led to the worst carnage ever experienced in the country. The Nigerian civil war was ignited and executed by the military. This has a lot of social, political and economic implications, which still haunts the country till date.³⁹

Historically, the socio-economic problems and the violent nature of the Nigerian state have their roots traced to military incursion into politics. This created a window for unaccountability and cabalistic rulership. This pattern still persists in Nigeria till date. So, Nigerians have been living a live of dejection and frustration and this is happening in a country that was once rich and flourishing. Aderonun depicts this clearly:

The country’s citizenry have been carrying lots of grim faces about as a result of economic hardship, political turbulence, and social degradation... moral degradation is also the order of the day...⁴⁰

It is these socio-economic conditions coupled with corrupt and insensitive leadership inspired and laid on the foundation of militarized political landscape in 1999 that manifest in the sectoral militancy in Nigeria. Arthur Nwankwo captured the situation with very succinctly when he said:

While oil wealth has activated progressive development and economic wellbeing in other oil producing states, ours has become Achilles’ heel. Nigeria’s corruption conundrum got to a crescendo during the over three decades of military dictatorship in Nigeria. The military therefore are severally and collectively responsible for the decay and stench of malfeasance that hunt Nigeria today.... Military dictatorship is a historical anachronism, an imperiled genre, which share a striking similarity with Fukuyama’s illustration of Leninist totalitarianism, in the end of history and the last man as a government in which a small cabal of depots rule over the larger public with iron fist and big stick.⁴¹

This pathetic situation may have prompted Claude Ake to describe Nigeria as a “society of beggars, parasites and bandits”⁴². This provided a major platform for the crisis that engulfed the Niger Delta. Ekanem argued that a major factor of the Niger Delta crisis is the prevalence of disgruntled youths in the area. Most of these youths were not only born under the several dictatorships but grew up there under the military and have internalized the culture of violence.

³⁸ Omar, A. May Day address by the President of Nigeria, Lagos Conference, 2011.

³⁹ Ekanem, S. A. *How the Military Underdeveloped Nigeria*, Calabar: University of Calabar Press, 2010, p. 136.

⁴⁰ *Today in Nigeria* vol. No. 8 October, 1995, p. 16

⁴¹ Nwankwo, A. *Military Option to Democracy*. Enugu: Fourth Dimension Press, 1987, p. 68

⁴² Ake, C. “The Implication of Military Rule Nigeria” Port Harcourt: Political Students Association, vol 26, 1989, p. 26

Historically, the Niger Delta was a place of boom for palm oil and later crude oil. The region has contributed immensely to the growth of Nigeria, but is weighed down by poverty. This poverty is made worst by the massive environmental degradation resulting from oil pollution that affects all facets of life of the people. This according to Ekanem, started in 1958 with the Sir Henry Willink Commission that accurately described the region, as being “poor, backward and neglected”. It is clear from this that even the colonial Niger Delta Development Board and other post independence pseudo bodies could not effectively tackled the myriad of problems of the region.⁴³

The problems has persisted and this has led to the youths to resort to arms. Akani x-rayed the Niger Delta situation thus:

*... the place was exposed to pain, anguish, confusion and youth restiveness. Youths which hitherto were at the backstage of events, suddenly rose to prominence and boldly determined events and actions. Companies, especially, transnational companies in the oil and gas sector become the target of attack, abuse, hostage-taking and bridled brigandage. Gradually, the peaceful relationship was characterized by antagonism energized by youth violence and uncontrollable emotion. Militant youth's groups emerged.*⁴⁴

From this, it could be argued that it is the greater awareness of the cause of the suffering of the people that made it possible for the youths to emerge as the vanguard that epitomized the historical suffering of their communities. In other parts of Nigeria, the youths have taken up the responsibility to oppose the “evil system” that retard their progress and tend to deny them a future.

So, what are the mistakes of the past? These include official neglect that breeds monsters that grow to terrorize everyone.

The north is known for the feudal system that has a long historical root in that part of the country. It is this system that has persisted in the north that has led to the failure of the leadership to fulfill the constitutional provisions as contained in sections 16(1)(a)-(d); (2)(a)-d; (3)(a); (4)(b) and 17(2)(d)(e); (3)(a)(f).

These sections deals with the economic and social objectives of government which are intended to harness the resources of the nation and promote national prosperity for the benefits of all the citizens based on equality of opportunity. Section 16(1)(b) specifically states:

*Control the national economy in such manner as to secure the maximum welfare, freedom and happiness of every citizen on the basis of social justice and equality of status and opportunity.*⁴⁵

It is therefore partly the failure on the part of the northern leadership and government to uphold the tenets of the constitutions as contained in sections 16 and 17 of the 1999 constitution that has produced the social upheavals and terror that we now live with. This is what informed Falana to argue that the principal cause of the zealotry of the Boko Haram is the systemic failure of the political leadership to solve the nagging problem of poverty in the land. The menace occasioned by Boko Haram is a by-product of the anomaly in our dysfunctional society where the few are getting richer to the dismay and resentment of the majority that are wallowing in poverty. The hope of survival for the commoners is a distant one. How the poor will survive is never a thought in the minds of the leaders.⁴⁶ This reality prompted Temidayo to note that:

A psycho-analysis of the adherents of the sect shows that their major belief is in the full implementation of Sharia law in their respective states. With Sharia fully implemented, there will be social justice, economic prosperity, equality, fairness and a room big enough for all to live in the long run. Western education is not really their problem. They wrongly assumed that their leaders are impoverishing them through the instrumentality of western education. Maladministration is the remote cause. Those who are entrusted with our commonwealth are fiddling with it. Yet, poverty continues to ravage the land like a big affliction.

⁴³ Ibid, pp175 - 176

⁴⁴ Akani, “Company Youth Relationship in the Niger Delta: What Approach in the New Millennium . A paper presented at peace campaign , pose youth rally, organized by Rivers State youth Federation, 30th November, 2000, Civic centre, Port Harcourt.

⁴⁵ Sections 16 and 17 of the 1999 Constitution is very broad and explicit in terms of economic and social objectives of government

⁴⁶ Temidayo, A. “Boko Haram: The Way Out, *The Nation*, July 10, 2011. p. 13

Having realized this massive penury, the proponents of this sect were able to brainwash a couple of young men into believing that they must wipe out the current infidels in their midst for them to live...⁴⁷

Though we agree with Temidayo's diagnosis, it must be asserted that the political class is playing the politics of poverty. Poverty here includes both material and intellectual lack. It is this extreme state of poverty of this sect that made them vulnerable. They lack the intellectual capacity to discern that they are mere tools in the hands of their leaders and rich sponsors. The inability of the northern state governments to ensure the education of their citizens is a deliberate policy of subjugation, so as to suppress opposition. There is a high degree of political backings and patronage of the sect. This is the reason behind the unexplained extra-judicial killing of the leader of the group. The security agency, especially the police have an explanation to make to the Nigerian people. There is a high degree of security complicity and compromise.

BOKO HARAM AND AMNESTY

The activities of the extreme Islamist sect have attracted national discourse. This is largely due to the approach adopted by authorities to curb this heinous crime against the state. The security agencies have shown their inadequacy in contending the insurgency. In this war of nerves between Boko Haram and the Federal Government, it is evidently clear that the group is winning hands down. This can be seen in the panic measure taken by the Federal Capital Territory Administration (FCTA) in slamming a night time curfew on Abuja. Festus Eriye writing in *The Nation* shares this view when he declares:

These restrictions are supposed to improve security in the federal capital, but in reality they make no sense at all. If anything, they are further evidence of how rattled the government is by the activities of an unpredictable and increasingly self-confident foe. For starters, the measures are night time ones whereas lot of Boko Haram attacks have taken place in broad day light. A fine example is the assault on the Nigeria Police Headquarters...⁴⁸

This directive by the FCTA which focus is on bars and parks tend to support the sect determination to stamp out drinking as part of its larger campaign to get all Nigerians embrace Sharia law. This is rather very curious and its shows lack of proper rationalization and understanding of the insecurity situation in the country by the authorities. This scenario is painted by Eriye thus:

It is amazing that the symbolism of this outlandish directive is lost on FCTA officials. The fact that Nigeria's federal capital is under a curfew because of the activities of a terrorist sect sends out the wrong signals about the state of insecurity in the country⁴⁹

It is this irrational and improper understanding of the issues and implications of Boko Haram criminal activities that has prompted some Nigerians especially those with Islamic inclinations to call for dialogue with Boko Haram. Some of these people according to the Nation Newspaper, include the members of Borno State House of Assembly, the Sultan of Sokoto among others have called for amnesty for all members of Boko Haram. The call for amnesty by these people has been premised on the fact that the Niger Delta militants benefited from an amnesty programme, so the terrorist sect of Boko Haram should be given the same amnesty pill.

An objective analysis of the arguments of the pro-amnesty solution to the terrorist acts of Boko Haram revealed ethnic and religious biases. It does not portray any coherent logic that is anchored on rationalism, patriotism and objectivism. Rather, these arguments are clear fallacy of accident or *dilto secundum grand* and *dictum simplicitate*, which is meant to argue from a special case to a general rule. Again, there are clear example of fallacy of irrelevant conclusion, which is also called "ignoratio elenchi" where instead of proving the fact in dispute, the argument seeks to gain point by directing attention to some extraneous facts.

Historically, there is no basis for comparison between Boko Haram and the Niger Delta militants. The Niger Delta militants were (are) clearly youths from the region that resorted to the use of violence to call attention to the deplorable conditions of their ancestral root and environment.

⁴⁷ Temidayo, A. op. cit.

⁴⁸ Festus Eriye "Boko Haram meaning in *The Nation*, July 3, 2011, p. 11

⁴⁹ Op. cit.

The Niger Delta militancy emerged when all peaceful means and agitation failed to direct government attention to the plight of the Niger Deltans. They did not just take to arms. There is a deep rooted history of neglect, degradation, exploitation and abandonment of the Niger Delta region. This included the people, their land and the environment. The Niger Delta militancy was for a course which even the international community recognized. The Niger Delta militancy was premised on a “reasoned logic” as a result of the failure of the Nigerian state to positively and promptly response to its constitutional responsibility. This assertion bears credence with the position of Oronto Douglas et al, when they opine that:

*... paradoxically, oil-producing states in the federation have benefited the least from oil-wealth. Devastated by ecological costs of oil spillage and the highest gas flaring rates in the world, the Niger Delta is a political tinderbox. A generation of militant ‘restive’ youth, deep political frustrations among oil producing communities and pre-electoral thuggery all combine to prosper in the rich soil of political marginalization. The massive... simply confirmed the worse for the millions of Nigerians who have suffered from decades of neglect...*⁵⁰

Indeed, the Niger Delta stands at the crossroads of contemporary Nigerian politics. Even with the growth of oil-revenues to the Delta States now standing at 13% (achieved through agitations), the region remains desperately poor, and it is the deepening material and political grievances that stem from the region’s exclusion that place the Niger Delta at the confluence of the four most pressing political issues in the federation. Central to the Niger Delta militancy however is poverty amidst unfathomable oil wealth. The oil producing communities seek to control “their oil” but this legitimate claim is refracted through the lens of ethnic difference as the other regions perceives it.

The security problem in the Niger Delta is the total invisibility of Shell and other powerful corporate international actors in deepening and sustaining the crisis in the Niger Delta. Several independent human rights organisations, most notably Human Rights Watch have linked the oil giant to the spate of killing, rapes, and inter-communal feuds that have crippled social and economic life in the Niger Delta since 1993. Shell’s unrelenting attack on the human ecosystem on which the local communities rely for sustenance has been copiously documented by environmental groups. The latest according to Channels Television news bulletin, being the United Nations Development Programme (UNDP) report to the president of Nigeria, Dr. Goodluck Jonathan about the environmental degradation in Ogoni land by oil companies. The fact that a case against chevron was recently heard in San Francisco Federal Court confirms very strongly these issues of corporate practice.

From this analysis of militancy in Niger Delta, it is very clear that the security situation in the Niger Delta was based on justifiable foundation hence amnesty was a viable option by the government to cover up for its cooperative and collaborative practices in creating the Niger Delta conditions that necessitated the agitation and militancy.

Indeed, it can be argued that the militancy in the Niger Delta is no more than a movement intended to ensure that the government fulfils its obligation as contained in section 20 of the constitution of the Federal Republic of Nigeria, which requires the state to safeguard the water, air, land, forest and wildlife in the country. The section clearly states:

*The state shall protect and improve the environment and safeguard the water, air and land, forest and wild life of Nigeria.*⁵¹

The pertinent question therefore is; to what extent has the government shown fidelity to this provision in the Niger Delta? The response to this is completely in the negative. So, the activities of the Niger Delta militancy have a constitutional springboard of justification, hence, amnesty was a right step in a right direction towards quenching the Niger Delta inferno.

On the other hand, the Boko Haram activities as already examined are all breaches of our constitution, Criminal Code and African values. It is therefore based on this premise that *The Nation* in its editorial, captioned “The Boko Haram menace: Why should F.G. Parley with terrorists?” maintained that:

⁵⁰ Oronto, D. et al “Oil and Militancy in the Niger Delta: Terrorist Threat or another Columbia”. A paper Presented at Institute of International Studies, University of California, Berkeley, USA, duty a peace conference

⁵¹ Section 20, 1999 Constitution

*What has been established is that the sect is ready to take head on the Nigerian state. The demands that it has made so far are pointers to the fact that the sect is highly contemptuous of constituted authorities. Whatever the enormity of grievances is, it is high time to make the sect realize that it is not above the law, its wings of pride shall be clipped for good....*⁵²

The paper further called for the criminalization of the activities of Boko Haram because “it has proved to be nothing else but a terror group that is disturbing the peace and security of the nation.”⁵³

Again, Olakunle in the same paper, while calling on government to take the issue of security very seriously since development can only take place in a state of security said:

*... the nation is not fighting external aggressors and yet our apparent weak intelligence, security apparatus coupled with lack of adequate political will on the part of the presidency to deal decisively with the problem is making her to lose her citizens in needless acts of terrorism. There is no doubt that the recent modus operandi of the dissident bears the signatures of foreign terrorist groups, although with local content...*⁵⁴

Infact, the throwing of bombs is not part of Nigerian culture and the federal government should do all it can to ensure that these dastardly acts of terrorism do not take root in Nigeria. The country should learn from the experiences and actions of America in fighting terrorism.

Boko Haram has not told Nigerians what “wrong” the country has done to it and the members. All that has been written on the pages of newspaper are conjectures without empirical basis unlike the case of the Niger Delta militancy.

The pendulum of argument is in support of a firm action by the government to stamp out terrorism from the country. The “carrot and stick” jargon by the federal government portray the government as lacking the political will but not the might to put a stop to this terrorist menace.

Amnesty as an executive act is contained in section 175 of the 1999 Constitution as prerogative of mercy. Though the president can exercise this power but does this group of terrorists deserve it?

There are very discomfoting implications for the government to grant the sect amnesty. Any effort towards this direction will provide or lay the foundation for several other dissident religious groups to spring up. It must be noted that Christianity and Islam are not the only religions in Nigeria, so, amnesty to Boko Haram can easily lead to the Ibos attempting to force Nigerian to worship the “long juju of Arochukwu”, the Yoruba to impose the worship of “Oraniyan” or god of iron, the Efiks will made effort to ensure that all the south-south people belong to the “Ekpe” society, which was what was used to drag people to church in old Calabar from which Presbyterianism flourish till date.

Furthermore, amnesty to Boko Haram can lead to anarchy in Nigeria. This is because there will be so many dissident and criminal groups that will emerge to terrorize Nigerians while demanding for amnesty. So, the government should tackle this monstrous group with actions and not sermon of “carrot and stick”.

The president should learn from David Cameron, the British Prime Minister whose hard posture towards the rioters and looters in London is unmistakable. Criminals and terrorists are hardened people and it requires a hard stand and political will to rid the society of such people. No government ever begs criminal or terrorists, it is unstately.

To conquer the Boko Haram challenge, there is the need for the security agencies not to work at cross purposes. There is the need for a synergy and collaborative efforts as demonstrated by USA on the operations that led to the killing and elimination of Osama Bin Laden, the notorious leader of the terrorist group known as Al-Queda who was secretly living in Pakistan.

The government should encourage the security agencies to do their jobs by showing that there is the political will to punish and prosecute identified suspects.

⁵² *The Nation*, Editorial Comments June, 26, 2011, p. 13

⁵³ Op. cit

⁵⁴ Olakunle, O. “Time to stop Dissident Groups” *The Nation*, June 26, 2011, p. 13.

Boko Haram is not just any other group pursuing its legitimate interest in the society. This is a fringe religious terrorist group that has virtually declared war on the Nigerian state. It has killed and maimed hundreds of innocent Nigerians through bomb attacks in several states including Abuja. Its defiance of lawful authority is demonstrated by relentless attacks on policemen and soldiers. Boko Haram has sacked police stations, carting away arms and ammunition from their armoury. The group has assaulted prisons and freed criminal. It is therefore ironical that nefarious elements that ought to face the full weight of the law for their infraction or, at the very least, show remorse for physical, psychological and emotional wounds inflicted on their country men and women have demanded and received apologies from certain prominent Nigerians notably the former governors of Borno and Bauchi states. This is totally unacceptable and is indicative of a degree of complicity of these political elites. The authorities should let this people explain to the nation their relationship with this group.

Nigerian people must be saved from the menace of the group. This can be achieved through more intelligence work. The police should police more and liaise more with the communities. The police should make all efforts to win the confidence of these communities so as to get information. The police should give the people the cause to trust the force. Also, the government should equip and motivate the police force and other security agencies to be able to effectively combat violent crime.

The government should beam a search light on the political class from the north. This is because the Boko Haram group was obviously inspired, nurtured and financed by politicians at their take-off points in Borno and Bauchi states. It is our view that the apologies demanded and received by the group stemmed from their relationship with the political elites from whom they demanded these apologies. The government and security agencies should go all out to wipe out these criminals from our society. This position is supported by Dele Agekameh of *The Nations* newspaper when he wrote:

... rather than recourse to dialogue at this stage, as being suggested in certain quarters, government should engage the sect in a battle royale. Otherwise, other groups may suddenly spring up like mushrooms and expect government to pamper them. This is evident from the fact that some groups had openly commended the sect after the bombing and had even promised to toe the same line if that will give them the needed attention by the government...⁵⁵

It is clear from this that dialogue and amnesty will only worsen the insecurity situation in the country. As earlier stated and reechoed here by Agekameh, amnesty and dialogue will only produce more nefarious groups and dissidents. The position of this paper is that amnesty though an executive tool is not to be employed in the Boko Haram's case. The sect should be smoke out of where ever they are. It is only when government has shown its might and capacity to keep the peace that Nigerians can lay claim to having a government that is responsible. There cannot be development in a state of insecurity, so, the government should use its might to swell this ravaging sect.

⁵⁵ Agekameh, D. "Still on Boko Haram" in *The Nation*, June 27, 2011, p. 21

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