Harvests of violence - Neglect of basic rights and the *Boko Haram* insurgency in Nigeria[1]

That poverty breeds insecurity and, eventually terrorism, is self-evident[1]

Abstract

This article utilises a Critical Terrorism Studies approach to investigate the issues at the root of violent conflict and recently, terrorism in Nigeria; a key African country. It identifies a governance-gap not adverted to in the official narrative which has led to gross discontent at the lower levels of the society. The governance gap has created fertile breeding grounds for the recruitment of disillusioned youths who are easily mobilised to violence and lately, insurgency/terrorism. The core argument of this article is that the neglect of basic rights - due process and economic, social and cultural rights by the Nigerian state have combined to foster recurring violence in different parts of the country. To address the resulting state of insecurity and curb the propensity for the development of such groups in the future, the state and the political elite require to commit to a fundamental socio-political and legal restructuring that accords human dignity to the country's teeming population and in particular, youths, who face bleak prospects of self-actualisation.

Introduction

Since 2009, Nigeria has been caught in the grip of serious acts of violence; bombings, killings and destruction of property linked to the *Jama'atu Ahlus-Sunnah Lidda'Awati Wal Jihad*, commonly known as *Boko Haram*; roughly translated into 'western education/civilisation is evil' (Amnesty 2012, 3). There is literature on the establishment and development of the group and the accounts (some of which are rather hazy) will not be rehashed here (Walker 2012, Amnesty 2012, Pham 2012, Adesoji 2010). Suffice it to say that the group has gained notoriety and it has engaged the Nigerian state in a running conflict on among others, the demand for an 'Islamic State' at least in the Northern part, if not the whole of the country, and the unconditional release of its members detained by state security forces (Walker 2012, 11-12). Some accounts attribute the group's violence to religious fanaticism or Islamic 'revivalism'; typical of wider international narratives of terrorism (Walker 2011, 9-10), this line of argument will not be addressed here. The official narrative, and which is

relevant to the discussion that follows, hinges the violence on political opposition to the current administration based on ethnic grounds. Significantly however, relevant stakeholders, local voices at, close to, or otherwise connected to the epicentre of the violence have maintained an alternative narrative. The alternative narrative locates the violence within the context of social displacement, social neglect, abject poverty and disenchantment with government and the state. Understanding of the social context as well as the analogous experience of the country with another insurgency supports the alternative narrative.

The core argument of this article is that the neglect of basic rights, conceived here as economic, social and cultural rights (ESC rights) and due process by the Nigerian state have combined to foster recurring violence in different parts of the country. There is a governance gap which has led to gross discontent at the lower levels of the society. The governance gap has created fertile breeding grounds for the recruitment of disillusioned youths who are easily mobilised to violence and lately, insurgency/terrorism by demagogues of varying hue. In order to address the resulting state of insecurity and curb the propensity for the development of such groups in the future, the state and the political elite have to commit to a fundamental socio-political and legal restructuring that accords human dignity to the country's teeming population and in particular, youths, who face bleak prospects of self-actualisation.

This article is proceeds as follows. The analysis adopts the Critical Terrorism Studies (CTS) approach to identify and discuss the factors that have fostered and promoted violence, insurgency and terrorism in Nigeria. It moves on to an examination of the context of violence and conflict in the country. It then argues for strategies that are basic rights-sensitive in addressing the untoward situation. It concludes on the note that there are normative and pragmatic reasons for the country to adopt the socio-legal policy line argued for in this article and that wider application can be found for it in resolving situations of violence and conflict in other parts of Sub-Sahara Africa, especially but developing countries in general.

Conceptual approach

It is a notorious fact that Sub-Sahara Africa has had a disproportionate share of civil strife in the last couple of decades. The discussion in this article requires identifying the *actual* or *main* causes of the current *Boko Haram* insurgency in Nigeria. A central argument of the discourse here is that analysis of violence or conflict in Africa in general and Nigeria in

particular, has commonly proceeded in a manner that *assumes* rather than *discover* the *real* or *main* causes of such violence or conflicts. For this purpose, I adopt a critical perspective, the analytical framework of Critical Terrorism Studies (CTS) for the important task of identifying the main cause of the current insurgency in the country. The other major part of the discussion; addressing the causes of the insurgency, involves identifying appropriate mechanisms for curbing insecurity and restoring sustainable peace in the country. For this latter task, I propose a 'Basic Rights-Sensitive Approach.'

Critical Terrorism Studies (CTS)

In the critical studies tradition, CTS scholars challenge orthodox accounts and mainstream scholarship on terrorism. CTS scholarship adopts empirical, normative and theoretical approaches that question the methods and arguments of mainstream practices of governments and the supporting scholarship on terrorism as conduct of sometimes mentally imbalanced individuals and groups (Stohl 2008, 7-8) driven mainly by an unjust desire to subvert democracy (Al Sumait, Lingle and Domke 2009) or in general, the 'liberal,' 'progressive' and 'civilised' western tradition (see generally Stohl 2008) This latter point is especially true of the characterisation of so called 'religious terrorism' in 'Mainstream Terrorism Studies' (MTS) (Gunning and Jackson 2011)[2] which is the description of groups like the *Boko Haram*. As a research orientation, CTS challenges the prevailing and assumed knowledge and understandings of terrorism. It critiques MTS for (largely) uncritically legitimising the 'War on Terror' in an international system ridden with inequities and hegemony (Breen Smyth *et al* 2008). The small but articulate group of CTS scholars examine not just what the 'other (s)' do to the West but also, what the western powers do to the 'other (s).' As Herring and Stokes put it, CTS scholarship has focused on not just

> what 'they' do to 'us' but the ways in which the violence 'we' have carried out and threatened has been a negative constitutive presence in the making of world politics. In doing so, CTS has sought to contextualise forms of global political violence within a deeper history of Western imperialism, North–South state formation and the forms of neo-imperialism, hegemony and identity politics that prevail today (2011, 1).

A CTS approach to terrorism studies provides an appropriate point of departure for interrogating the causes of violence in what is sometimes less than accurately described as 'ethno-religious' conflicts, and in particular, the recent experience of the Boko Haram crisis in Nigeria. This is because, as stated earlier, the official narrative on the insurgency follows at

best, a MTS approach to the study of violence and terrorism. The mainstream approach, basically uncritical of conventional (official/state) accounts of terrorism, has not only failed to make the world a safer place, but has been criticised for compounding the contemporary security situation around the world (Herring and Stokes 2011). Any dubious theory on terrorism (or any aspect of society and its regulation for that matter) will have deleterious effects on counter-terrorism policy or measures (Gunning and Jackson 2011, 370), thus the danger in an uncritical stance, especially in a terrain where until recently, terrorism was alien.

Further, a CTS approach is useful for delving behind the scenes to identify alternative or even neglected narratives which not only supplements mainstream accounts but provides a robust account of *the truth* about the causes and motivations of terrorist violence. This is the case because as a frame of analysis, CTS involves an ontological commitment that 'entails an ongoing process of intellectual engagement (rather than a fixed position or endpoint) with a wide range of perspectives and approaches'. CTS not only rejects 'universalism, essentialism, and exceptionalism in characterising terrorism,' but also seeks to 'prioritise specificity, context, history, and nuance' in the area of terrorism studies (Jackson 2009, 4). It thus concretely expands the scope for engagement with, and reducing the security challenges terrorism poses to society (Herring and Stokes 2011, 2).

Even more relevant to this discourse, CTS, as Jackson points out, directly addresses 'conditions that can be seen to impel actors to resort to terrorist tactics' (2009, 6). This last point links up with the central concern of this article with achieving sustainable peace and security in sites of terrorist activity through an enquiry that seeks to locate major factors at the root of violence and terrorism crowded out of the conventional narratives on such experiences. This brief on CTS makes it apposite for the perspective advanced in the following discussion on the Nigerian experience of violence and terror.

A 'Basic Rights-Sensitive' approach

The desire for achieving not just a 'victory' over terrorist groups but instituting sustainable peace in a liberal society drives the choice of argument for adopting an approach that positively diffuses the recurring tensions and violence in the country. A 'basic rights – sensitive' approach, is particularly apt for the context which as will be shown below, is one fraught with sometimes gross violations of human rights and dignity which have persisted along with institutionalised corruption in the midst of vast natural resources, including but not limited to oil and natural gas. This approach it is anticipated, should contribute significantly

to instituting a system that at least substantially reduces the incidence of gross social discontent and sense of social injustice that commonly, if not invariably, underpins social violence in the nature of violent insurgence and terrorism.

The idea of rights frames the relationship that exists between individuals, the state and increasingly, even important non-state actors (Alston 2005; Amatrudo 2009, 30). The basic rights sensitive approach as conceived here refers to the recognition of the dignity of the human person to citizens through the implementation of ESC rights and state-led application of due process in the conduct of governance and use of power. This includes the need to curb political corruption which has been a significant cause of poor infrastructure, underdevelopment and pauperisation of large numbers of citizens in Nigeria.

Recourse to a rights-sensitive approach is not simply a moral or altruistic choice but one with substantive expediential value. It is instructive in this regard that there is support for the need to address 'legitimate grievances' of the teeming masses in the northern part of the country by commentators who are interested in peace in the country though principally from the perspective the foreign national interests. This is in recognition of how such grievances predispose the masses to sympathising with the *Boko Haram* and such other groups. Rather than the emphasis on militarisation adopted by the state, the government is much better off addressing the 'legitimate grievances' that have predisposed 'meaningful segments of the population in the North' to groups like the *Boko Haram*'s message of overturning the status quo in Nigeria' (Pham 2012, 7). It is now appropriate to turn to justification of these frameworks through an exploration of the context.

Conflict and violence in Nigeria: scorecard of neglect

The governance gap

The institutionalisation of a governance gap has become common experience in many developing countries and especially in sub-Sahara Africa. The governance gap refers to a gulf that has developed between citizens and the state as a result of the lack of credible leadership and the implementation of programmes that bear little or no positive impact on the social development of the people. The governance gap leads to social disillusionment and produces large numbers of citizens who become disconnected from the state and its institutions. Such individuals slip through institutional arrangements to become easy recruits in the hands of all forms of ethnic, political and religious irredentists who challenge the state.

It is pertinent to the argument made in this article to be clear about the socio-economic and political situation in Nigeria, particularly in the context of the post-authoritarian transition from 1999 and even previous to it. The country has witnessed some of the most egregious disregard for basic rights – ESC rights and due process – during both periods. The country's experience in its post-colonial period has situated Nigerian society in a governance gap.

The multi-religious and multi-ethnic country typifies the legacy of British colonialism in sub-Sahara Africa.[3] It achieved independence from British colonial rule on 1 October 1960. Nigeria's huge natural resources have not been translated into development for its teeming population. It has had a severely chequered history of sustained development and democratic governance. Most of its post-independence experience of statehood has been under authoritarian military (mis) rule. Successive military regimes perfected plunder, compromised all institutions of state and generally directed them towards flagrant violations of human rights of the people. Human rights abuses were prevalent. The population suffered repression, state-sponsored murder and restrictions on civil liberties, among others. The military treated the country like conquered territory and its vast resources as 'spoils of war.' Under their mainly reckless rule, the country transformed rapidly from one of the richest nations at independence, to one of the poorest (Yusuf 2007, 269-270). Although military incursions into power were proclaimed to be in pursuit of economic rectitude, unity and peace of the country, arguably none of these was achieved by the numerous military regimes (Ogowewo 2000, 141). Rather, the military institutionalised corruption which has remained a formidable challenge to development and good governance in the country (Shehu 2004, 70-72).

The country's 37.2 billion barrels of proven oil reserves places it at the vantage position of being the largest producer of oil in Africa and tenth largest in the world (EIA 2012, 3). Seizing on soaring oil prices in the late 1960s and early 1970s, successive military regimes quickly shifted emphasis from agriculture to crude oil exploitation. The government replaced agriculture as the leading foreign exchange earner; a situation which has persisted ever since. Crude oil has come to account for over 90% of the country's total foreign earnings (EIA 2012, 1). Most of the oil (and gas) reserves are located within the country's Niger Delta area, in the south. But most of the area lacks basic infrastructure. In order to contain expressions of social discontent, military regimes in Nigeria militarised the Niger Delta. Ethnic and regional militias sprung up and have remained there and some other parts of the country. The ethnic

militias mainly demand more autonomy for their respective areas in the virtually unitarised federal polity.

The acute experience of a governance gap in the last twelve years is a resounding irony because the country had never earned more in its post-independence existence. A very recent appraisal of the country's economic performance stated that the country has achieved 'a robust increase in GDP from 2.9 per cent in the 1990s to 8.9 per cent in the following decade.' But poverty rates have not only increased, it has indeed continued to rise with the northern part being worst hit (Joseph 2012, 14). The northern part of the country, following decades of social and infrastructural neglect at all levels of governance 'has been in economic free fall.' All around the country, inequality results in conflict (Joseph 2012, 14).

However, as Joseph observed, analyses of insecurity and vicious cycles of violence in Africa usually fail to touch-base with the 'underlying' causes (2012, 14). It is logical to assume that recommendations from such 'analyses,' lacking in positive rigour, will deliver inadequate, if not misleading policy guidance with deepening frustration for all involved.[4] While it is easy to ascribe violence in sub-Sahara Africa, and specifically in countries like Nigeria to religious revivalism, many such analyses suffer from inadequate investigation of the true causes of persisting unrest and violence on the continent; 'discordant development' (Joseph 2012, 14). However, from a CTS perspective, comprehensive understanding of the context of the violence is germane to an accurate analysis of the on-going experience of insurgency that has emanated from the north-eastern part of Nigeria in particular.

Harvests of violence

Like any other social phenomenon, the contemporary experience of violence or terrorism, plays out and is located within a specific context. However, as mentioned earlier, analyses of terrorism have for too long proceeded and are dominated by neglect of context. Breen Smyth *et al* have observed that the current study of terrorism, occurs largely in a

> political, legal, cultural, and academic context…in which fascination with terrorism encourages moral panics and an excessive focus on violence, to the neglect of the wider social, historical, and often mundane milieu in which it is situated (2008, 1-2).

A desire to rectify that principal failing is one of the fundamental justifications for the emergence of CTS.

The social context of violence and now terrorism in Nigeria is that of gross social deprivation and pauperisation in the midst of plenty. While many of the incidences of violence have been attributed to religion, this is usually obfuscation of the reality. The link to religion is mostly accidental than anything else. A nuanced analysis discloses that ethnicity plays a major role in violent incidences in the country reported as religious. This is due to the fact that for the most part, 'ethnic boundaries' are essentially coterminous with religious identity- the Yoruba (of the south-west of the country) being the main oddity in this regard- making it more apt to talk in terms of 'ethno-religious' conflicts in the country. Even that, as mentioned earlier, is in many cases less than accurate. In reality, beyond the façade of ethnicity and religion lies (at least in the permutations of the protagonists of such conflicts) the quest for political power and the economic control it invariably confers in the Nigerian setting (Ukiwo 2003, 120-129; Dowden 452-453, 2008). As Walker rightly puts it, an external view may suggest that religious differences accounts for the conflicts in the country but a careful and closer look reveals that 'politics—more precisely, control of government patronage—is the primary cause of many of these conflicts' (Walker 2012, 1).

Given the context of the *Boko Haram* insurgency, there are, from a CTS perspective, very strong reasons to consider the abject poverty that prevails in the region of its origin, easily the most socially and economically deprived in the country (Pham 2012, 2), as the major cause for the current state of violence and insecurity there. This is notwithstanding its spread to other parts of the northern part of the country under the guise of religious insurgency. This links up with developing body of research that has identified a complex and dynamic relationship between poverty and insecurity which merits some consideration here (see the contributions in Lael and Chollet 2007 and Rotberg 2009). As Rice recently argued, 'Basic intuition suggests that such pervasive poverty and grotesque disparities breed resentment, hostility, and insecurity' (2007, 32).

In this regard, two main lines, of many hypothetical causes of violent conflict, have been identified by research. The first line points at political repression, the other economic conditions, specifically poverty. While it is conceded that repression does engender conflict, the evidence in support of poverty as the major cause of violent conflicts is more robust; economic factors trump political ones (Miguel 2007, 55). This is what Miguel refers to as the 'poverty-violence nexus' (2007, 51). Kahl has similarly pointed out that after World War II, majority of wars leading to over 40 million deaths have been *within* rather than *between*

countries. Most of the conflicts 'have occurred in the world's poorest nations' and Sub-Sahara Africa (which Nigeria forms a part) is worst hit (2006, 1).

To understand the context of the *Boko Haram* crisis and how this fits well into the 'poverty-violence nexus' it is useful to recall the legacy of military authoritarianism in the country. At the dawn of its transition to civil rule on 29 May 1999, the Federal Government of Nigeria attempted to engage with this past through a truth-seeking process conducted under the Human Rights Violations Investigations Commission (the Oputa Panel). The truth-seeking process remains quite valuable as a 'soul-searching' and stock-taking process for establishing the legacy of nearly three decades of military rule in the country.

The Oputa Panel's report was never implemented ostensibly due to a legal challenge brought by three former military heads of state to challenge its powers in issuing summons compelling their attendance as witnesses before it. Still, it provides a very useful insight into the situation of human rights violations in the country following nearly three decades of military authoritarian rule (Yusuf 2007, 270-274). Its depth and insight on the malaise afflicting the Nigerian society remains unparalleled. Abject poverty, social dislocation, poverty and violation of human rights by security agents of the state; legacies of authoritarian military rule, detailed in the report remain germane a decade after the completion of the work of the Oputa Panel. With specific reference to the north-eastern part of the country; epicentre of the *Boko Haram* insurgency, the situation remains grim. Social deprivation; poor educational facilities, unprecedented high levels of youth unemployment, mass poverty and corruption are key drivers of feelings of exclusion among the majority of people there (Adesoji 2010, 100) and to varying extents in other parts of the country.

'Dealing' with *Boko Haram* – politics, divergent narratives and counter-violence

A CTS framework will identify with the foregoing context as fertile for the development of resentment against the state and locate the causes of violence and now terrorism in the country in the governance gap and neglect of basic rights set out above. However, the state remains in denial and the official narrative as mentioned earlier basically ascribes the violence to overzealous religious fervour or political opposition to the administration of current leader, President Jonathan. This position fails to advert to the fact that the first major incident with *Boko Haram* including the extra-judicial killing of its leader in 2009 occurred

during the tenure of a Northern Muslim President, Umar Yar 'Adua who died in 2010 (Pham 2012 3; Walker 2012, 4).

The core of the official narrative - and in it is important to clarify that 'official' here refers to the Federal Government of Nigeria which has responsibility for and control of all the security agencies in the country - is that the insurgency has been created by elements among the political elite in the Northern part of the country who were opposed to his emergence as president in the 2011 elections in the country. A senior presidential media aide alleged that the violence in the country was a product of a call for violence by the leading opponent to the incumbent during the said elections (*The Nation* 9 November 2012). The same sentiments were expressed by President Goodluck Jonathan at the launch of an initiative to promote inter-faith dialogue in the country (*This Day* 23 November 2012).

Walker provides relevant insight of the official narrative in observing that at about the same time he was announcing an increase in the cost of petroleum products in the country President Jonathan stated that his government had been infiltrated by *Boko Haram*. He thus 'painted a picture of a puppet group that was being used by aggrieved northern politicians to bring down his southern government' (Walker 2012, 8). However, the clearest statement of the official narrative was provided by the erstwhile National Security Adviser, retired General Owoye Azazi who stated that 'violence did not increase in Nigeria until when there was a declaration by the current President that he was going to contest' (*The Nation* 5 May 2012). This informs the militarisation approach of the federal government to the insurgency and complicates the experience of violence either perpetrated by the insurgents or by others under the guise of the insurgency, apart from security agents drafted in to counter the insurgents.

The situation has made it difficult on at least two fronts for the people, victims at the centre of the violence, to assist the security agencies. First is the fact of a social-disconnect between the people the state because the latter lacks a moral high ground that commands respect or loyalty of the former. Even with the violence wrought by subversive groups like the *Boko Haram*, the state remains for many, a very distant entity that plunders the country's resources through political elite that only grandstands and revel in corruption (Ukiwo 2003, 131-133). Some three years into the post-authoritarian period, the majority had become disillusioned with and alienated from a political elite made up mostly of retired military rulers or their protégés (Kukah 2009, 182-183). This led to a questioning of the legitimacy of the new

regime (Ukiwo 2003, 134). That situation has degenerated over the thirteen year period of the transition from civil rule in the country with the experience of manipulated elections and escalation of political corruption (Yusuf 2011; Adesoji 2010, 100).

Second and worse still is the persisting denial of social reality by the state which responds essentially by a militarisation approach, lacking as it is, in modern policing and intelligence techniques. As Walker observed, 'consistently brutal' approach of the security agencies' in 'dealing' with the *Boko Haram* has been 'counterproductive,' sustaining and fuelling the groups' expansion rather than curbing it. The people are even more alienated than ever in the crisis because the tactics of the police has made it more difficult for members of the group to be apprehended. The tactics of the security agencies has led to a situation where people in Maiduguri and Kano (two major cities caught in the violence) 'are, for the most part, more scared of the police and the army than they are of Boko Haram' (2012, 12-13). The people are literally caught in what one respondent told Amnesty International is a 'lose lose situation' (2012, 3); cycles of violence in which some are killed by violent groups like the *Boko Haram* (or others under the guise of the group) or the state security agencies; the police and military forces deployed to 'deal' with the former.

Terrorists and insurgents target political institutions, usually pursue political aims or at least, seek to influence the application of political power. It is thus not surprising to find that there is a politics of terrorism (Kassimeris 2008; Mueller 2006; Stohl 1988). So vast and engaging is the politics of terrorism that it now has a profound influence on the conduct of international affairs, economic activities of states, corporate actors and individuals, it has become something of a 'growth industry' even if largely in a pernicious way. The threat of terrorism 'has often been overplayed by politicians for political gain' (Breen Smyth *et al* 2008, 1-2).

Politics and terrorism interact in ways that indicate a struggle for power (Schmidt 'Governments and career politicians,' as Kassimeris notes, 'have always been tempted to exploit disasters' to achieve their political aims (2008, 4; Herring and Stoke 2011, 2). Similar is the case with Nigeria. In the Nigerian experience the official narrative has played on ethnicity to delegitimise or evade an alternative, arguably superior and empirically ascertainable narrative that the *Boko Haram* insurgency, like many other before it, is deeply rooted in a legacy of gross deprivation, violations of human rights and social dislocation that is most acute in the north eastern part of the country.

The narrative of those close to or at the epicentre of the violence and quite a number of others with similar experiences of violence and conflict in other parts of the country (like the Niger Delta), has consistently identified poverty, caused by failure of governance as the primary source of insecurity in the country in general and the *Boko Haram* insurgency in particular. As a former Inspector General of Police, later National Security Adviser from the northern part of the country recently stated, years of 'bad leadership' and neglect of the 'ordinary man' (in 1960) was responsible for the spate of violence in the country. In his words, 'Gradually this notion of not providing for the basic needs of our people brought us to our knees. Everybody is crying; everybody is kneeling down' (*The Nation* 8 January 2012). Kashim Shettima, Governor of Borno State, which along with Yobe is the most affected site of the insurgency, was emphatic about the critical role poverty plays in the crisis. He stated in an interview that despite his 'misguided ideology', the late leader of the *Boko Haram* was able to retain the loyalty of his followers through among others, provision of a meal a day to each member, setting up a youth empowerment scheme and organising cheap marriages among them. This apparently gave such followers a sense of self-worth (*Daily Trust* 20 February 2012). Others have noted this too (Walker 2102, 9)

The Governor of a major oil producing state in the Niger Delta where there has also been widespread incidence of violence and conflict by militias against the Nigerian state shares the poverty-violence nexus view. He noted that most of those involved in '*Boko Haram*-related activities' were persons mainly between the ages of 18 and 21 years. According to him, they were victims of 'political and socio-economic violence' and who then resorted to physical violence. He emphasised that provision of free education, water, and infrastructural facilities like roads and electricity was essential to dissuade the people from resort to violence. Youths busy in education will not 'have time to be actively involved Boko Haram activities' he reasoned (*The Guardian*, 26 May 2012). In order words, instituting basic rights-sensitive governance will address the discontent.

Addressing the challenge of conflict and insurgency

Imperative of instituting economic, cultural and social rights (ESC rights)

It is important to prioritise ESC rights in Nigeria. This call remains crucial in view of the fact that social, economic and cultural rights unlike civil and political rights are still non-justiciable in the country. Redressing that situation is an imperative for significantly diffusing

social tensions in the country on a sustainable basis. It is apt to adopt the legal obligations created by the International Covenant on Economic, Social and Cultural Rights (ICESCR) and the African Charter on Human and Peoples Rights (African Charter). This is because Nigeria is a party to both instruments which provide for ESC rights having acceded to (ICESCR) and ratified (African Charter) both in 1993 and 1983 respectively.

By virtue of the principle of customary international law; *pacta sunt servanda* embodied in Article 26 of the Vienna Convention on the Law of Treaties (VCLT), the country is bound by the provisions of the treaties. Article 26 of the VCLT is to the effect that 'every treaty in force is binding upon the state parties' to it and this must 'be performed by them in good faith.' This binds state parties to observance of the provisions of any treaty on ratification or accession as either signifies a positive intention to perform the obligations of the treaty. 'Treaties' as Shaw notes, 'are express agreements and are a form of substitute legislation undertaken by states' (Shaw 2008, 94).

ESC rights in Nigeria, like in many developing countries, are essentially non-justiciable. Rather, successive constitutions from 1979 have provided for economic and social entitlements as part of the 'fundamental objectives' and 'directive principles of state policy' which have been criticised for being no more than 'exhortations of best practice' (Yusuf 2008, 86). While the *African Charter on Human and Peoples' Rights (Ratification and Enforcement) Act of 1990* domesticates the African Charter, this is not the case with the ICESCR. Even with the domestication of the African Charter, still, the country's laws (and certainly the 1999 Constitution) does not offer full or substantive protection for ESC rights with perhaps the notable exception of the much untested right to non-discrimination.

Provisions of the fundamental objectives and directive principles of state policy ironically recognise precisely the category of ESC rights that ought to be guaranteed alongside the civil and political rights protected by the 1999 Constitution (the Constitution). Apart from stating that 'it shall be the duty and responsibility of all organs of government, and of all authorities and persons, exercising legislative, executive or judicial powers, to conform to, observe and apply the provisions of this Chapter of this Constitution' it has copious provisions on policies that now ought to be institutionalised in the country. For instance they contain provisions requiring the state to protect and improve the environment, 'safeguard the water, air and land, forest and wild life of Nigeria.' The State is also to 'direct its policy' towards providing for all citizens, 'suitable and adequate shelter, suitable and adequate food, reasonable national

minimum living wage, old age care and pensions, and unemployment, sick benefits and welfare of the disabled.'

Moreover the Constitution stipulates that 'exploitation of … natural resources in any form whatsoever for reasons, other than the good of the community, shall be prevented.' Equally of interest are Constitutional provisions regarding the duty of the State to 'strive to eradicate illiteracy; provide free education at all levels, including University education 'when practicable' (Sections 13-22, 1999 Constitution). It is striking how most of these provisions speak directly to the issues of social welfare which are lacking in the country and feature prominently in expressed discontent and feelings of gross neglect and marginalisation among the masses in the country. These feelings as stated earlier are either the main causes of, or at least substantially linked to the resort to violence by various individuals and groups who have been mobilised under ethnic or religious platforms.

It is relevant to mention that an institutionally conservative judiciary has helped to fossilize aspirations towards social empowerment on the basis of these provisions. The Supreme Court, the highest in the country, recently restated the non-justiciability of the fundamental principles fairly recently in *Attorney-General of Ondo State v Attorney-General of the Federation and 35 Others* (ICPC case). The court declared that the provisions of the fundamental objectives and directive principles of state policy can only be enforced through the promulgation of laws. However in view of its international obligations, it can be argued that the current legislative regime and judicial position are inadequate and fail to reflect the country's obligations as a state party to the ICESCR and the African Charter.

Article 2 (1) of the ICESCR provides that each State Party to the covenant

> undertakes to take steps…to the maximum of its available resources, with a view to achieving progressively the full realisation of the rights recognised in the present Covenant by all appropriate means, including particularly the adoption of legislative measures.

The nature of the duties envisaged by the ICESCR no doubt gives room for some debate in light of the implications of the meaning to be ascribed to the measure of allocation of resources and what constitutes 'progressive realisation.' However, the Committee on Economic Social and Cultural Rights (CESCR), the international body responsible for monitoring the implementation of the provisions of the treaty and which also provides

interpretations of the ICESCR provisions has offered substantial guidance on the nature of the State party obligations under the ICESCR. The CESCR has declared that State parties to the ICESCR are required to satisfy the tripartite paradigm of 'respect, protect and fulfil' with regard to economic social and cultural rights.

The first duty requires state parties to refrain from interfering with the enjoyment of ESC rights; the second to take measures to prevent third party interference with those rights; and the third, to provide, facilitate and promote enjoyment of the rights. Further, the undertaking 'to take steps' is not qualified or limited by other considerations. While the full realisation of the relevant rights may be achieved progressively, steps towards achieving that goal must be taken within a reasonably short time after the Covenant's entry into force for the States concerned. Such steps should be deliberate, concrete and targeted as clearly as possible towards meeting the obligations recognised in the Covenant (General Comment 3). Moreover, regarding implementation of ESC rights, an important body of scholars have advanced that not only are all human rights 'indivisible, interdependent, interrelated and of equal importance for human dignity' but in addition 'states are as responsible for violations of ESC rights as they are for violations of civil and political rights.' Consequently, 'failure by a State Party to comply with a treaty obligation concerning ESC rights is, under international law, a violation of that treaty' (Maastricht Guidelines 1997).

However, contrary to the nature of its obligations as outlined above, Nigeria has continued to treat implementation of ESC rights with levity and suspicion. It follows a tradition in many developing countries (and even in varying degrees, some developed ones) which violates the principle of indivisibility of rights, dichotomising human rights into positive and negative rights. On this view, the category of ESC rights is treated as the 'normatively underdeveloped stepchild of the human rights family' (Wood 2003, 676). This is because ESC rights are wrongly viewed as requiring state commitment of resources while civil and positive rights are considered as requiring negative obligations of non-interference. This approach has being vigorously contested in recent times. Quite a number of authors have pointed at the disingenuousness of such argument (Koch 2006, Bilchitz 2006, Baderin and McCoquordale 2007; Langford 2008; Gauri and Brinks 2008).

As the Arab Spring has demonstrated, securing basic rights of access to food health and shelter is no longer a matter of choice but ought to be regarded as a priority both in national jurisdictions and the international system. The highest and coordinating office for human

rights in the international system, the United Nations Office of the High Commissioner for Human Rights (OHRC) has noted in this regard that it was the denial of 'the most basic elements of a life in dignity' that impelled Mohammed Bouazizi, the Tunisian to set himself alight thereby setting 'a spark that lit the fire of the Arab Spring.' It further noted that the experience 'exposed the fallacy of the assumption that economic or social progress can be achieved in isolation from enjoyment of human rights' (OHCHR 2011, 62). Taking a cue from the experience of the Arab Spring, many opinion leaders in the country have emphasised the need to address poverty as a major cause of violence and conflict in the country. Chief Olusegun Obasanjo, a former military leader and two times president, expressed 'fear' of likely breakout of 'violent revolution' in the country unless the government took steps to urgently redress the situation (*Daily Trust* 12 November 2012).

Usually, arguments of the nature made in the foregoing for introducing measures to address violence in one particular jurisdiction usually find vindication in (sometimes assumed) comparative experiences elsewhere. Significantly however, the argument made so far on the need for ESC rights as a measure for achieving sustainable peace in Nigeria finds vindication also in a parallel experience in another troubled area of the country; the Niger Delta. Despite the fact that the oil from the Niger Delta region constitutes about 90% of the country's foreign exchange earnings, it lacked basic infrastructure like electricity, health care facilities, potable water, roads and youth unemployment is high. The nature of gross violations of rights in the area varies from the right to life, social rights, cultural rights, to environmental rights. But most human rights violations in the Niger Delta involved communities making it easy to mobilise youths of those communities to protests against the state. This is especially with regard to ecological devastation and degradation occasioned by their neglect of international standards in oil exploration activities by multinational corporations like Shell (Carmody 2011, 114).

Protesting civil society groups, organised or otherwise (Ikelegbe 2001) gave way to militias and subsequently violence (Carmody 2011, 113-114). There was sabotage and bombing of oil-installations, targeting of government infrastructure, including the bombing and killings of military and security personnel deployed to the area. The militants raided and destroyed police formations and other criminal conduct included kidnapping, first of oil workers, and later, politicians and just about anybody who the kidnappers felt could attract a handsome ransom (Ogege 2011, 249-250; Okengwu 2011; Osumah and Aghedo). In response, the state continued the militarisation of the area (Yusuf 2007; Amnesty 2009b). In short, there is a

clear parallel between the restiveness in the area and what has dovetailed into an unprecedented level of violence being experienced in the northern part of the country.

Faced with a failing military strategy to curb the restiveness in the Niger Delta, the Nigerian state, under the late President Yar' Adua offered an olive branch in the nature of an amnesty programme to the militant groups. This programme, to which hundreds of millions of dollars has ostensibly been committed in technical and vocational training for the 'ex-militants' has led to cognisable reduction of the restiveness in that part of the country. This has been coupled with the setting up of a Ministry of the Niger Delta to directly address issues of infrastructural development in the area. This is just as well since there is a consensus that economic and social deprivation are the main causes of the violence which was spreading from the Niger Delta to the whole of the southern parts of the country (Ojakorotu 2009, Oluwaniyi 2010, Amnesty 2009).

It is relevant in this regard to point out that sceptics have expressed the view that the government's amnesty programme is merely diversionary. Some consider it a ploy to diffuse the restiveness in the Niger Delta to ensure 'business as usual' for the government and the powerful multinational oil corporations without the political will to empower the people of the region or address serious environmental degradation that has taken place (and continues) there (Ogege 2011). Such apprehension is not completely without justification. There is the government's extremely restricted consultation with stakeholders, the rather questionable deployment of tremendous financial resources to a few ex-militants and the dubious, overnight transformation of erstwhile leaders of some militant groups to multi-millionaires (Carmody 2011, 115). This is not to mention alleged corruption that has attended the whole process from payments for surrendered weapons, identification of 'ex-militants,' to disbursement of stipends to them as well as fickle commitment to well-grounded socio-economic policies by successive administrations in the country. Notwithstanding these anomalies, it is empirically ascertainable that the attacks against the state have being considerably minimised with the country now faced with taking forward a basic rights approach to the crisis in the area.

In sum, there is more than a normative argument to be made for the introduction of ESC rights in Nigeria as a veritable mechanism for combatting the rising wave of violence. The admittedly limited precedent-setting experience of introducing socio-economic measures into the options for achieving peace in the Niger Delta with positive results commends the introduction of ESC rights as an imperative for achieving sustainable peace in the country as

a whole. The introduction of ESC rights is a sound approach to tackling the cycles of violence in the country and ought to be adopted as against the current practice of official denial and inimical politics of terrorism. The foregoing discussion on institutionalising ESC rights in Nigeria could be viewed as suggesting that this on its own will bring about the desirable result of diffusing the tensions that lead to insurgencies in the country. However, in light of realities in the country, such a view will be mistaken. To achieve the desired positive impact of the introduction of ESC rights in the country, there is a correlating requirement to address another feature of the governance gap earlier discussed; virtual absence of due process in governance.

Due process – curbing corruption, checking Impunity

Due process here refers to the realisation that power has the tendency to corrupt and so there is a critical need to check its exercise particularly on the part of the state. This is ensured through procedural and substantive measures. Due process constrains the application of governmental power by requiring that policies and actions of government officials are not arbitrary. The central idea of substantive due process as Fallon explains is 'government officials must act on public spirited rather than self-interested or invidious motivations, and there must be a "rational" or reasonable relationship between government's ends and its means' (Fallon 1993, 95).

The absence of 'due process' and transparency in the conduct of government's contract and procurement activities facilitates grand theft of public funds. This led to the establishment of the 'Due Process' Office – later Bureau for Public Procurement in the early years of the Obasanjo administration (Okonjo-Iweala 2012, 88-89). However, the thinness of due process in the country; in its procedural form - requiring compliance with laid down rules, and substantive- that those rules themselves must be reasonable and not self-serving, transcends government's fiscal activities; it permeates all structures of governance. The focus here is however limited to two aspects; political corruption as a reflection of absence of due process and impunity in the conduct of security agencies in carrying out otherwise legitimate duties.

It is estimated that Nigeria has made over 400 billion dollars from oil exports in six decades but more than 80% of that figure has accrued to a mere 1% of the population (Carmody 2011, 113-114). Given the level of poverty in the country despite this earnings, it is little wonder there is widespread disenchantment with the state manifesting in among others, conflict and

violence as represented by the activities of groups like the *Boko Haram* and militancy in the Niger Delta.

There is a link not only between poverty and violence but also between corruption and violence. Corruption delegitimises the state and fractures the relationship between government (state) and the people (society). Corruption of state officials undermines the rule of law and the authority of the state leading to hostility of citizens who come to view the state as an 'enemy' (UNODC 2005, 89). In such circumstances of 'fractured state legitimacy,' citizens tend to resort to the use of force and self-help; making outbreaks of violence a real possibility (Yusuf 2012, 451). The Nigerian experience provides very good examples of this; the militants in the Niger Delta and *Boko Haram* are two current examples.

There is an urgent need to curb corruption in countries like Nigeria since it is a very major predisposing factor to social violence. Pham has observed that a viable to ending incessant violence in the country requires 'dramatic action' to end corruption and the establishment of a 'more inclusive' government to

> alleviate poverty and lack of access to health care, expand access to education, and create a transportation, utilities, and communications infrastructure capable of sustaining economic growth for Nigeria's 170 million people (2012, 7) .

As mentioned above, there is also an urgent need to pursue due process through checking the impunity of the state and its agencies, especially the security forces. A key problem regarding due process in the country is the impunity of state security agents. It is important to note in this regard that extra-judicial killings by the security agencies (particularly the police and the army) deployed to 'keep the peace' in the northern part of the country, has continued till date (Amnesty 2012, 19-39; Amnesty 2009a; Open Society 2010). It is a notorious fact that the neglect of due process manifested in the extra-judicial killing of Mohammed Yusuf, the leader of the *Boko Haram* group. This incident notably triggered the spate of violence and terror the country is now witnessing (Pham 2012, 2-5; Amnesty 2012, 7-9; Walker 2012, 4-6). The group to which it has been linked either rightly or wrongly, the Maitatsine, a heretic group as far as most Muslims are considered was itself brutally wiped out by state security forces in 1980 (Walker 2012, 1).

So, the state has continued on a trajectory of counter-violence that has done nothing but lead to a cycle of blood and tears with a hapless populace always at the receiving end. In this

regard, Bukar Abba Ibrahim, a Senator and former Governor of Yobe State, denounced security agencies for killing more people than the *Boko Haram* contrary to the claim of the Chief of Army Staff. *Boko Haram* he noted had existed for 'ages' as a peaceful group but the impunity of the security agencies, particularly the Police, provoked it to violence against the state. He lamented that whenever a security agent was the security forces respond by cordoning off such an area and burning down all property there. 'What,' he wondered 'has property got to do with people killing security agents on the road?' He went on to make the point that the attitude of the security agencies make matters worse (*The Nation* 9 November 2012). It is high time the government addressed the penchant for impunity for which the country's security agencies have become notorious internationally (Amnesty 2009a; Open Society 2010; Amnesty 2012).

Conclusion: connecting the state to society

The foregoing discussion adopted a CTS approach to identifying and understanding the issues at the root of the recurring violence in Nigeria leading it notoriously into the contemporary capture of terrorism discourse. The CTS analytical framework discloses that the official narrative side-steps the notorious fact of the governance-gap in the country which finds acute expression in the denial of basic rights and widespread political corruption. Addressing the neglect of due process and ESC rights; adopting a rights-sensitive approach by the state, holds significant promise for a sustainable resolution of the pervasive wave of violence that has threatened the country's corporate existence.

While the transition from authoritarianism to civil democratic rule is desirable, it is far from being itself a virtue that promotes the well-being of societies in Africa. Where it simply translates to nothing more than the conduct of (multi) party elections, as has being the experience in Nigeria, it only exacerbates frustration and alienation among majority of the population. This fosters a situation in which individuals become liable to 'being mobilised around counter-elites who exploit extant popular alienation from the state by whipping up sectarian sentiments' (Ukiwo 2003, 120). An important way out from the situation of violence and terrorism in Nigeria is firstly for the state to abandon denial – it is stark that there is a grave disconnect between state and society in many African countries. Nigeria is sadly one of the most poignant representation of that in the period of its post-authoritarian transition; an irony given the expectations of a post authoritarian society.

While on the one hand, it is commonly argued that resource constraints militate against the constitutionalisation and realisation of ESC rights, there is a sound argument to be made for its expedience in the same countries that have been excused for neglecting these rights on the basis of resource constrains. It is typical to find that neglect of economic of social and cultural rights in developing countries like Nigeria commonly go hand in hand with high security spending on importation of weapons for security forces; paradoxically to secure usually elusive peace. That has gone unquestioned by the prominent players in the international system, quick to move in to help 'secure the peace' in conflict zones in the developing countries. This has to be addressed.

The discussion above has referred to an example of socio-economic intervention which though falls short of institutionalising ESC rights suggests there is considerable value in following a rights-sensitive approach as argued above. It has been conceded that there is some justification for caution given surrounding circumstances of a varied nature. Yet, it is clear that the amnesty programme substituted state denial and counter-violence with acknowledgement and some positive response to aspects of socio-economic marginalisation of the people of the Niger Delta. While the violence in the area has not completely disappeared, the amnesty and demobilisation programme has led to substantial peace and better security there, even if only in the short term. Political will to adopt an approach that is rights sensitive as canvassed here will considerably contribute to achieving sustainable peace in the country.

While upholding the argument for the urgent need for recognising and implementing ESC rights in this way, it is important to restate that the introduction of the measure *alone* without the additional component of observing due process by government and its agencies will lead to a still-birth of any positive promise the measure holds. This is why the argument has been made also for the need to consider the observance of due process by the state as a component of 'basic rights' sensitivity to which government should commit itself for resolving the rampant incidence of violence across the country.

It is relevant to conclude by noting that while the focus is on the *Boko Haram* insurgency in Nigeria, the governance policy recommendations discussed above are relevant to the wider objective of forestalling or radically diminishing the development of insurgents of any in other parts of sub-Sahara Africa and even in any other countries with similar socio-economic and political conditions. Domestic and international policy responses to the current situation

of violence and conflict in other developing countries and especially those in sub-Sahara Africa like the Democratic Republic of Congo, Central African Republic and Mali will hopefully benefit from the foregoing analysis.

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[1] Andris Pielbags 'Key Note Address by EU Commissioner Andris Piebalgs to the "High-Level Forum on International Cooperation"' (Milan, Italy 1 October 2012).

[2] Also discussing the fault lines of the differentiation in categorising so called 'secular' as against 'religious' terrorism arguing among others that the dichotomy is on scrutiny, a deeply problematic one to make.

[3] There are reputedly over 250 ethnic groups in the country.

[4] While this may seem a moot point, it is significant to note that too many such 'analysis' form the basis of the international system's engagement across a broad range of issues; socio-economic, political and legal, among others.

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