



NEAR EAST UNIVERSITY  
GRADUATE SCHOOL OF SOCIAL SCIENCES  
INTERNATIONAL RELATIONS PROGRAM

**AN ANALYSIS OF THE COUNTERTERRORISM TACTICS OF  
PRESIDENT BUHARI AND THE VIOLATION OF  
JUDICIAL ORDERS IN NIGERIA FROM 2015 - 2018**

NWACHUKWU EMMANUEL IKENNA

MASTER'S THESIS  
(MSc)

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2019

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THESIS SUPERVISOR  
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2019

## ACCEPTANCE/APPROVAL

We as the jury members certify the '**AN ANALYSIS OF THE COUNTERTERRORISM TACTICS OF PRESIDENT BUHARI AND THE VIOLATION OF JUDICIAL ORDERS IN NIGERIA FROM 2015 – 2018**' prepared by the NWACHUKWU IKENNA EMMANUEL defended on 31/07/2019 has been found satisfactory for the award of degree of Master

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## DECLARATION

I, IKENNA EMMANUEL NWACHUKWU, hereby declare that this dissertation entitled AN ANALYSIS OF THE COUNTERTERRORISM TACTICS OF PRESIDENT BUHARI AND THE VIOLATION OF JUDICIAL ORDERS IN NIGERIA FROM 2015 – 2018, has been prepared myself under the guidance and supervision of ASSOC. PROF. DR. HÜSEYİN İŞIKSAL in partial fulfilment of the Near East University, Graduate School of Social Sciences regulations and does not to the best of my knowledge breach any Law of Copyrights, and has been tested for plagiarism and a copy of the result can be found in the Thesis.

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## **DEDICATION**

To my loving wife, Chinemerem, I am highly favoured to have you in my life. To my both parents, Mr. and Mrs. Barnabas Nwachukwu, it is a blessing being your son, thank you for giving me the foundation and motivation to seek greater heights academically. The quest for greater height continues.

## ABSTRACT

### AN ANALYSIS OF THE COUNTERTERRORISM TACTICS OF PRESIDENT BUHARI AND THE VIOLATION OF JUDICIAL ORDERS IN NIGERIA FROM 2015 - 2018

The research work is based on the study of two main cases; El-Zakzaky and his wife; the case of Col. Sambo Dasuki, and other related cases

The research hypothesized that the counterterrorism tactics used by President Buhari violates judicial orders, and the laws of the court in Nigeria. The research also found that individuals suspected to be terrorist are been tortured and dehumanized, some have been in detention since 2015 to the time the study was conducted. The study also found that the president engages his security service to arrest political dissident, groups, and people who opposes his administration all in the name of national security. There was massive arrest and detention without trial. There was multiply court orders declaring the actions of the president null and void and illegal. The rights of suspects who were arrested and detained in custody to challenge the allegations in court were violated by continued detention without legal order.

The study recommend that government should concentrate on addressing the root causes of terrorism, because that is the first tactics to counter terrorism; also civil-military force engagement tactics should be incorporation in other to create a balance; ethnic and religious sentiment should be avoided; while adversary politics should be relegated from the politics in Nigeria. The researcher strongly recommend that victims of terrorist attack should be cared for and the Nigerian Judiciary should be empowered to operate effectively and efficiently without harrassment from politicians

**Keywords:-** Terrorism, Counterterrorism, Judicial Orders, Rule of Law

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<b>ABBREVIATION</b>	<b>MEANING</b>
<b>ADF</b>	Allied Democratic Forces
<b>ACJ</b>	Administration of Criminal Justice Act
<b>AI</b>	Amnesty International
<b>APC</b>	Arewa People's Congress
<b>CACOL</b>	Centre for Anti-Corruption and Open Leadership
<b>CASER</b>	Citizens Advocacy for social and Economic Rights
<b>CFRN</b>	Constitution of the Federal Republic of Nigeria
<b>CG</b>	Crisis Group
<b>CJTF</b>	Civilian Joint Task Force
<b>DSS</b>	Department of State Service
<b>ECOWAS</b>	Economic Community of West African States
<b>GTI</b>	Global Terrorism Index
<b>ICG</b>	International Crisis Group
<b>IHRC</b>	Islamic Human Right Commission
<b>IMN</b>	Islamic Movement of Nigeria
<b>IPOB</b>	Indigenous People of Biafra
<b>JTF</b>	Joint Task Force
<b>LCBC</b>	Lake Chad Basin Commission
<b>MASSOB</b>	Movement for the Actualization of the Sovereign State of Biafra
<b>MNJTF</b>	Multinational Joint Task Force
<b>MSSN</b>	Muslim Student Society of Nigeria
<b>NDA</b>	Niger Delta Avengers
<b>NACTEST</b>	National Counterterrorism Strategy
<b>NDVF</b>	Niger Delta Volunteer Force
<b>NIA</b>	National Intelligence Agency
<b>ONSA</b>	Office of the National Security Adviser
<b>PCVE</b>	Preventing and Countering Violent Extremism
<b>SC</b>	Security Council
<b>SSS</b>	State Security Services
<b>TI</b>	Transparency International

<b>TPA</b>	Terrorism Prevention Act
<b>UNGA</b>	United Nations General Assembly
<b>UNICEF</b>	United Nations Children Fund
<b>UNODC</b>	United Nations office on Drugs and Crime
<b>UNSC</b>	United Nations Security Council
<b>WIA</b>	War Against Indiscipline
<b>WISPI</b>	World Internal Security and Police Index International

## CHAPTER ONE

### INTRODUCTION

#### 1.1 General Introduction And Background To The Study

The case of terrorist attack is not peculiar to the African continent; it extends also to other parts of the world. Terrorism is a violent act planned and executed by an organized sect, that could be under the supervision of the state or independent actor, crafted to cause fear and terror on people usually for political purpose (Mbah,P., et al, 2017, p. 173).

Since 1997, terrorist activities have significantly increased in Africa. According to the incident database of the Memorial Institute for the Prevention of Terrorism, between 1997 and 2007, “Africa recorded an estimated 522 acts of Terrorism, resulting in 8,477 injuries, and 2,614 fatalities. Records show that 73% of these terrorist incidents were domestic while only about 27% were transnational”. This record qualifies Africa as a continent that is at war against itself. With the high occurrence of Terrorist acts in the African region, most of the tactics and strategies adopted to fight the act of terrorism are crafted to suit terrorism that occurs in the west, this was made manifest after the September 11 terror attack on America (Agbibo, 2013, p.146-159 ).

According to (Mbah,P., et al, 2017, p. 175)., the issue of terrorism and its growth in the African region can be connected with social imbalance and economic hardship leading to poverty and the inability to meet up with daily

needs. (Ibid). In Nigeria, the acts of terrorism can be based on massive corruption among the elite, poor governmental institutions, failure of governance as a result of poor governance, social injustice and economic dispossession. In spite of these discourses, religion acted as the ideological force that legitimized and bounded the group (Aly, 2011, p. 85).

On account of massive corruption and social injustice and other factors as mentioned above, Nigeria has been meshed into the court of terrorism. Boko Haram since the latter part of the 1990s has taken control of the North-eastern part of Nigeria, particularly states like Borno State, Yobe State and Adamawa State. In the last decade, Boko Haram has emerged as among the top dangerous terrorist group ever recorded in cases of terrorism. This sect carries out its terror in similar way as Al-Qaeda and ISIS. Boko Haram is known to destructively attack innocent citizens, government institutions, security formations, telecommunications masts, banks, worship centers, educational institutions, media houses, and market places, using all kinds of sophisticated weapons (Mbah and Nwangwu 2014, p.67; Mohammed 2014).

In 1999, Nigeria transitioned from military rule to a civil rule after years of military rule, with General Olusegun Obasanjo elected as the fourth democratic president. Obasanjo was sworn in on May 29th 1999. Despite the emancipation from military dictatorship prior to 1999, and the advent of democracy in Nigeria, there have been failures of different governments who have emerged to tackle issues that are important to the people, like human development issues, and infrastructural development, and this failure has resulted to the upspring of resistance groups and critical oppositions and these have threatened the nation's security (Ahokegh, 2012, p.46-55; Isyaku, 2013, p.16). Following the failure of state's institutions and government to meet the expectations of the people, this has led to disappointment on the part of the government in discharging its functions, and the people no longer trust the capability of the government to protect their interest, in this situation they sort for other alternative body that can protect them and provide for them and to fill this vacuum created as a result of failure of the Nigerian government and its institutions (Omitola, 2012, p.4-16).

Nigeria is entangled with ethnic and religious problems coupled with the tensions of uprising in the oil-rich Niger Delta region (Brinkel, and Ait-Hida 2012, p.1-21). (Akinola and Uzodike as cited in Olumuyiwa F., 2017, p.1) this endemic occurrence of violence is as a result of the poor conflict resolution mechanism of the Nigerian Government. The government did not pay so much attention to the social problems as well as the political strife that has brought the people to the street; also the government did not reconsider addressing their problems in a peaceful way as they initially requested. According to (Patrick and Felix, 2013, p.1-9), the inefficiency and inactions of the government to deal with issues of internal security, resource control, injustice, corruption, ethnicism, stigmatization, nepotism among others has made different groups to rise in arms and violence.

According to (Audu, 2015, p.24-48; Omitola, 2012, p.4-16), as time passed, groups began to organize themselves with structures and act under different militias like the "Movement for the Actualization of the Sovereign State of Biafra" (MASSOB) in South-east, the "Niger Delta Volunteer Force" (NDVF) in south-South, the "Arewa People's Congress" (APC) in North-East and over a decade or more the issue of the radical Islamic group, "Boko Haram". The above mentioned groups were in consistence voice to decry issues that affect their lives and the environment where they live, they have decried problems of freedom, proper revenue allocation, pollution of the environment, social disparity (Olowoselu et al., 2014, p.77). Like the MOSOP group that operate in the Niger Delta oil rich region, they have been in strong protest and agitation to take control of the resource in their land, proper revenue allocation, and protest against the pollution done to their environment as a result of crude oil extraction process. The MASSOB operated in the South-Eastern part of the country and their agitation has been self-determination, political liberty to establish a State of their own, a break away country from Nigeria; and currently the Boko Haram operating in the North-East is agitating for an Islamic State to be created (Brinkel & Ait-Hida, 2012; Felix et al., 2014; Olowoselu et al., 2014; Omitola, 2012, Ibid). The operating techniques used by this groups is sophiscated and lethal, they involve in bombing, kidnapping for ransom, killings, bombing of worship centers, car

bombing, bombing of public places, suicide bombing and the use of other improvised explosive devices.

It is not wrong to say that after 2000 and 2001, Nigeria became confronted with different kinds of attacks; among those attacks and threat is from Boko Haram. Past democratic leaders in Nigeria after 2001 were entangled with this threats and they devised different tactics to handle it. It is not wrong to say that the emergence of Boko Haram is the contradiction between the Islamic and Western civilizations. The argument lies in the imposition of political and economic will on Islamic civilization by the United States and Europe through the process of globalization, imperialism, neo-liberalism, gender equality and individualism among others. However, "radical Islam sees globalization as frequently leading to destruction, social and moral crisis with individuals cast floating in destruction with cultural and political disorientation associated with the imposition of Western values on Islamic countries" (Mbah, 2007, p.110). The political and economic value systems of the western countries are being portrayed as superior to all others and any other value systems. This assumption and understanding ignited in the radical Islamist the believe that western value system is a threat and it may destroy Islamic culture. In the bid to prevent and shield off from western value systems, radical Islamic groups took to violence as the only tactics for preventing close relations with the west and the motive to destroy the Muslim culture and state.

Radical Islam groups in almost all Islamic countries like Nigeria have offered their people an instrument with which to fend off frightening Western influences in order to preserve accustomed ways of life which they see as very important to the Muslim people. This is close to what Huntington calls the "clash of civilizations" (Ibid).

Northern Nigeria has been a region with "a predominantly Muslim population, and has a well-documented history of militant religiosity dating back to the highly successful Holy War (jihad) fought by Sheik Othman Dan Fodio (1754–1817) in the early 19th century" (Hickey, 1984, p.251). During the era of Dan Fodio he launched a jihad against what he saw as the desperately



dishonest traitors in Hausa ruling leaders of the time and recognized the “sharia-governed Sokoto Caliphate”. This was one of the largest and most commanding kingdom in sub-Saharan Africa; especially in most of northern Nigeria. According to (Agbibo, 2013, p.20-30) it is significant to know that much of the area now known as the “Middle Belt or North Central States were against the jihadists. According to (Crowder as cited in Agbibo 2013, p.3-30.) “What began as a search for religious purification soon became a search for a political kingdom”; with the outcome being that “Islam has remained the mainpoint for the legitimacy of the northern ruling class, and consequently, it’s politicians have always prided themselves as soldiers for the defence of the faith” (cited in Agbibo 2013, p.3).

According to (Akyeampong as cited in Olumuyiwa, 2017, p.1-10) after Nigeria’s independent in 1960, there was the upraise of groups agitating for different cause, the Islamic group especially grew, agitating for an Islamic State. According to (Isichei, 1987, p.194) groups like; “Derika, the Yan Izala, Maitatsine and the Northern Brancj of Muslim Students Society”. According to Akyeampong, these groups where unified in their hatred for a “western way of life”. The groups ascribed the acceptance of a “western system of government” with bribery, corruption and dishonesty within the Nigeria political, social and economic system. These groups believe that the failure of the country's leadership can only be solved with the establishment of an Islamic state governed by strict Sharia laws. According to (David, 2013, p.3; Schweitzer and Shaul, 2003, p. 99-100) the quest by this group to establish an Islamic state has been historical in Nigeria since after the emergence of democratic rule in the fourth republic

These groups are engaged in violence as their tactics or rules of engagement to convene their displeasure to the Nigerian government and the government’s response has always been harsh against the group, sometimes agreements are made between the government and the group which sometimes may never be implemented, and in cases where they are implemented, they are not effective (Onuoha, 2010, p.54-67). However, when the content of the agreement is implemented and the crisis is subdued, the

government does not show any concern to ensure that those involved in the crime are charged and prosecuted, also the government ignore's to continue with the content of the agreement. The main problems that were outlined during the agreement as constituting to why people engage in crime and violence will be ignored and swept under the capet, and when this is done, the possibility of the violence springing up is sure (Ibid). According to (Adesoji, 2011, p.98) he argued that when a negotiation is put forward by the government with sect groups, there is always a break away from the larger body of the sect, forming a new faction of the former sect, and this always happens when members of the sect believes that they will be controlled and restrained from operating. For the Boko Haram, they are an "ideological movement" that plead to the "poor masses" who are mainly in the North, these people are vulnerable and under this condition, they are exploited and manipulated using social disparity and inequality, issues of religion that exist in the country (Udounwa, 2013, p.3 ). "Boko Haram panic has its root in such conjugal factors as delicate poverty, state and leadership failures, ethnic nationalism and power struggles" (Onapajo et al., 2012, p.337). These issues cannot be separated from what is happening at the global level, because religion plays a major role in global terrorism (Ibid). Put differently, the raise of "Boko Haram is a product of Nigeria's domestic, political, socio-economic and to some extent religious problems" which are internal in the Nigerian society (Ahokegh, 2012, p.46).

The study is aimed at examining how the act of terrorism is been tackled by Nigerian President, Muhammadu Buhari following the current world order on counterterrorism, also whether the president's counterterrorism tactics violate or complies with legal process in Nigeria. The study also outlines a detailed analysis on how past presidents of Nigeria have tackled the act of terrorism in accordance with legal process. The study focused on different legal decisions made by the courts on issues of counterterrorism in Nigeria and also various acts of parliament available to fight terrorism and whether they are in conflict with the president's tactics or vice versa. These various areas are significant to the purpose of the study.

## **1.2 Statement of the Problem and Hypothesis**

Scholars of international relations and political science have addressed issues concerning human right violations, disrespect for the rule of law under counterterrorism strategy in Nigeria. Some talk about terrorism and counterterrorism measures and strategies use by state and non-state actors and the effects of these counterterrorism strategies, others addressed counterterrorism strategy and its effect on the “rule of law”; but none of the scholars paid attention to how issues of counterterrorism tactics could violate legal process under the “rule of law” and this is the focal point of the study. There are cases of arrest and detention of persons and groups suspected to be terrorist, even with different court orders directing for their bail and release; there are cases where the court condemns the action of the president for ordering military operations in the North East of Nigeria that caused the death of over tens of civilians including unarmed women and children; cases of disobeyed order where the court ruled that financial compensation be given to victims family who were killed during a military operation ordered by the president.

The study assessed President Buhari's counterterrorism tactics and how they violate judicial orders in Nigeria from 2015 to 2018. President Buhari's counterterrorism tactics against the act of terrorism in Nigeria has been a concern and it overwhelms some Nigerian publics. In furtherance of counterterrorism tactics in Nigeria under president Buhari, there has been significant disrespect for legal process under the rule of law; also this has led to total disregard for judicial orders which is germane to the growth and sustainability of democracy.

The issue of terrorism in Nigeria is not an event. So much happened that has cause terrorism in the country to strive. Therefore it is important to acknowledge and put into account those factors that caused the act of terrorism to strive in Nigeria; which are the root causes of terrorism. The president's style of counterterrorism tactics must be guided by those factors or root causes of terrorism. There are various global standard measures that have been enumerated for states to adopt while formulating their

counterterrorism tactics and those global measures should also be adhered to by states.

### **1.3 Purpose of the Study**

The researcher has chosen this topic for study based on the following reasons. Before President Buhari became president in May of 2015, the state of insecurity and abuse of human rights in Nigeria was on the increase. There was massive corruption within the political circle and development was minimal in the country. Terrorist group like the Boko Haram was advancing in their effort to take over the country, killing people in their numbers including the Nigerian Soldiers; also massive violation of human rights by the Nigerian Soldiers during the fight against insurgency was predominate.

Going into the 2015 general election, the then President of Nigeria Goodluck Jonathan who came into power under the platform of the Peoples Democratic Party (PDP) in 2012 could not sustain the confidence level and trust of the people, because of his inability to address those challenges that the country was facing. Since 1999, PDP has been the ruling party in Nigeria at the central level. The party has been characterised with high level of corruption, money laundering, human right abuses, violation of laws in the country to mention but a few. The party during its reign at the central level since 1999 have recorded numerous achievements, but there were high criticism from the citizens who felt that the level of achievement is not commensurate with global expectation and accounting for the wealth that the country possesses.

In 2015, the Nigerian people clamored for change after sixteen years of PDP dominating the government at the central level. There was high expectation from the citizens who also argued that the country possesses the power to defeat Boko Haram and address other security challenges in the country, and elevate the standard of living of the people. These were some of the primary reasons President Buhari under the platform of a new political party the "All Progressive Congress" (APC) gained the peoples support to be elected as president in the 2015 general election.

The different lapses and failure of PDP became an opportunity for the new party APC to clamore for support from the people. Also in 1983 – 1985, President Buhari served as Nigerian Military Head of States. During this period he advocated a policy called “War Against Indiscipline”, the policy was a hallmark in Nigerias history; it was characterised with the call for honesty, hardwork and integrity, spirit of patriotism, disengagement from corruption among Nigerians to mention but a few. However, the policy was cut short following a military coup in 1985.

In the 2015 general election, with high media backings and advocacy, President Buhari under the platform of the APC used these instruments in his favour to win the 2015 general election, making him the first President to have unseated a sitting president in Nigeria.

During President Buhari’s inaugural speech, he affirmed to lead the country to the best that its deserve; the president also affirmed his support to the rule of law and observance of legal process and non-interference in the activities of other arms of the government. The President committed his speech promising Nigerians the benefit of democracy.

Six months after the President was sworn into power, he nominated his cabinet members. The normination instigated some level of criticism that the President’s cabinet members (ministers) are in majority from the Northern part of the country; and that it breached the Federal Character Principle as stipulated in the Nigeria’s Constitution. Also, in the presidents effort to address the security challenges in the country there have been series of criticism following his tactics, and these has worsen the security situation in the country, the upraise of the Herdsmen-farmer clash added to the already worse security in the country, successional groups took to the street to protest against some of the decisions of the president, tagging the president as being “nepotic, tribalistic and religious”.

From this period till 2018 the actions of the president have always been called to question by Nigerians especially members of the opposition parties and other civil society organisations.

#### 1.4 Scope of the Study

The scope of the study is President Buhari's counterterrorism tactics which include the arrest of Ibrahim El-Zakzaky and his wife Mrs. Malama Zeatudden; the detention of Col. Sambo Dasuki, even with several court orders releasing the duo (Punch, June 3, 2017). Ibrahim El-Zakzaky is the leader of "Islamic Movement of Nigeria" (IMN), while Col. Sambo Dasuki was the former Nigerians president Jonathan's "National Security Adviser". Mrs. Malama Zeatudden is the wife of Ibrahim El-Zakzaky leader of (IMN), the case of a Journalist Mr. John Abiri, arrest and detention of individuals suspected as terrorist and Military operations ordered by the President in the South East against the leader of the Indigenous People of Biafra (IPOB), Mazi Nnamdi Kanu and his group.

The study used the Rational Choice Theory and the Social Contract Theory as tool to undertake the study. RCT illustrates that policy makers or leaders are not driven by ideologies or any utopian laws or a world view of how things should be done. The theory indicates that people take decisions based on calculated ideals and plans. According to RCT, decision makers appear innocent and cannot be held for their actions or inactions. According to RCT, policy makers must act rationally behind the logic of a balance of power.

The second theory used is the Social Contract Theory. The theory was propounded by Jean Jacques Rousseau a French philosopher in his work *Du Contrat Social* in the 1762. SCT argues that an accord exist between the government and the governed; in other words, citizens agrees that the government should govern them and administer over the affairs of their country. The theory rely on a democratic government, a government that is constitutional based and upheld to the rule of law. According to John Locke, "where there is no law, there is no freedom".

And thirdly the Just War Theory (JWT).The Just War theory is rooted on the assumption of making decisions regarding the life of human and their various rights, the order to use force to command loyalty. JWT is widely a Christian theory that seeks to address three major factors; that the act of taking the life

of another person is wrong; that the state major duty is to protect and defend its people and lastly that Justice must be preserve. The theory also indicates that the act of preserving and protecting the life of people and defending crucial ethics of society requires sometimes the use of coercion.

### **1.5 Research Objectives**

President Buhari's counterterrorism tactics on the fight against terrorism in Nigeria has made fighting the activities of terrorist become his only function and this has made other functions of the government go unnoticed. According to (Ahokegh, 2012, p.46-55) the threat that Nigerians faced as a result of terrorism is peculiar to the Nigerian state. Nigeria has never been engulfed with issues of crisis in this magnitude as we have it today in the Nigeria state.

President Buhari's counterterrorism tactics has been the use of Military operations, arrests, detentions, states of emergencies. The study is important because, it adds to other options of knowledge and provides other ways of counterterrorism tactics under the "rule of law", and will add to existing knowledge on issues of counterterrorism in Nigeria and beyond. In light of the above statements, the objective of the study is, To assess the counterterrorism tactics of President Buhari from 2015 to 2018 and how they violates legal process under the rule of law, How the president adopts his counterterrorism tactics and to Pro-offer better counterterrorism tactics and pro-active moves to combat terrorism in Nigeria

### **1.6 Research Questions**

The act of terrorism and counterterrorism are coin of same but different sides and that makes it a very crucial topic for study and research. The practices of counterterrorism is not a new practice but the approaches differ based on context. Still almost every counterterrorism tactics may lead to a significant implication within the society and the desire to address its lawfulness. No matter how beautiful a tactics may present itself, or how objective the person behind the tactics may be, every tactics would find it critics. So it is important

to address the issues of the counterterrorism tactics of President Muhammadu Buhari and issues of legal process in Nigeria.

In other to achieve this, the main question the study seek to answer are conceptualized in the following manner as; **What are President Buhari counterterrorism tactics from 2015 till 2018 and how they violates legal process under the rule of law?, What informs the president in adopting his counterterrorism tactics?, How can we pro-offer a better counterterrorism tactics and pro-active moves to combat terrorism in Nigeria?**

### **1.7 Research Methodology**

The study adopted the qualitative research design methodology, this method used both primary and secondary sources. The primary sources include, Acts of Parliament, Government Gazettes, Online source, Print media and other relevant sources related to the study. According to (Marczyk et al, 2005, p.17) qualitative method include both primary and secondary data, the method can be used to analyze a person's behaviour. (Myers, 1997, p.241) opines that by using the qualitative research design method, the researcher can identify the behaviour of a person both socially, politically and culturally. In the view of (Biggam, 2008, p.86) the qualitative research methodology involves a detailed analysis and exploration of a character especially when there is believe that robust and rich data could be extracted.

The study used the case study as its foremost method of analysis. The case study method is a form of qualitative analysis, or otherwise experimental inquest, which involves an in-depth investigation and observation into a selected event(s). However, critics of the study method argues that the analysis of a limited number of cases may offer no much ground for making general conclusions, but in many cases, this remains the only method possible to observe and give details of the process or facts of the hypothesis.

The main study question is to assess president Buhari's counterterrorism tactics and how they violate judicial orders in Nigeria, to achieve this, some observatory cases of counterterrorism tactics of Buhari was analyzed. Two



important cases have been chosen for analysis in the study, the case of Ibrahim El-Zakzaky and his wife Mrs. Malama Zeatudden and the case of Col. Sambo Dasuki. These cases have been selected for a purpose, because they reflected the actions of the president on issues of counterterrorism and how the president juxtaposes the Rule of Law and National Interest. These cases are a frontier cases on the Nigeria newspapers and social media pages and a lot have been said about the case and the actions of the president. Both suspected individuals Ibrahim El-Zakzaky, his wife Mrs. Malama Zeatudden and Col. Sambo Dasuki are Muslim and it will be quite interesting to know also that President Muhammadu Buhari shares the same religious faith as them. Both suspects were active members of former president Goodluck Jonathan's administration where Col. Sambo Dasuki served as National Security Adviser, while Ibrahim El-Zakzaky is the leader of "Islamic Movement of Nigeria" (IMN). Other related cases that formed part of the study are cases of arrest and detention of Journalist and other individuals suspected to be terrorist or linked with terrorism; also case of military operation against separatist group leader Mazi Nnamdi Kanu and his group. The thorough analyzes of the available information and the various court orders on the cases helped to make rich conclusions regarding each case, also the comparative study approach on each case and similarity of different court orders helped to prove the legality of the president's action whether accepted or not.

On the collected data, they were interpreted using the descriptive method of data analysis in order to reach a generalized conclusion. According to (Marczyk et al, 2005, p.209) the descriptive method of analysis "allows the researcher to describe the data and examine relationships between variables". This method of analysis is used to describe the collected data and plot them under observation. This method gives details about the overall sample representatives as well as important details needed for future study on similar cases (Ibid).

## **1.8 Structure of the Chapters**

Chapter one of the study is an introduction to the study. The background, and important of the study was enumerated and discussed in detail, the research questions is formed. The chapter also includes the Statement of Problem and Hypothesis, and the main objectives of the study. The methods used in conducting the study, scope of the study, significance of the studies all formed part of the chapter. Chapter two discussed the Theoretical Approach to the study. Three theories were analyzed and applied and they include, the Rational Choice Theory, Social Contract Theory and the Just War Theory. The latter part of the chapter provides a review of various studies on counterterrorism by different scholars.

Chapter Three discussed the Historical Background of Nigeria's security. Global Security and Terrorism will also be discussed in the chapter. The challenges of Nigeria Security will form part of the chapter, while the chapter will conclude with a detailed discussion on Terrorism in Nigeria.

Chapter Four, analyzed counterterrorism in Nigeria and its Challenges, law and Provisions of counterterrorism. The Global Counterterrorism and how the Rule of Law can be protection will be discussed in the chapter. National Counterterrorism Strategy and Nigerian Security Laws will also be discussed. The power of the Judiciary in Nigeria will be discussed and the chapter will conclude with by analyzing the various counterterrorism tactics under President Good-luck Jonathan, 2011-2015 and President Buhari, 2015-2018.

Chapter Five discussed various cases involving violations of Judicial orders by President Buhari, two landmark cases will be discussed (Ibrahim El-Zakzaky and Col. Sambo Dasuki), various cases of arrest, detention, and military operation will also be discussed in the chapter.

Chapter Six is the last chapter that reviewed the chapters and discussed the findings of each chapter, and a recommendation was made with a concluding remark.

## CHAPTER TWO

### THEORETICAL OVERVIEW

#### 2.1 Introduction

The phenomenon of war against terrorism and counterterrorism tactics used by states and individuals is a complex one, and a better understanding can only be reached using academic tools. Theoretical approach is an academic tool or lens used to evaluate and access events or behaviour. For the purpose of the study, three theoretical approaches have been chosen, the Rational Choice Theory, the Social Contract Theory, and the Just War Theory.

The RCT theory explains how individuals make defined preferences which could be both positive and negative. They make choices rationally from among other options just to fulfill their most preferred. According to the RCT, all individual or collective actions can be said to be an act to optimize their preferred over another. The Social Contract Theory enumerates the idea where people relinquish their freedom to a body or individual in order to be protected and have peace. This body or individual is saddled with the responsibility to protect the people and act rationally for the interest of the people whether negatively or positively. While the Just War theory is rooted on the assumption of making decisions regarding the life of human and their various rights, the order to use force to command loyalty. JWT is widely a Christian theory that seeks to address three major factors; that the act of taking the life of another person is wrong; that the state major duty is to protect and defend its people and lastly that Justice must be preserved. The theory also indicates that the act of preserving and protecting the life of people and defending crucial ethics of society requires sometimes the use of coercion.

These three theoretical approaches are completely a masterpiece that was used to evaluate the idea of the study. They are different in their ideas and approaches even from their different directions. The RCT will help to access

the rationale behind motives of ideas and tactics that the president adopts while making counterterrorism tactics. The legitimacy of the actions of the president are always called to action, the SCT will help to assess how legitimate the actions of the president could be. According to the SCT the purpose of the theory is to respond to questions of political obligation or the legitimacy of the state. SCT argues that a contract does have normative forces attached to it. While the JWT will measure the justifications of the actions of the state in taken various decision on behalf of national interest

The main idea of the thesis is based on Rational Choice Theory and the Just War Theory while the conclusions are made systematically; the study's recommendations are step up on the basis of the Social Contract theory.

## **2.2 Theoretical Approaches**

### **2.2.1 Rational Choice Theory**

Rational Choice Theory is a theory that explains the actions of individual. According to the theory all social events can be explained as the products of an individual's action that can be justified as rational (Goldthorpe as cited in Valeska, 2013 p.3). The theory is goal oriented, where decision makers try to optimize their preferences by making choices that best fit their motives. According to RCT, they argue that three important factors justify human behaviour and they include Rationality, Preferences and Individualism.

According to (Bhattacharyya, Pattanaik & Xu as cited in Valeska, 2013 p.3), a *rationality assumption* is the extent to which a decision maker reaches or tries to achieve a set of conditions that are internal and satisfactory. The rationality of decision makers to take action or make decision is influenced by his understanding and the information available to him at that material moment after evaluating all other alternatives and their possible repercussion. According to (Simon as cited in Valeska, 2013 p.3) , rational actions are based on reliable information available and their outcomes.

*Preference* assumptions are the ability to try and maximise individualist goals which goals could be self centered and egoistic. The assumption includes

"Self Seeking with guile" to "linked utility" (Ibid) assumptions to decision maker's gains materially from common acts to other people, without the decision makers having direct gain either material or personal gain.

*Individualism* is a method where events that attract social concern at the central level can only be addressed in a satisfactory manner when the behaviour of the concerned individual is appealing and loyal to the authority. Decision of policy makers are a product of rational decision usually influenced by the will and goal of the perpetrator's.

A familiar case to support the above is the case of the Ugandan Allied Democratic Forces (ADF). In this case there was the arbitrary use of force and violence against unarmed Ugandan citizens killing over 100 of civilians, amassing wealth by the Ugandan ADF and forcefully recruiting young men into the organization. It is very important to know that the use of force against civilians in time of war is irrational, and this affects the loyalty of the citizens against the state. But in the case of Ugandan, there was the use of repeated violence and violent attack against civilian in villages and displacement camps, this violent attack against Ugandan citizens in no way amount to any benefit for the Ugandan military in any sense. According to (Hovil and Werker as cited in Valeska, 2013 p.9) the use of violent attack against its people was a strategic plan, because it will preserve the trust of its external sponsors and money bags coming from other Ugandans. A sect like the Al Qaeda will also take credit and be pleased with the attack, because they have an interest to bring down the government of Ugandan. In a situation where external supporters of the insurgent are not directly involved, the height of violence and damage done was a huge guarantee for the sponsors to continue to support the course and the ADF; and what this relate to is that the ADF will remain in action to achieve their goal and maintain its existence as an organisation. When there is strong support coming from external sources, this will amount to a major setback in decision making and action by decision makers to make a liberal decision. Under this situation where external involvement influenced the decisions of policy makers, the sanction against the use of violence against civilian will be minimal. Therefore the use of

violence against civilians which was suppose to be ineffective and considered as irrational will be understood differently and will appear as ADF preserving the support they get from external sponsors and this will be considered as a rational steps to maintain the commitment of its external sponsorship.

According to (Paul Cairney, 2019, in his article Politics & Public Policy), Paul argued that RCT allows for a unique thinking mechanism about issues of collective interest. Every choice made by an individual has a great potential to cause great effect especially where there is no trust, reliability and the will to act as one. According to (Forester as cited in Victor, 2019, p.2) he argues that RCT is a comprehensive theory and also symbolic. The main tool of RCT is information which is perfect, accurate and it's available and understood. (Ibid)

Preferences of individual are permanent but only changes over time. This preference is a strong determinant for a favorable outcome. However, decision makers retain the view of realizing the highest benefit of their action.

According to (Charles Lindblom as cited in Victor, 2019, p.3), RCT provides a limited opportunity on how to get solution for decision making. According to him, every problem provides its factors to ascertain it, and policies can only be made based on those available factors. Every aftermath and repercussion must be thoroughly accessed to know if it is possible to make decision under such a condition. According to Charles, this process is abstract; because policy makers are limited with time in real life and the resources available to them are not much. So decision makers build up tools to reach final decision from the present situation (Ibid). Lindblom argument was not in favor of the above statement, that decision makers have limited time and access to information. According to him, information is an asset of politics.

Decision making process happens in a very debatable atmosphere where different interests are at stake. Because information is limited and a product of political interest, decision makers will have to strike a deal for their best interest. That is, decision makers would ensure to see that their best interest

is realized even if it is to trade their preference over another issue. There is a political understanding that during the course of the bargain, there will always be a possible center point. According to (Warwick as cited in Victor, 2019, p.3) there is a degree to which political negotiators must not cross know as "policy horizon".

According to (Herbert Simon as cited in Victor, 2019, p.4) there are certain factors that influence rational behaviour of decision makers on making decisions. Decision makers have restricted and inadequate reach to enough information and they can only get to the best by applying their verdict in such limited circumstances (Satz and Ferejohn as cited in Victor, 2019, p.4). The aftermath of the judgment is within the restricted area the verdict is taken. According to (Herbert Simon as cited in Victor, 2019, p.4), human are expected to make rational decisions and arrive at the best of decision, but this is not always the case in every decisions made by human.

In a situation where certain ethnic groups are dehumanized for the benefit of another group to benefit from, the act represent that the action is a strategic means to reach a goal. Rational choice theory according to (Amadae as cited in Fabio, 2013, p.3) argues that the theory goes beyond methodology and method, but it can be closely related to the ideology of the free markets concept, democracy, freedom of choice and the idea of a liberal state. In the situation of civil conflict, RCT argues that organizations or individuals make their choice between war and peace, by weighing the benefits and cost of both options (Ibid). This means that actors will always consider the consequences of their action and what they stand to benefit as a right of the action they take, and the cost of not making other choices made available. So it is a matter of cost benefit rather than lost cost. The preferred choice of decision makers are guided by some preference that are set available and consistent. By this single reason, one can say that the decision to go to war is a rationale decision after the actor has analyzed the risk inherent in not going to war. (Murshed as cited in Fabio, 2013, p.3).

One can argue that the fundamental point of making decision inherently lies within the individual, and this becomes the hub where decisions are taken.

With this in mind, that is, since rational choice is individual base and preferences are central key to making decisions, then collective responsibility or social explanations on the choices made will no longer be important. According to (Sen as cited in Fabio, 2013, p.3)., behavior can only be analyzed by preferences and interest. According to (Fabio Andres Diaz, 2013, p.4-5) the understanding of rational choice in cases of civil conflict can be interpreted in different ways, it include the possibility of victory, or the duration or manner to achieve victory, and the zeal to continue the conflict or seek other peaceful way to resolve the war.

### **Criticism of Rational Choice Theory**

Several scholars have criticized the Rational Choice Theory on different grounds. Some of these criticisms have been done on good ground, while some on negative grounds. Some of the negative criticisms have been that Rational Choice Theory is a selfish theory that is self centered and motivated by individual interest and benefit. However there are some levels of selfishness in the case of rational choice theory but don't forget that those actions may be carried without interest and a selfless concern just for the betterment of the large majority.

Also, some critics argue that Rational Choice theory is made up of individual basic interest and does not pay attention to social interest and interaction. But that is not always the case. Some critics argues that the rational theory assume that human is very powerful just like a computer, and can easily make the best of decisions in any difficult situation. The rational choice theory is sometimes assumes to be cultural based and sentimental. This means it give great consideration and reflect the culture of the western people, rather than a general perception of human. The average idea behind the rational choice theory is that it transcends historical and cultural boundaries and this is a true reflection of what the theory is. However, it does not prove that at all times human in general will act in like manners or rationally. Also it does not reflect that human will share similar understanding and desire for goal. The white line of rational choice theory is that been rational is something that all human have inherent in them, but its application may vary. Human are



rational in their behaviors because they always apply the approach of more gain less lost.

Finally, the rational choice theory in an economic approach indicates the will of human to always make economically efficient decisions, especially when they are placed with more than one decision to make from. Rational choice theory, argues that actors always make decisions that will give them the most reward. It is believed that in making decisions, actor always take into consideration utility. This means the satisfaction they will derive. According to the rational choice theorist, the theory is about how human decides to have something done.

### **2.2.2 Social Contract Theory**

According to (Friend, 2019, Internet Encyclopedia of Philosophy, 2 August) SCT was first used by "Thomas Hobbes". After the introduction of the SCT a lot of other social science scholars like Jean-Jacques Rousseau, John Lock, Immanuel Kant used the theory and expanded on it on issues affecting the state and regime (Ibid). Friend further argued that the fundamental concept of SCT is that people once lived in a "State of War" or State of Nature", a state that does not have leadership control over the people, a state with no central control, it was a state where the strongest survive and the weak is killed or dies (Ibid).

Friend argued that even as the state is unstructured and lacks central control, there are some people who are rational and can think in the right direction, but lives with the fear that one day they may die. This means, in order to stay alive and free from uncertainty of death, there is need to free once self from that shackles of war by agreeing to constitute a Structured State haven a "Social Contract" with others. The central idea of "Social Contract" is that people will agree to waiver some of their rights to a constituted authority, who shall preside and rule over the affairs of the state and the welfare of the people. Hobbes believes that human are rational being and so they have interest based on reason. This means that for people to waiver part of their rights to a structured authority, they are expectance of some benefits. Friend

enumerated that "Social Contract" is explicit in two forms, firstly within the people who live in the state by given up some of their rights held against one another, and secondly the consensus to engage in a political system (election) in order to elect representatives who shall have authority over the state affairs and the people living therein. Social Contract also involve that the body of authority shall have the right to make laws and regulations and shall have the power to enforce such laws and regulations for the benefit of the state, and all person(s) leaving within the state shall abide by the laws and regulations (Friend, Ibid)). Following the power to make laws and regulate state's affairs, there is threat of sanctions if any of those laws are breached. These sanctions are meant to keep and deter people from unlawful acts or behaviour. These sanctions must not be brutal as to return the society into a "State of War".

According to (Rousseau as cited in Friend, 2019, Internet Encyclopedia of Philosophy, 2 August) the formation of a social contract gives birth to a "social organisation", called the "State". This social organisation was formed to guarantee individual rights, human liberty and freedom and equality among man. Rousseau further argued that the products of social contract (Laws and establishment of governing body) are a creation of the general will of the people. And that when the governing bodies or the laws do not conform to the "general will" of the people, both the law and the governing bodies should be made-off with. Rousseau further argued that despite the contract, the individuals should have in return freedom of speech, assembly, equality, justice and a host of other civil liberties by virtue of his natural rights.

### **Scope of Social Contract Theory**

John Locke concept of SCT indicates that there is a relation between the people and the government. Locke argued that every man is born equal and by virtue of his/her birth has natural rights. Locke argued that these natural rights must be protected by the government. According to (Locke as cited in Friend, 2019, Internet Encyclopedia of Philosophy, 2 August) the power and legality of the State is from the people and the will of the people and only the people reserve the ultimate power to revolt against any government that fails

to protect and preserve those natural rights. Man moved from a state of nature to a "state of society" where man has accepted to respect one another in the society and to live in harmony and to obey the authority they unanimously formed by virtue of their will. According to (Nyamaka, Daudi Mwita, 2011, p.2) "Social Contract Theory of John Locke denotes that the government is the outcome of the people's consent and, thus legitimacy of the government should remain in the will of the people".

### **Social Contract Theory in the Contemporary World**

Political authority given to the government to govern the people comes from the consent and will of the people, it is not a divine authority or ordained by supernatural being or the God's grace. With the understanding of how political authority is gotten and given, one can say that SCT is spirited by Democracy and "Democratic theory".

According to Lock's doctrine of equality and liberty, there have being influence on human rights in the modern society in many countries. Equality and freedom of a person(s) should be highly protected and respected by the authority in power. According to (Lock, as cited in Friend, 2019) ultimate sovereignty remain with the people.

According to (Plato, as cited in Friend, 2019) it is in the interest of man to want to commit injustice against another man without the fear of punishment, but they do not want to be treated unjustly by others without seeking redress.

### **Criticism of Social Contract Theory**

There is an understanding that living in a society with defined government and central authority is far better than living in an anarchical society. Scholars argued that the merit of the "state of society" far outweighs the demerits. However, some scholars are of the view that SCT deprive people of their fundamental human rights as it were in the "state of nature". This argument can be backed by the popular comment from Rousseau, "Man was born free, and he is everywhere in chains". What this translate to mean is that man was

born free, and were always free in the existence, but with the advent of modernization and civilization, the freedom of man has been cut short.

To man, the society is a key factor to his existence, ranging from his birth to his death revolves within the society. Therefore, it is in the nature of man to be a part of the society and must abide by the laws and rules of the society for his greater good and interest. This can be better understood from the view of Aristotle who said that "Man is a social animal, and that any man or person who is not in a society is either beneath our notice or is more than a human". Aristotle said that man was preceded by the society and any man that does not partake of the society is either a "beast or a god".

The Second criticism of SCT is that there is an understanding that man has an assumed consent to obey the laws and regulation of the government; however, it cannot be established or proven that "assumed consent is actual consent". The consent of man to the society is only assumed since it is understood as a granted consent that every man in the society is perfect, equal and impartial. Which reasonable person would accept this to be true but for the creation of political authority every person is committed by the "social contract" since everyone consent is required and assumed.

Assumed consent is imputed to each man as a member of a given society, and this consent cannot be said to be "ethical". Consent becomes ethical only when people expressly accept and acknowledge the inherent duties of a social contract. And when this is done, people becomes indoctrinated and obligated to accept and obey the laws.

### **2.2.3 Just War Theory**

The theory was propounded by St. Ambrose and Augustine later on it was expanded by Thomas Aquinas (Smock as cited in Kakuta, 2015, p.16). JWT is widely a Christian theory that seeks to address three major factors; that the act of taking the life of another person is wrong, that the state major duty is to protect and defend its people and lastly that Justice must be preserve. The theory also indicates that the act of preserving and protecting the life of people and defending crucial ethics of society requires sometimes the use of

coercion. The theory of "Just War" is premised under different factors, however it can be categorized under two heading; "Justice on the way to war and Justice in the midst of war" (Kakuta, 2015, p.17).

Justice on the way to war implies that, it is the authority who decides when to use violence to address issues of terror and violence can be used on grounds of "self-defense", "recovery of stolen assets belonging to the government" and punishment for wrongful act. Furthermore while using violence to address issues of terrors there is indications that the government has clear intention to achieve peace. Kakuta argued that violence can only be used as the last option when all other options proved ineffective.

Justice in the midst of war indicates how the government should conduct its activities in situation of war. In times of war there should be a balanced action; this means that the action of the government must be proportionate to that of the "threat posed by the enemies". Justice in midst of war, also implies that the disadvantage of government using force in war period must be minimal compared to the benefits achieved. Also there must be clear indication between who is a terrorist and who is not. The innocent must not suffer from the measures of the government as a way of countering terrorism. Finally, military options should not be brought in as initial measure to counter terrorism, if other counterterrorism measures shows evidence to be successful in winning the war, then the government should avoid the use of the military.

From the understanding of the Just War Theory, going forward one can ask if President Buhari is justified to adopt various counterterrorism tactics?.Is it justifiable that President Buhari has the legal duty to apply all "means possible to protect the interest of Nigeria and the Nigeria People against terror? even if those tactics means, arrest without trial of suspected individual, continued detention with refusal to grant bail after several courts orders, ordering of military operations against groups and political opponents?. Nigeria has on different platform under the leadership of President Buhari, who is the Commander in Chief of the Nigerian Armed Forces indicated its interest to combat terrorism within the country and outside the country, to ensure that Nigeria is restored to a terror free society.

The Presidency has argued on public media that various counterterrorism tactics used are for peaceful intentions and that violence were only used as the last option in situations where other options did not yield expected results.

With the continuous use of arrest, military operations, and continued detention as a counterterrorism tactics, various actors of states including opposition parties have called for the release of arrested persons, and the court on several occasions have issued bail order for arrested persons to be granted bail and allowed to face trial. However presidency has categorically argued that granting bail and releasing of the arrested person will be a threat to national security; and it is for the interest of the country that those persons remain in custody for as long as the presidency decides. In other instances, the presidency has also argued that the intention not to grant bail and release those persons has never been targeted at innocent private Nigerians or groups in the cause of the war against terror in Nigeria.

As to whether the refusal to adhere to court orders and use of military forces on domestic soil was necessary or a breach of the rule of law, the presidency has argued that these tactics are in the best interest of the Nigerian people and are use under special circumstance to achieve the maximum of results. In concluding the argument on Just War theory going further one can rightly say that the theory fits the objectives of the study.

### **2.3 Literature Review**

According to (Crelinsten, 2009, p.8) the manner of terrorist attacks, the ideology and mode of operation in dissimilar locations will establish how to counter it. Counterterrorism is a response to act of terrorism (Chailand, 1987, p.99). Richardson (2011) argued “that until policy makers have a grip of the factors that lead to terrorism, they may be unable to make and implement policies to prevent the act”. What this means is that, government should have a rich understanding of the motivating factors of terrorism, and how people became vulnerable to be exploited as suicide bombers by terrorist (Kundnani, 2015, p.9). While approaching issues of terrorism, it could be done in two ways “hard and soft” approaches, which entails, use of intelligence agency,

military actions and preventive measures (Ibid). According to (Hoeft, 2015, p.3 ) soft approach which may include negotiation, and not hard approaches is critical in dealing with terrorism; he also opined that state may employ the use of force where terrorists defy the soft approach.

Hoeft further argued that on issues of counterterrorism, there is no “one size fit all” principles; what this means is that a working counterterrorism tactics for a particular location may not be successful in another location. According to Lum et al. 'counterterrorism tactics “may include prevention and alleviation of early risk factors, prevention of actual events”(Lum et al., 2006, p.489).

According to (Kolodkin as cited in Mehdi, 2015, p.3), he define counterterrorism as the tactics, practices strategies and techniques that militaries, government, corporations and police departments use in responding to any threat by terrorist which could be imputed or actual attack. In the response to counterterrorism, there are two different types of actions that can be used; it could be the offensive actions, or the defensive actions (Brooks as cited in Mehdi, 2015, p.3). According to Brooks, the defensive counterterrorism instruments are used for the protection of country's territories or even a facility, defensive counterterrorism includes the following, creating borders and border control, building fences, erecting detectors and alarms and metal closets etc., while the offensive measures ranges from military force, to diplomacy, intelligence, economic and financial pressures and the use of the law enforcement agencies. According to (Mehdi Serghini, 2015, p.16) the use of law enforcement in counterterrorism is important because they play a major function. Law enforcements help in collection of intelligence and they also can conduct evidence research, interrogation and investigation on terrorism. Law enforcement agencies can also function in the manner of assisting the prosecution in setting up a criminal case against any suspected terrorist. However, there is still a strong debate in the US whether to consider terrorism a case of crime or a case of war Mehdi added. Mehdi argues that by using the law enforcement agencies, there are some attractions that could stand beneficial in responding to terrorism.

In this situation, terrorists are charged to court and jailed by the court, Mehdi argued that when this is done, it serves as deterrence to other terrorists who would not want to be a victim of jail sentence. By adopting the law enforcement tactics, it constitutes the application of the principles of the rule of law which indicates that the people are aware and supports the process. There are other arguments from other writers against the use of law enforcement; According to (Benjamin et al, 2008, p29) argues that law enforcement does not guarantee deterrence. He argued that suicide bombing cannot be deterred by law enforcement. Furthermore, there is another argument that, there are cases of kidnappings where terrorist groups demand for the release of their member who are jailed. Also laws of countries differ, where a country has death sentence as its punishment for acts of terrorism other countries may not have same, and these could pose difficulty in legal cooperation among countries.

The use of military force as a counterterrorist tactic has been visible among countries. Military force is not a guaranteed measure of counterterrorism; it could lead to killing of hostages in cases of rescue of kidnap victims or hijacking. Military force is a retaliation of terrorist attack. Nations like the United States and Israel are good examples of the use of military forces. According to Human Rights Watch, 2011 "Israel is a country known for military retaliation and the United States has carried out similar retaliation attacks against Libya in 1986 for the Lockerbie bombing and in Afghanistan and Sudan in 1998 for the terrorist attacks on its embassies in Tanzania and Kenya".

There have been arguments that the military operation in Afghanistan "Operation Enduring Freedom" was a direct retaliation for the September 11 attack on the United States. Some scholars have also argued that military forces can be used to incapacitate terrorist operations and strength. This was evidence in Afghanistan following the presence of NATO and the U.S troops which made it very difficult for the terrorists to regroup.

The advantages of "the use of Military force" can differ depending on how it is used (Brooks, Ibid). "However one can easily declare that the use of military



force has a pronounced influence on public morale and is clearly the most obvious, most dramatic proclamation of determination to fight against the terror. Military force serves also as awesome deterrent to terrorists and would-be terrorists" (Ibid). There have been arguments about military operations being used as counterterrorism measures. Act of terrorism are usually carried out in public places that are crowded with people both women and children, even if the military has increased its military tactics by using drones to target terrorist, there is no guarantee that private properties, individual's rights and innocent lives will not be killed. Military Operation uses intelligences to commence attack and target terrorist, but there is no guarantee that intelligence will always prove right. There are situations where military intelligence goes wrong and innocent lives are killed for nothing. A good example of intelligence goes bad was when the US bombed a wedding occasion in Afghanistan and Pakistan, in 1998 the Clinton administration also bombed a facility suspected to be operated by terrorist for the production of chemical weapons, that later turned out to be a normal pharmaceutical facility.

Brooks argued that deterrence is not easy to be actualized especially when military force is used. Extremist and committed group of terrorist would stand firm to the course of their fight in response of any military force or attack. Brooks further argues that military operations could even encourage terrorist group to a "counter-retaliation". A good example was when Libya attacked Pan Am 103 in 1988 after an air strike belonging to the U.S killed the daughter of Gaddafi in 1986. According to the Human Rights Watch report of 2011, military operation has a legal implication and problems. The killings of Pakistanis in a wedding in Pakistan without trial by the US drone."US counterterrorism officials stated in May 2010 that since 2008 roughly 530 people had been killed in Pakistan by drone strikes". Human Rights Watch report 2011 also indicated that "targeted killings and arrest without due process are illegal". "Military operations such as invading and occupying countries instill resentment not only within the populations involved but throughout the entire world" (HRW, 2011).

According to (Zelalem Kibret 2017, p.505) argued that the issue of dealing with terrorism is a difficult task that should involve prosecutorial, legal, military and intelligence. These acts of terrorism also need a careful, focused and skilled tactics to tackle it. Terrorism is a global issue and when it comes to countering terrorism the states are seen negotiating some of the fundamental rights of its citizens and their freedom as encapsulated under the legal system governing the state (Ibid). Zelame argued that state could use its powers of counterterrorism to violate the rights of it citizens and the principles of democracy as well as shutting down on opposition. Like in Ethiopian, the state over-used and misused the anti-terrorism law which was meant as a counterterrorism guide against the fight of terrorism in Ethiopian. From the period of 2011 to 2017 the state arrested and prosecuted over thousands of suspected terrorists (Ibid). According to Zelalem state can use the anti-terrorism law to charge any individual who stands as opposition or suspected of abetting or leading any group in the State. "The state can press a terrorism allegation against civilians who has nothing to do with either terrorism or rebel groups" (Ibid).

Zelalem argues that when state misuse and over use the anti-terrorism law to silence and arrest oppositions, it could lead to legal consequences against the state; in this situation the citizens will have little or no trust in the government on the fight against terrorism. Acts of terrorism is not an act of simple actions, or is it an act carried out by illiterate or unplanned, terrorism is deep rooted in ideology. What this implies is that to tackle terrorism, it needs a wider participation of the people. "When the State weaponize laws to attack political foes and rebellious elements alike, using laws designed to counter terrorism, the trust and adherence towards the system will fade away".

According to (Meigs as cited in Richard Davies, 2010, p.3) the use of military force on issue of terrorism attracts decision makers, because Military force has the potential to operate beyond a steady "spectrum of violence". Richard argued that in situation of war, the military is deployed to bring calmness owing to their sophisticated "firepower" and experience, however there is an actual temptation where the state could use military force outside actual

warfare. "Allied to the substantial manpower of the military and the economic largeness of its budget, its experience of countering terrorist tactics in counterinsurgency operations would suggest that tapping this reservoir of resources for counterterrorism efforts appears to make sense" (Loo as cited in Richard, 2010, p.4).

According to (Ford as cited in Richard, 2010, p.4) argued that with the raise of terrorism and the manner of attacks, law enforcement agencies could bid for the support of the use of military operation, this is evidence after the September 11 attack on the United States. Six months after the attack nearly over 1,400 people were arrested in connection to the attack, but less than 10% of the arrested people were charged and prosecuted. According to a Professor of criminology as cited by Richard, the low response and result from the law enforcement agencies cannot prove progress and going forward the potential of the criminal justice system is as questionable, so in order to cope with this complex act of terrorism, the military operation is the only available answer.

According to (Art and Richardson as cited in Richard, 2010, p.7), "counterterrorism has an explicit requirement for the use of force which cannot be disguised". This means that the use of force could amount to some level of "collateral damage" which is inevitable."Whether this force is deployed through law enforcement agencies or through the military the "wanton and indiscriminate" use of force is counterproductive to a state's long-term counterterrorism strategy and is an example of the diminishing marginal returns of deploying additional military personnel as the risk of transgressions rises" (Pillar as cited in Richard, 2010, p.7).

Violation of the due process under the rule of law and breaching the rights of suspected terrorist leads to a paradox in which a "schizophrenic state" does not stay true to the very values at the foundation of the liberal democracy it seeks to defend" (Wilkinson as cited in Richard, 2010, p.7). Furthermore, Wilkinson argued that there is no difference between democratic system from an authoritarian system, if in a democratic system the rule of law and human rights are not protected.

According to (Hersh, as cited in Richard, 2010, p.7) a typical example of gross human rights abuses that happened in Abu Ghraib prison camp in Iraq, and these abuses can lead to an increase in "anti-war zeitgeist". The gross abuses of human right and violations done during a military operation sometimes calls for the questioning of the ability of military force to be able to carry out their functions effectively, or whether they poses the proper "judgment" and can constitute positive partnership to counterterrorism. "The cumulative result of military intervention may be unclear in the event of high profile abuse and violations".

These cumulative results have the capacity to flame a worse situation. According to Immanuel Kant "the violent abrogation of law and justice in one place echoes across the world" (Held, as cited in Richard, 2010, p.8). According to (Richardson, as cited in Richard, 2010, p.7), counterterrorism should not always involve the use of military forces; there should be a joint civil-military operation and a political negotiation.

The formula of countering terrorism should involve countering their recruitment force, their finances, ideology and communication, and none of this formula can be achieve at the "point of the gun" (Cordesman, as cited in Richard, 2010, p.10). Further argument still arise among scholars that military intervention in a counterterrorism tactics could also prove positive when the government institutions responsible with the fight against terrorism coordinate and complement with the plan of economic and diplomatic elements of "national power" (Norwitz, as cited in Richard, 2010, p.11).

According to (Naeem, 2014, p.5), citing the issue of terrorism in Pakistan, argued that to plan a strategy to fight the problem of terrorism, Pakistani must implement an "effective counterterrorism tactics". There is also strong argument as to the complexity of what the concept of counterterrorism tactics should be adopted. Wilkinson also argued that "there is no global policy for counterterrorism; this is because every state is bestowed with a unique type of terrorism which may not be the same in another state." (Wilkinson, as cited in Richard, 2010, p.6).

According to the Oxford English Dictionary as cited in Naeem (Ibid), "counterterrorism can be military or political measures used to fight deter or prevent act of terrorism, but sometimes, the method used could be the same as those used by the terrorist." Like in the situation of Pakistan, the government has used both the non-military tactics and the military tactics to combat terrorism (Ibid). According to Naeem, military measures of counterterrorism include the "heavy-handed security operations, against terrorist". While the non-military measure includes the legislative principles and by engagement. In Pakistan, the engagement principles include negotiation with the groups and reaching a peace treaty, while the legislative aspect involves the promulgation of anti-terrorism laws against act of terrorism by any group(s). There are three different factors that can lead to the ineffectiveness of a counterterrorism plan and they include; Strategic Interest in the regions; neglect for civil-military relations; and the "lack of national agreement on the ownership of the "war on terror". Citing Pakistan and its counterterrorism as an example (Tellis, 2008, p.7) argues said that the counterterrorism strategy of Pakistan was interest based (India and Afghanistan).

In the case of India the interest of Pakistan was on Kashmir which was an uncompleted agreement between India and Pakistan. Pakistan combated local sectarian terrorist majorly "through targeted assassinations, arrests and intergroup massacres". The inability to establish a civil-military corporation can make devising a productive counterterrorism plan very difficult. According to Naeem, both the civilian forces and the Military forces have a distinctive roles to enable formulate polices to counter terrorism. Involving the civilian forces in formulating a counterterrorism plan can help connect the plan to suit the law of the country and respect for democracy. When this is done, the policies are formulated in a manner that it will address the sect violence, which majorly occurred in the domain or areas of unarmed civilians, this can be handled by using state administrative measures.

Reflecting on the Dutch counterterrorism plan there have been a wide range of measures, policies and legislation. According to (Jacopo et al, 2018, p.13) the recent counterterrorism plan used by the Dutch authority which will last till

2020 include five phases, Procure, this mean intelligence regarding possible threat against the Dutch will be gather within time and forwarded to interested agencies within and outside the region. Prevent; this means all possible threat should be dislodged before they are carried out. Protect; people and relevant actor must be protected from the terrorist and any possible threat before they are carried out. Prepare; they must be adequate preparation for any attack by terrorist and the outcome of the attack should they occur. Pursue; the law must be active in all areas to achieve a terror free society.

There have been arguments among scholars that the removal or arrest of terrorist leader could affect the operations of the terrorist by weaken them and incapacitate their effort, but this is only for a short while (Price, 2012, Crenshaw, 2014 as cited in Basil, 2017, p.19). According to (Crenshaw as cited in Basil (Ibid) when the leader of a terrorist group is removed by way of killing, arrest, military air strike or imprisonment, these may fume strong desire among the members of the terrorist organization and could lead to hiring of new members to boost their attack and make up for the vacuum.

In Nigeria, the killing of Mohammed Yusuf, leader of the Islamic terrorist group Boko Haram while in police custody was believed would stop Boko Haram from further attacking the state and committing terror, but that was not the case (Ugorji, 2016, p.36). The death of Yusuf instigated more killings and attack by Boko Haram against Nigerian citizens and these further caused wide spread of conflict in the country.

What this means is that, the use of Military force and other coercive method cannot alone solve the problem of terrorism, (Art et al 2007, Crenshaw, 2014 as cited in Basil, 2017, p.20). According to (Irwin, 2015, p.166) he argued that any plan to combat terrorism should show larger and precise terms and objective to be used. This means that policy makers should ensure to be aware of the short coming of any plan or tactics and also the future effects on the people and the society before engaging such plans or tactics. According to the American Civil Liberties Union (ACLU) the creation of 'electronic Surveillance laws' which permit for the use of 'roving wiretaps' without the permission of courts was a breach of 'Fourth Amendments of the USA

Constitution'. Furthermore they argued that this would allow for eavesdropping of private calls and conversations of innocents individuals by the security agencies and this is a breach of their 'rights to privacy' (Katuta, 2015, p.11).

According to (Axel as cited in Katuta, 2015, p.37) act of terrorism diminishes civil liberties and human rights. Furthermore, citizens of a democratic country are more restricted by the counterterrorism tactics than those in an authoritarian state. There is high level of political imprisonment, killings and torture when a state is bedeviled by terrorism. According to Katuta, counterterrorism tactics is likely to affect a particular group of people in a state than others.

According to (Bekele, 2010, p.33) Ethiopian authorities have utilized its counterterrorism strategy in manners to shut down political oppositions in the country. There was high level of harassment on political opponents, and private voices, civil society organizations have face harassment at different levels. Katuta further argued that war against terrorism can cause increase in mass detentions arrests and imprisonments of private individuals all in the name of fight against terrorism. Bekele further argued that states could enact laws that will further reduce the freedom of political dissidents and shut down free political participation. According to (Omelichev, 2010, p.166) under the 'fifteen Post-soviet Nations' fight against terrorism, it indicates that there was no evidence that human rights were violated during the course of counterterrorism. However, human rights violations only occurred at the level of political conflict among the states.

#### **2.4 Conceptualization of Terrorism and Counterterrorism**

The literatures reviewed in the study were fundamental in many ways and contributed to the body and argument of the study. The various scholars mentioned and their arguments echoed the fact that acts of terrorism is a violent act that disturbs the peace of any society, and violates the rights of the people. Though terrorism does not have a universal definition, however its actions are not an act of simple actions, or is it an act carried out by

illiterates, but a well planned act and carefully executed. Acts of terrorism is ideological in nature and strong in believe.

Acts of terrorism if not understood carefully and the sect carrying out the terrorist act; engaging a counterterrorism tactics will amount to more terrorist attacks. And this would translate that even the government or actors involved in the counterterrorism would also be acting in like manners as the terrorist, causing more problems instead of solution to already existing problems.

Engaging any counterterrorism tactics needs careful consideration of different factors. Those factors include, how can we maintain the rule of law and still implement this tactic? what happens to the rights of citizens when this tactics are in play? what will be the possible reactions of the terrorist when they are hit with this tactics? these are some of the different factors that must be thought of properly.

The use of force is not the only form of counterterrorism. Force should always be thought of as the last option. In a situation where there are possibilities that the non use of force could produce result, then force should not be used as a tactic. Government and other actors have hidden under the pretence of counterterrorism to commit a lot of atrocities. Government have committed crimes that are inhumane in nature, they have trampled on the rights of the citizens, and violated the process of law. Use of force include, arrest, detention, torture, military operation, disregard for the rule of law and other constituted authorities; however these tactics have not been successful in its totality. This means there should be room for consideration and reconsideration of other tactics and the dangers that the use of force could cause to the society.

Using force is necessary to mitigate terrorist operations and reduce their strength; however this is only for a short period, using force can only mitigate the action but not the believe, ideology and course that the terrorist are fighting for. When a government that is deemed democratic in nature and claiming to observe the principles of the law, but violates the due process of law and breaching the rights of its citizens under the pretence of national



interest and security, such a government is not different from an authoritarian government.

Engaging force to counterterrorism only amount to more terrorism and a break down of laws in the country. The concept of the use of force by terrorist is to influence the government and persuade the government to react in like manner and when the government does so, both the terrorist and the government are alike in their actions; and the citizens suffer.

## CHAPTER THREE

### HISTORICAL BACKGROUND OF NIGERIA`S SECURITY AND TERRORISM

#### 3.1 Introduction

Nigeria, is a country in the western part of Africa, and the most populous country in the Sub-Sahara of the African region with a current population of over 190 million people as at the time of the study. As at 2018, Nigeria produces a maximum crude oil capacity of about 2.5million barrels of oil each day and ranked the sixth largest oil producer in the World and Africa's largest oil producer in the African region. After several years of military rule following her independence in 1960, Nigeria returned to civil rule under the leadership of OlusegunObasanjo. Currently Nigeria chairs the African Regional organization "African Union". African Union is an organization aimed at promoting African unity and cooperation among countries of the African region and has also participated in several peacekeeping missions both in the region and outside the region.

Despite the glooming profile that Nigeria has, she still remains one of the poorest countries of the world; on issues of human development, Nigeria is at the bottom of the list. The height of corruption in the country is at its peak, Nigerian youths are largely unemployed in their numbers, educational system has deteriorate and depreciated, infrastructural development is below average and crime rate has escalated. Violence remains the order of the day especially in the Niger Delta oil producing region of the country and terrorism has hit the countries back down. Tribal conflict and religious battle continue to rock down the country's security architecture killing over thousands of Nigerians in every attack.

#### 3.2 Global Security and Terrorism

According to (Michael D. I. 2016, p.1), he argued that more attention and resource should be put on Global Security instead of "National Security". According to the professor, the concept of security should go beyond just the

orthodox military pattern to include civil-military Corporation, economic, political, health and environmental dimensions. Michael further argued that global security and human security are mutually complementary and should not stand apart. According to Michael, human security can be categories into two categories, Violent Threat and Non-Violent threat. The violent threats are tribal/religious conflict, violation of human rights, violent crimes and terrorism, while non-violent threats are socio-economic crisis, degradation of the environment, natural disasters and deadly diseases.

Threats to security cannot be tackled by one person or state, no matter how well equipped or powerful the state may be. Threats requires corporation from other actors within or outside the state. This is because many of the threats state faces may have global, regional or internal significance and may not give regards to national territories. These threats demand a coordinated plan at the state, regional, and global level, which will include the active participation of the government, NGOs and other private actors and international organizations to address the issue.

Terrorism is one of the biggest threats to Global Security. Issues of terrorism is not new to us even if scholars and states still find it very difficult to arrival at what terrorism can be defined as. There are still some criteria that states consider while tackling a threat or violence as act of terrorism. However, the fight against issues of terrorism has not only turned out to become an elementary concern for all states but also as an area of study for scholars especially as they have direct consequences on global security.

### **3.2.1 Terrorism**

Study on terrorism must always begin by defining what terrorism is. However, it has been difficult for international relations scholars, social scientists and political science scholars to arrive at a conclusive but yet objective universal definition of the word Terrorism. Several factors and conditions have been put in line of consideration before defining what terrorism is or should be. Scholars have observable definition, but yet close to an objective one, but criticism has erupted the universal acceptance of such definitions.

According to (Walter Laqueur as cited in Kshitij, 2000, p.125) “Terrorism is the use or the threat of the use of violence, a method of combat, or a strategy to achieve certain targets. It aims to induce a state of fear in the victim that is ruthless and does not conform” to humanitarian rules.

In the words of (Bruce Hoffman, as cited in Kshitij, 2000, p.126) “Terrorism is ineluctably political in aims and motives, violent or, equally important, threatens violence, designed to have far-reaching psychological repercussions beyond the immediate victim or target, conducted by an organization with an identifiable chain of command or conspiratorial cell structure (whose members wear no uniform or identifying insignia), and perpetrated by a sub national group or non-state entity.”

(Alex Schmid and Albert Jongman, as cited in Kshitij, 2000, p.126) “Terrorism is an anxiety-inspiring method of repeated violent action, employed by semi-clandestine individual, group, or state actors, for idiosyncratic, criminal, or political reasons, whereby in contrast to assassination the direct targets of violence are not the main targets”. While, (David Rapoport, , as cited in Kshitij, 2000, p.126) argued that terrorism is “the use of violence to provoke consciousness, to evoke certain feelings of sympathy and revulsion.” (Yonah Alexander as cited in Kshitij, 2000, p.126) terrorism is “the use of violence against random civilian targets in order to intimidate or to create generalized pervasive fear for the purpose of achieving political goals.” According to (Anthony Richard as cited in Kshitij, 2000, p.126) “ terrorism as the use of violence or the threat of violence with the primary purpose of generating a psychological impact beyond the immediate victims or object of attack for a political motive”. But, (Stephen Sloan as cited in Kshitij, 2000, p.128) believes “that terrorism has evolved over time, but its political, religious, and ideological goals have practically never changed”.

From the above definitions, there are major reoccurring points and ideas, common among them.

*Violence*:- all the scholars have the word “violence” in their definition. This underpins the fact that terrorism is an act of violence or constitutes an act of violence. Also, that the terrorist uses violence as a means to carry out their

activities. They rely on violence as the only means or tool to get the attention of the government and to send their message to the public.

*Political Reasons:-* political analyses of international relation believes that the main and pivotal reasons for any terrorist act is political in nature and in picture. They say, the terrorist actions are to influence government's policies, over throw a regime or get hold of political power.

*Target/Victim:-* in the above definitions from different scholars, there is always a target/victim of the act of terrorism. A set of people always suffer from the activities. These target or victims are usually not the main target of the actions, Civilians, non-combatants, children and women are usually victims of this act.

*Fear/Psychological Repercussion:-* international relations and political science scholars opines that fear or psychological repercussions are always the aim of terrorism. The terrorist try to inflict fear and create psychological depression in the targets to achieve their reasons through the use of violence. These effects they believe are fundamental to their activities and will prompt quick response from the government.

In the study, the definition of terrorism will represent the basic usage of the term terrorism. It could be understood that the act of terrorism is distinct from regular crime because of its powerful objectives, but the study may use it to accomplish its purpose. Terrorists acts are both crimes made illegal by Acts of Legislation (*Mala Prohibita*) and they are immoral in themselves (*Mala In Se*). The UN definition of terrorism covers the essential attribute of terrorism such as "ideology, political intent, deliberate action, violence, multiple actors and supporters, a disaffected individual and an enabling group" (Borum, 2004, p.3; Franks, 2006, p6; Richardson, 2006). According to (Crelinsten, 2009, p.3) 'kill one, frighten 10,000. The purpose of causing terror is to generate "fear beyond their immediate victims"'.

The act of terrorism can be dated back since the medieval period. Terrorism did not emerge in recent time as most scholars will argue. Dating back to the Roman Empire, there were three groups of terrorists operating in religious

manner and they include; *the Things* which represent the Hindu, *the Assassin* which represent Islamic, and *the Zealots* which represents the Jewish. These groups operated in like manner not different from what terrorism of the 21st century is. The form of operation by the Assassins was not connected to technology, most of their act of terror was carried out in public places where large witnesses will see the act, these include, assassin in the royal courts especially during special occasion like the holy day when people are in their numbers to pray.

However, terrorism in the 21st century may have gained support from modernization and globalization to make it flourish. Scholars have observed different waves of terrorism, the first wave started at the end of the nineteen centuries and it was characterized by assassination. The second wave was caused as a result of revolution against colonization after World War I and II, there were groups calling for national self-determination. The third wave was as a result of US in the Vietnam War and "Israel in the Middle-East"; and the 4th wave involved primarily religious factor which was a tool of hiring and ideology for manipulation.

Global terrorism can be traced with connection to the Israeli-Arab war of 1967 and the support US provided to Israel during that period. During this period, American embassies in two different countries were bombed Kuwait and Lebanon. And this period saw a high increase of state support for terrorism. Report had it that along the Libya borders there was a camp owned by the Libya government that is capable of recruiting and training over 5000 men. Another camp was located in Syria, and Iran was also suspected to have camps where men are recruited and trained for special military operations. In 1980s and 90s Iran was accused of sponsoring some terrorist group operating with Islamic identity. Some scholars argued that the increase in state sponsorship of terrorism was connected with the cold war between US and the Soviet Union.

There were high shipment of sophisticated weapons from the East to different parts of the countries and these weapons were to be used to

perpetrate violence for political intentions. Terrorist began to gain access to lethal weapon which were of military standard.

Terrorism at the global sphere has moved from been an internal violence to becoming a transnational attack; scholars argument was instigated by factors like economic inequality, Socialism, nationalism, racial discrimination, separatism and many more. Several arguments have emerged that the recent trend of global terrorism is different because it has religious factors. To some scholars, religion has been the major bases for major terrorist attack due to the high growth of "religious fundamentalism". These scholars perceive religion as more deadly compare to other factors that may instigate terrorism; on the contrary, an opposing view against religious factor was that the new form of terrorism is not new in any form and does not in any form connect with religion. Like Islam, there is high resentment against killing innocent people, and Islamic teachings cannot support suicide or violence as form restitution. However, these scholars with contrary view against religion have argued that the masterminds of terrorism usurp the advantage of the power of religion to manipulate their supporters to achieve their goal. Terrorism is directly associated with violent operation like bombings, car bombing, hijacking, suicide bombing, kidnappings, killings and many more.

### **3.3 Nigeria's Security and its Challenges**

Nigeria is a federal state operating a presidential system of government. The country has 36 states with Abuja as the country's capital. The states and the country's capital are further grouped into 6 geo-political zones namely; "North Central (7 states): Niger, Kogi, Benue, Plateau, Nassarawa, Kwara and FCT; North East (6 states): Bauchi, Borno, Taraba, Adamawa, Gombe and Yobe; North West (7 states): Zamfara, Sokoto, Kaduna, Kebbi, Katsina, Kano and Jigawa; South East (5 states): Enugu, Imo, Ebonyi, Abia and Anambra; South South (6 states): Bayelsa, Akwalbom, Edo, Rivers, Cross River and Delta; South West (6 states): Oyo, Ekiti, Osun, Ondo, Lagos and Ogun".

Nigeria remains the most populous nation in the Sub-Sahara of the African region. The population of country is over 190 million people (as at 2018). According to World Population Review, the country has an estimated

population growth rate of 2.61%, total area capacity is 923,768km<sup>2</sup>, with a population density of 212/km<sup>2</sup>. Nigeria has a diverse nature of ethnicity with language of more than 240, the major languages in the country are; Pidgin-English, English, Igbo, Yoruba, Hausa, Fulani, and Ijaw. Nigeria is a highly religious country with Christianity and Islam as the major religion practiced in the country. The country's economy is highly dependent on crude oil production and exploration, while a fraction of the economy relies on trade and commerce, and agriculture.

The security of Nigeria is paramount to its economic and human development. A lot of factors are paramount to the security situation in the country. According to the Global Terrorism Index (GTI) report of 2017, Nigeria is the third country in the world with a high death rate, however, there has been a reduction in death rate since 2016 as compared to 2015. According to GTI the reduction in the death rate was occasion by the non-killing of people by Boko Haram, and this was achieved as a result of the military operations by the Nigerian Military with support from the Multinational Joint Task Force (MNJTF) in the Lake Chad region.

Global Peace Index report of 2017 reported that Nigeria has not made any progress in the area of peace and that means that the country still maintains its 149th position out of 163 countries in the list of peaceful nations.

According to the Fragile States Index (FSI) reports of 2017, Nigeria still maintained the 13th position of fragile state despite its improvement in security enhancement and the decline of violence in the north-eastern region after 2015.

Despite the country's glooming enhancement on security and peace, a new form of violence erupted, "farmers-herdsmen clash". According to the International Crisis Group (ICG) in its report of 2017, the report indicated that over 1300 people have been killed in the farmers-herdsmen clash and these figure tripled the number of killings done by Boko Haram within the same period of time.



There has also been concern over the lack of security personnel. In July of 2017, Yakubu Dogara, former speaker of the House of Representative, said that Nigeria is in a "state of emergency". This is because; over 90% of its military personnel have been deployed to over 30 states in the federation. Dogara stated that the military forces have usurped the civil duty of the Nigeria Police Force in maintaining peace and order in a civil society.

According to the World Internal Security and Police Index International (WISPI), in its 2017 report stated that out of 127 countries accessed, the Nigerian police force is the "worse" police force in the world when it comes to issue of addressing security challenges internally.

Crisis Group in its report in 2018 criticized the Nigeria government for deploying more soldiers and police personnel to areas where there are conflicts, instead of concentrating on the main security threat which is the Boko Haram, CG argued that when more police and military personnel are deployed to these areas, it will cost the country more resource that could have be invested to better counter terrorism that has bedeviled the country for decades.

Currently Nigeria is faced with five major security challenges which are; Boko Haram, Farmer-herder crisis, Islamic Movement of Nigeria, Niger Delta Crisis, and the Cameroon border crisis (Chizitera, 2019, February 28)

### **3.3.1 Boko Haram Crisis**

This is an Islamic Militant Group operating in the North East region of Nigeria. They have been engaged in different kinds of attacks, ranging from bombing, to car bombing, suicide bombing, kidnappings, and killings. Their attacks since 2008 have claimed over thousands of lives and caused many to leave their homes. According to Council on Foreign Relations, in its August 2018 reports about 2.5 million Nigerians have left their homes and villages to neighboring towns in search of safe heaven. This crisis has plunged the North East into serious instability causing about 7.7 million Nigerians seeking for humanitarian needs (Ibid). The government of Nigeria, under the leadership of Muhammadu Buhari promised to stop the killings and tackle the

causes of the attack; however Buhari's administration made several efforts in reducing the killings in 2016 as compared to previous years.

The administration relied greatly on military tactics to achieve its gains and goals, in spite of its achievements, the crisis continue to live and various attacks continue to be carried out by Boko Haram. According (Fergus, 2019, May 12) Boko Haram attacked a Military Base in the North Eastern region Borno State, this attacked killed about 11 soldiers and left some seriously injured. In June 2019 according to BBC News "Nigeria Children Used as suicide bombers in Borno attack". According to UNICEF "two girls and a boy carried out a bombing outside a video hall in Konduga Village in north-eastern Borno State"; this attack killed about 30 people and left about 40 injured.

The attack is not over yet, and if the root causes of the crisis are not tackled effectively, it would claim more lives going forward. In 2019, Boko Haram has carried out several deadly suicide attacks and kidnappings. These call for urgent government attention not just to the security of the country but to other areas which may have caused the security to be vulnerable. The government should focus more on peacebuilding, rehabilitation and reconstruction, and more attention should be given to socio-economic development of the country.

### **3.3.2 Farmer-Herder Crisis**

Crisis concerning farmer herder is not new in Nigeria, but since 2018 the crisis has escalated into a more violent and bloody crisis claiming over 2000 lives just in 2018. Farmer herder crisis is predominately a religious clash between Muslim cattle farmers and Christian farmers. At the hub of the crisis is the conflict of rights to land and access to resource like cattle field and water. This crisis has grown into a more devastating crisis as it has been politicized. Politicizing the crisis has caused a more deadly nature of another crisis that could inspire religious and ethnic tensions in the country. And this tension will not mean well for Nigeria, who is in a very divisive state. Farmer herder crisis has rocked the security of the country draining its resources and diverting its attention from the initial security challenge the country is facing.

The president must be on the guide to constructively attend to this crisis and ensure that not individual or group politicizes the crisis in other not to fume the crisis beyond control. The president must be non-partisan while addressing these issues and must protect the overall interest of Nigerians rather than the interest of a few who may be benefiting from the crisis.

### **3.3.3 Islamic Movement of Nigeria Crisis (IMN)**

IMN is a Shiite religious organization, led by Ibrahim El-Zakzaky. This organization has been engaged in strong criticism against the Nigerian Political Federal System and calls for a revolutionary government in Nigeria suggesting "an Iranian style of revolution". This group has been in strong clash with the Nigeria Military, In the month of October 2018 according to the Council on Foreign Relations, IMN had a clash with security services in Nigeria which resulted to the death of over forty IMN members based on the report given by IMN representative, but in a contrary view the military reported that only six people die during the clash. The military claimed that the IMN were carrying petrol bombs and other weapons capable of causing grievous harm. Furthermore, about four hundred IMN members were arrested in that incident. However, the clash between the security service and IMN members have become even more often than it used to be and more violent than it is supposed to be.

In 2015, El-Zakzaky was arrested by the Directorate of Security Service DSS. His arrest has further escalated the crisis and increased the disagreement between IMN and the Nigerian government. The arrest of IMN has further caused the death of about 347 IMN members in 2016 according to judicial investigation and evidence. According to an Amnesty International report in 2018, the clash between IMN members and the security service has caused the death of "dozens of innocent civilians" in the country. Amnesty International further reported that the use of "automatic weapons" by the Nigeria Military was an excessive use of force as it was not proportionate to the force used by the IMN members. Amnesty International criticized the government and warned that the Nigeria Military should apply caution and

better rules of engagement in dealing with issues of internal security in other not to further escalate the crisis into a full blown war or crisis.

### **3.3.4 Niger Delta Crisis**

The crisis in the Niger Delta region has long rocked the Nigeria security for decades and is still rocking it. The discovering of crude oil in the Niger delta region of Nigeria since the 1960s has attracted several Multinational oil corporations into the country. The extraction of oil has further caused environmental problems to the region and affected the people in the region causing deaths, chronic diseases, dysfunction, lack of food, and drinkable water, economic activities are on the low, and people are forced to leave their homes because of pollution in search of a better place causing more pressure in those newly migrated areas and increase in crime rate.

The bulk of the crisis in the region could be attributed to the nonchalant attitude of the government toward addressing issues of environmental pollution going on in the region, paradoxically, the region which produces the largest source of the government revenue remains the poorest and devastated region in the country. This has stirred up acrimony among the people against the government and has led to several clashes between security services and the people in the region.

Violence in the region has reached the height of kidnapping, bombing, vandalization of oil infrastructures, and this has led to the decrease in the oil production of the country causing great loss to the country's oil revenue. One of the notable armed groups in the region is the "Niger Delta Avengers" NDA. They have been involved in several bombing and vandalization of oil pipelines in the region. The activities of the NDA contributed to the country's "worst economic recession" of 2016.

The Buhari led government has made efforts to bring peace in the region; negotiations have always been put forth before the group and several peace agreements have been signed. Even if the group has ceased its attack on oil infrastructure, vandalization, kidnapping and other violent activities, there is no guarantee that the ceasefire would be maintained following the manner in

which the government implements the contents of the agreement and government's failure to fulfill its promises as prescribed in the agreement. The government should make effort to address the underlining issues affecting the region and increase its human development policy toward they region.

### **3.3.5 Cameroon Border Crisis**

Nigeria's neighboring country in the South-eastern part of the country has been on the "brink of a civil war". Cameroon is made up of English speakers and French speakers. The English speakers (Anglophone) make-up 20% of the total population in Cameroon; and the region where they occupy in the country is relatively small. There have been issues of marginalization against the English Speaking Cameroonians and this has caused some form of crisis in the nature of peaceful protests and demonstrations in the country.

Toward the end of 2015 and in 2016; what began as a protest escalated into a deadly crisis almost leading to a civil war in Cameroon. The English speakers are calling for self-determination and a country of their own which will be named and called "Ambazonia". According to (Farouk Chothia, 2018, October 4) reported that the clash between the Cameroonians soldiers and "Red Dragons and Tigers" of the rebels seeking for self-determination have claimed the lives of over 420 civilians, 175 military and police personnel and over hundreds of rebel fighters have also died in the clash.

Consequent to this crisis, there have been massive displacement of people from Cameroon into Nigeria, "over 437,000 people have been displaced from Cameroon and about 32,000 of them went to Nigeria". The existence of the crisis means that there will be more displacement and this could lead to the entry of refugees into the country, which is already in a fragile state on issues of security. The region will be massively populated and these could cause a new form of security challenges for Nigeria. In a situation of this kind, the Nigeria government must wake up to call and act fast to ensure that refugees coming into the country are properly documented and camps are provided for their safety and care. Nigeria must also play its part to ensure that the crisis in Cameroon is properly mediated and solutions are found to cease the crisis.

### **3.4 Terrorism in Nigeria**

Issues of terrorism has become a daily routine for newspaper publishers to always have a portion of their newspaper addressing issues of terrorism or reporting cases of terrorist attack that took place in the country recently or previously. Terrorism is a global phenomenon and cannot be attributed only to Nigeria. However the case of terrorism in Nigeria has distinct characteristics as compare to other countries. Based on the observatory definitions provided by scholars, it would reveal that terrorism is akin to violence actions and reactions either by a group against a public or by the government against the group. Reported cases of terrorism in Nigeria and investigations conducted have revealed that a breakdown of societal laws may contribute to terrorism. Other reports confirms that failure of government to meet the primary needs of the people is a contributing factor of terrorism, while some investigations shows that globalization and its effects could be the cause of flourishing terrorist attack in the country as a way of rejecting globalization in the form of cultural imperialism.

There are other people who nurture the believe that the poor justice system in the country causes terrorism, because the people have lost hope and trust in the judicial system of the country and so resort to violence as the only way of restitution. The poor economic system in the country has forced most people to live below standard and cannot afford a decent life. Most people are forced to engage in illegal jobs just to make hands meet; while the common wealth of the country is been shared among a minority few in the face of plenty. Some people who could not contain this social and economic disparity take to arm and force their way in so as to partake in the sharing of the national wealth by way of getting Amnesty, ransom, or theft.

The issue of terrorism in Nigeria cannot be overheated and cannot take a drastic turnaround to be resolved; especially in the Nigerian society where money determines almost everything. The ordinary people are not motivated to seek better orientation to better their life or change the current situation of the country, but are up to grab some money just for survival which may be temporary. The current state of terrorism in Nigeria is in a "fragile state",

owning to the fact that issue of terrorism always have a political agenda and masterminds; and the case of Nigeria is not an exemption. The nature of Nigeria politics cannot help resolve the terrorism problem, because the leaders in the country are up to maintain and retain power at every cause and not to address issues that affect ordinary Nigerians.

There have been nonchalant attitude of the government toward issues of thousands of youths graduating from the Universities every year; these number adds up to the already saturated unemployment rate and youths in the labor market seeking for jobs that are only in hundreds or in tens. With the level of frustration among the youths especially the graduated ones, they lost hope in the government. Some disregard educate as they believe education does not guarantee a decent life. This believe has increased among the youths and a total neglect toward education has caused the increase in the numbers of illiterate people in the country and these people becomes tool for others to manipulate and use for any form of violence or brainwashing and to fight for a cause they believe would change the system and bring a better life for them.

According to the Global Terrorism Index of 2014, the Nigerian government has been on a feet-dragging policy on the fight against terrorism in the country. Nigeria has been hit badly by terrorist attack especially from the "radical Islamic group Boko Haram".

Boko Haram has increased and spread its attacks to other parts of the country causing national tension and fear among Nigerians. According to the GTI report of 2014, Nigeria is the 4th largest country impacted with terrorist attacks out of 162 countries that were profiled. Almost about 2000 innocent Nigerians have lost their lives to Boko Haram attacks especially in the north-eastern region of Nigeria. With the increase of government's negligence to address fundamental issues affecting the people, Boko Haram which in English translation means "Western Education is forbidden", continues to recruit both boys and girls to be used as suicide bombers.

As mentioned earlier, issues of terrorism in Nigeria is distinct from other countries, because the formula used by these terrorist groups in the country

ranges from "gang crime" and kidnapping as against bombing or suicide attack. According to (Amnesty International, 2015, September 30) "armed assault has caused about 85% of deaths in terrorism attacks as compared to 10% caused by bombing or suicide attacks. In Nigeria, issues of kidnapping are categorized as acts of terrorism under the law. In 2015, Boko Haram kidnapped about 250 school girls from the Chibok community in Borno State, several police officers and military personnel were also kidnapped.

Drawing from the above arguments, one can make a strong conclusion that issues of terrorism in Nigeria is an emergence of structural factors as the prime catalyst while other factors may contribute; also the complex political system and tribal influence in the country among the people stands as a factor that has enabled terrorism to flourish. Terrorism in Nigeria is more of internal problem than external problem.

### **3.5 Conclusion**

In conclusion, the chapter has succeeded in discussing the historical background of Nigeria's Security, where it was said that tribal conflict and religious battle continue to rock down the country's security architecture killing over thousands of Nigerians in every attack since decade. Issue of Global Security and terrorism was discussed and the writer indicated that terrorism remains one of the biggest threats to Global Security. The fight against issues of terrorism has not only turned out to become an elementary concern for all states but also as an area of study for scholars especially as they have direct consequences on global security. On the chapter, the writer address issues of Nigerians security and its challenges, currently Nigeria is faced with five major security challenges which are; Boko Haram Crisis, Farmer-herder crisis, Islamic Movement of Nigeria Crisis, Niger Delta Crisis, and the Cameroon crisis. The writer concluded the chapter by addressing the issues of terrorism in Nigeria. The writer argued that among others terrorism in Nigeria is caused by Structural factors, lack of failure of the government to provide primary needs for the people, complex politics in the country, religious and tribal issues are the causes of terrorism in Nigeria.



The next chapter will discuss counterterrorism in Nigeria and its challenges, laws and provisions regulating counterterrorism in the country. Under this heading, global counterterrorism and protection of the rule of law will be addressed; the National Counterterrorism Strategy and Nigeria Security Laws will form part of the discussion in the next chapter. The writer will outline and discuss the power of the judiciary in Nigeria and an insight into the counterterrorism tactics of former president Goodluck Jonathan from 2011-2015 will be discussed and compared with the counterterrorist tactics of President Buhari from 2015 – 2018, the chapter will conclude with a short summary of the findings of the chapter.

## **CHAPTER FOUR**

### **COUNTERTERRORISM IN NIGERIA AND ITS CHALLENGES, LAWS AND PROVISIONS**

#### **4.1 Introduction**

The fight against terrorism in Nigeria has gained greater attention and resource from the government's coffers. Over decades now, Nigeria has been rocked by deadly act of terrorist attacks that have killed over thousands of Nigerians. In 2018, terrorist attack increased by 60% as compared to previous years in 2017 and 2016 (Global Terrorism Index, 2018). The killings by terrorist attacks have increased and terror has filled the mind of Nigerians who fear from been killed by terrorist at any time. Nigerians no longer feel comfortable been in a public place for too long just to avoid stories that touch the heart. Under such circumstances, one may ask the question; has the counterterrorism tactics of Nigeria failed? Or are the tactics not equipped enough to combat terrorism in the country?

According to (Kolodkin as cited in Mehdi Serghini, 2015, p.3) counterterrorism can be defined as "the practices, techniques, strategy and tactics that militaries, government, corporations and the police agencies apply in combating act of terrorism or threats posed by terrorism". The chapter will engage its discussion from the deductive approach by looking into Global counterterrorism and protection of the Rule of Law; after which the National Counterterrorism strategy and various Nigeria Security laws will be discussed and interpreted. The chapter will be spiced with discussions about the Nigeria Judiciary and the power of the Judiciary. An understanding of the power of the Judiciary in Nigeria will further lead the discussion into the Counterterrorism tactics adopted by two different Nigeria presidents, Good luck Jonathan from 2011 - 2015 and President Buhari from 2015 - 2018.

The researcher made an in-depth interpretation of the various headings mentioned above and the concluding part of the chapter is the findings that the researcher got during and after the interpretation.

## **4.2 Global Counterterrorism and Protection of the Rule of Law**

Acts of terrorism has affected the rights that individuals enjoy as a people. In response against terrorism in the state, the government has an obligation to ensure that its people are not deprived of their basic rights and privileges as citizen, and in doing this the government must work within the parameters of the law to ensure that effective counterterrorism tactics are adopted. However just as terrorism remains complex in its build-up, the measures adopted by states are sometimes complex in their nature. States are confronted by different challenges in their bid to fight terrorism, and these challenges are significant. Laws are available to address this complex challenges in an effective way. Counterterrorism tactics must comply with the laws of the land for it to be effective and not the laws of the person in-charge.

As mentioned earlier, since act of terrorism has a great impact on the rights of citizens, states have not just the right but duty and obligation to adopt effective counterterrorism tactics. By effective counterterrorism tactics the researcher means tactics that will comply with the rule of law and in effect protect the rights of the people. Complying with the rule of law and the protection of human rights are complementary in nature and must be the prime target of states while pursuing counterterrorism policy.

After the September 11 2001 terrorism attack, the United Nations Security Council took urgent and decisive steps to strengthen the international laws to enable cooperation and uniform approaches among states toward the fight against terrorism and threats. By doing this, there was enforcement of laws preventing terrorist funding; ensuring that sophisticated weapons do not get into the hands of terrorist, there was intelligence sharing between cross-border agencies, monitoring teams and a committee on counterterrorism was set up to help tighten the combat against terrorism. Also efforts were made in other to develop a regional counterterrorism measures in different regions like; "African Union, the Council of Europe, the European Union, the League of Arab States, the Organization for Security and Co-operation in Europe, the Organization of American States, the Organization of the Islamic

Conference, the South Asian Association for Regional Cooperation and other organizations".

In 2001 following the 9/11 attack, the UNSC passed a resolution with NO. 1373 of 2001, that instigated the increase in the laws against terrorism and different security apparatus have also increased to meet the demands for security. After the resolution was passed, countries began to increase and adopt different forms of laws of counterterrorism; however, most of these laws runs ultra-vires the rule of law and violates human rights, which has amounted to numerous negative consequence on human rights and freedom.

As international community's commit their resource in the fight against terrorism, they have also committed to respect the rule of law and protect human rights as these are germane to adopting positive measures for counterterrorism. International community have dedicated to applying measures that do not conflict with the rule of law by adopting a strategy called "United Nations Global Counterterrorism Strategy"; this strategy also incorporates the rules of state engagement against terrorism by a resolution of the United Nations General Assembly resolution 60/288. UNGA Resolution 60/288 (2006) "To recognize that international cooperation and any measures that we undertake to prevent and combat terrorism must comply with our obligations under international law, including the Charter of the United Nations and relevant international conventions and protocols, in particular human rights law, refugee law and international humanitarian law". What this means for member states is that, member states of the UN have committed to accept this resolution and will adopt plans and tactics that will help address issues of terrorism; member state will also adopt tactics in accordance with the rule of law and non-violation of human rights; and every tactics of the state must comply with the standards of international procedures under the international law.

The resolution passed by the UNGA was inspired following a report by the "High-level Panel on Threats, Challenges and Change" in 2004 that stated that, the causes of terrorism and increase in recruitment of men and women into terrorist groups are instigated by lack of representative government,

violation of human rights and lack of trust on the judiciary to safeguard the right of the common man, high economic disparity leading to anger and inspiring poverty, and occupation by foreign governments.

Following the outcome of the World Summit Outcome in 2005, there was high consideration for the respect of human rights and rule of law. The UNGA accepted the outcome of the summit and resolved that member states should conduct its counterterrorism tactics to conform to international laws, which include the Charter of the United Nations. Commissions on Human Rights also ask states to adopt tactics that must not violate human rights laws, refugee laws and the International Humanitarian Laws. This position of strict adherence of counterterrorism tactics to international laws was conformed further by the UNSC in its different resolution including resolution 1624 of 2005. In 2006 in the document (A/60/825) the United Nations Secretary-General under the title "Uniting against terrorism" expressed that the protection of human rights and adherence to the rule of law are important to making an effective counterterrorism tactics; the report also stated that the observance of "rule of law and protection of human rights" cannot be a threat or hindrance to the fight against terrorism.

According to the United Nations Global Counterterrorism Strategy, there is a nexus between security and human rights and the adherence to the rule of law should be placed on the pinnacle in the fight against terrorism. The contents of the strategy of the committee has made member states to committee to making sure that rule of laws must be observed and its importance for an effective counterterrorism tactics. For counterterrorism strategy to be effective, it must include the following; that state develop a national counterterrorism strategy that will assist in preventing terrorism and will handle issues of the root causes of terrorism; there must be prosecution of people involved in terrorist acts; civil society organisation must be included actively in the fight against terrorism; and victims of human rights violation resulting from terrorist attack must be compensated, proper care and attention must be given to them. States must not only ensure that measures of counterterrorism adopted comply with human rights laws and international

humanitarian laws, state must also ensure that does measure follow due process and are not running ultra-vires the provisions of the laws.

By the provisions of the Charter of the United Nations; Security Council reserve the sole responsibility to foster security and preserve global peace (Article 24, UN Charter). The UNSC has been involved in several terrorist attacks and have undertaken several counterterrorism measures to combat the attack, some of the UNSC counterterrorism tactics are in the manner of sanctions, which may be against the state or organisation that may be linked to terrorism, also there are monitoring groups in charge of ensuring that the sanctions are implemented and reached the utmost desired effect. Under the SC reports (S/2005/800) the Security Council have called on member states to adhere to the rule of law while formulating their counterterrorism tactics. According to the International Convention for the Suppression of the Financing of Terrorism, Article 17 demands that there must be "fair treatment" of suspected terrorist, and they should enjoy all rights as guaranteed under relevant international laws.

#### **4.3 Counterterrorism Policy Frame Work and Security Laws in Nigeria**

In 2014 former Nigerian president Goodluck Jonathan first adopted the National Counterterrorism Strategy (NACTEST) as a policy framework in the fight against terrorism in Nigeria; subsequently in 2016, President Buhari adopted the document but with amendment. Before the adoption of the NACTEST there have been efforts to design an effective legal framework document that will have a comprehensive details and laws to handle issues of terrorism in Nigeria. This effort was formalized with the promulgation of the "Terrorism Prevention Act" of 2011, which was later amended in 2013.

Terrorism Prevent Act of 2013 as amended inspired the creation coordination of "inter-agency" bodies, and defined the functions and responsibilities of their various agencies and stakeholders, the Act also empowers the law enforcement agencies with the power to arrest, detain and prosecute suspected individuals linked to terrorism. According to Section 1A of the Terrorism Prevention Act 2013 as amended, it created for the office of the

National Security Adviser also known as "ONSA". The ONSA is empowered by law to act as a chief coordinating body to all security and enforcement agencies under the provisions of the law. Furthermore, the ONSA must ensure that Nigeria's counterterrorism framework does not run ultra-vires the international counterterrorism policy framework and laws.

On issues of counterterrorism in Nigeria, the President serves in the capacity of the Chief advisor on issues of national security, and the implication of this is that the office of the ONSA is directly under the supervision and control of the President who is the Chief Executive Officer of the Executive arm of government. The ONSA has the obligation to create harmony among different security agencies in the country operating in relations to counterterrorism, like the National Intelligence Agency (NIA), the Department of State Service (DSS), the armed forces, the Police Force and any other government agency in the security department.

The Terrorism Prevent Act 2013 as amended is the legal framework to counterterrorism in Nigeria, but practically and in adopting rules of engagement the contents of the NACTEST must be complied with. According to the provisions of the Terrorism Prevent Act 2013 as amended, the ONSA does not have a statutory power but an advisory power to make suggestions on issues of national security. NACTEST of Nigeria is built under five main parameters which include, to Secure, to identify, to prepare and to implement. According to the NACTEST policy document, to forestall means to reduce the risk of radicalization, extremism or any factor(s) that may lead to violent protest in the country; to secure means that the security situation of the country must be upgraded to face any threat of terrorism; to identify indicates that there should be the ability to discover earlier any form of threat, and to ensure that the judiciary is empowered to adjudicate issues of terrorism in the best manner for the purpose of national security; Prepare will mean that the government should be able to reduce any risk of terrorism in the country and in situation where they occur, the government must have the capability to respond to such occurrence; and to implement is aimed at ensuring a coordinated harmony and cooperation among security agencies both within the country and outside the country especially borderlines.

The National Counterterrorism strategy was designed to mitigate incidence of terrorism in the country; the strategy was meant to handle issues relating to geographical deficiency, operational lapses and structural problems which may be exploited by terrorist to harm or attack the country. Structural problem in Nigeria has always been exploited by terrorist to launch attacks, despite the willingness and desire of the Nigeria government to enhance coordination between security agencies within and outside the country, including borderline security and joint operation, there have not been a successful coordination and result coming from the mutual cooperation.

There have been criticism on the manner of operation against terrorism in the country, the NACTEST clearly outlined the role of the ONSA and the Counterterrorism center and how to counter terrorism, despite this clear purpose, the bulk of the fight against terrorism is largely military. This was the case in the early 2000 when the Niger Delta Avengers in the Niger Delta oil rich region took to arm against oil exploitation in the region, the government's response was largely military in nature and this tactics never helped the situation, until the 2009 Amnesty program was launched, rebel fighters accepted the program and surrendered their weapons.

According to the October 2018 report of the European Eye on Radicalization, The federal government of Nigeria have since the rise of Boko Haram in the North-eastern part of Nigeria, have deployed over 100,000 foot soldiers to the battlefield; a military defense operation called "Operation Lafiya Dole" (Peace by Force) have been an ongoing military operation since 2015. According to the above report, the current number of Nigerian National Police as at 2018 stood at about 400,000, and over 60% of this population do not possess adequate security skills and training. Several reports have criticized the Nigeria Military for total human rights abuses and corruption of the highest form.

Even in the hot condition of Boko Haram attacks, there have been other minor forms of security challenges like ethnic conflict, kidnapping and oil theft, all these are emerging in the break of the day, cumulating more burden and pressure on the security issue of the country.



There have been steps to prevent and mitigate issues of extremism in the country, this idea inspired the formation of the "National Action Plan for Preventing and Countering Violent Extremism (PCVE)" in 2017. This plan was developed with the support from various agency like Civil Society organizations, ONSA, UN office on Drugs and Crime (UNODC), the purpose of this plan was educate the youths, "build strong capacity among society members, improve the Justice system and rule of law and respect for human rights, strategic communication and provide alternative narrative to violent extremism" (PCVE, 2017, p.5).

There is a mutual coordination between the mandate of the NACTEST and that of UNODC. The UNODC has the mandate to support the Nigeria government in enhancing the rule of law and encourage human right security; these was done through advisory process, capacity building functions, the NACTEST policy and the policy of UNODC both corresponded in the activity of strengthen the criminal justice system, to ensure that there is an effective criminal investigation and prosecution and adjudication of cases of terrorism with the scope of provided laws.

#### **4.3.1 Security Laws in Nigeria**

Nigeria has enacted several security laws that will enable it maintain a secured society and defend its borders. The raise of terrorism in Nigeria has prompted the need to further strengthen the existing laws and adopt several other codes and global standards that are essential for its security. Security Laws for the purpose of the study are written laws and codes for prosecution of crime and administration of criminal justice in a court of competent jurisdiction. Nigeria has several security laws which include; Administration of Criminal Justice Act 2015 (Amended) (ACJ), Criminal Code Act, Criminal Justice (Miscellaneous Provisions) Act 1975, Cybercrimes (Prohibition, Prevention, etc) Act 2015, Penal Code (Northern States) Federal Provisions Act, Prevention of Crimes Act, and Terrorism Prevention Act 2013 (Amendment). These laws are significant for the purpose of maintaining security and prosecuting criminal offences in the country. However the utmost of all the above mentioned laws is the "Constitution of the Federal

Republic of Nigeria 1999" (Amended) CFRN, from where all other laws were made.

According to Section 1 subsection 1 of the CFRN "This Constitution is supreme and its provisions shall have binding force on the authorities and persons throughout the Federal Republic of Nigeria"; subsection 2 "The Federal Republic of Nigeria shall not be governed nor shall any persons or group of persons take control of the Government of Nigeria or any part thereof, except in accordance with the provisions of this Constitution" According to section 14(2b) of the CFRN "the security and welfare of the people shall be the primary purpose of government".

According to Part 1 Section 1 Subsection 1 of the ACJ Act "The purpose of this Act is to ensure that the system of administration of criminal justice in Nigeria promotes efficient management of criminal justice institutions, speedy dispensation of justice, protection of the society from crime and protection of the rights and interests of the suspect, the defendant, and the victim"; subsection 2 (Ibid) "The courts, law enforcement agencies and other authorities or persons involved in criminal justice administration shall ensure compliance with the provisions of this Act for the realization of its purposes". Part 2 Section 3 "A suspect or defendant alleged or charged with committing an offence established by an Act of the National Assembly shall be arrested, investigated, inquired into, tried or dealt with according to the provisions of this Act".

Following other security related laws in Nigeria, the Terrorism Prevention Act 2013 (Amended), was enacted for the proper administration of crimes relating to terrorism, the Act specifies the process of arrest, prosecution and trial of suspected terrorists. Furthermore, the Act created the office of the National Security Adviser ONSA, who shall act as the coordinating body of all security agencies in the country, intelligence gathering and effective discharge of the functions of all relevant security, military services and law enforcement under the Act or any other laws relating to terrorism in Nigeria.

#### **4.4 Nigeria Judiciary; Power of the Judiciary and Judicial Orders**

The Judicial arm of government means "The arm of government responsible for interpreting the laws and administering justice" (Dr. Justus, et al., 2016, p.2). The word "judiciary denotes the branch of government that is constitutionally responsible for interpreting the laws and administering justice, by the application of the rule of law, through duly constituted courts" (Ibid).

According to the doctrine of Separation of power, the Judiciary is not an agency of government or an organisation of the government, the Judiciary is an arm of government that complete the administration of governance in any society. The Judicial powers are the powers to interpret laws and adjudicate litigations and pronounce judgment; this power is the sole responsibility of the Judiciary. The Judiciary is made up of different courts; where litigations are held and decided by Judges representing the judiciary.

According to Section 230 of the CFRN, the "Supreme Court is the highest court in the country"; and its decision on any matter is final and binding on all authorities. Section 235 of the CFRN states that "Without prejudice to the powers of the President or of the Governor of a state with respect to prerogative of mercy, no appeal shall lie to any other body or person from any determination of the Supreme Court". This means that the decision(s) of the Supreme Court on issues brought before it is irrepealable and must be adhere to by all persons or authorities in the country.

According to section 6, of the CFRN; the courts in Nigeria are properly coordinated in the other of hierarchy and ability to decide on matters, "Nigeria Courts are of two categories; the superior courts made up of the Supreme Court, the Court of Appeal, the Federal High Court, the High Court of the State, the Sharia Court of Appeal of the State, the Customary Court of Appeal of the State and the National Industrial Court; and other courts lower in hierarchy include; the Magistrate Courts, the District Courts, the Area Courts, the Customary Courts, the Sharia Courts the Juvenile Courts and the Military Courts or Courts Martial". There is sense in differentiating the various courts, this is to enable judicial sanctity and avoid chaotic or conflicting justice.

The Judiciary is a very sensitive arm of the government; because it has the wisdom to give “meaning” of what the law is or should be in various litigations. Citizens rely on the role and power of the judiciary as the last hope to get justice and be vindicated of human right abuses and constitutional protector. The Judiciary acts as a check on the activities of the executive and legislative arm and balances any excesses of power or abuse of power by the other arms of government. The Judiciary is the earthly "throne of Justice" to the common man.

#### **4.4.1 Judicial Orders**

According to Dr. Justus, Judicial order is the “authority of courts and judges to hear and decide cases and to make binding judgments on them; the authority to construe and apply the law when controversies arise over what has been done or not done under it”. Furthermore, the judiciary has the authority of “checks and balances”. Following the power of the Judiciary, they reserve the right and power to “interpretation, the judiciary can declare activities of the executive and legislature unconstitutional, null and void and of no effect”.

Judicial “order is a written direction or command delivered by a court or judge. It is also the mandate or determination of the court upon subsidiary or collateral matter arising in an action, not disposing of the merits, but adjudicating a preliminary point or directing some steps in the proceedings” (Olayinka, 2011, parg.2).

The “Supreme Court is the highest Court in Nigeria and its verdict is final beyond which appeal cannot lie to any other court” (Section 230 CFRN). It is clear from the foregoing that judicial powers or judicial authority in Nigeria is exercisable only by the courts which are either created directly by the constitution or created under the authority of the constitution. For the purpose of the study, Judicial Orders are any written or oral mandate issued by a Judge commanding the president or governor to do or not to do an action.

#### **4.5 Counter-terrorism Tactics under Goodluck Jonathan's administration, 2011 - 2015**

Nigeria's former president, Goodluck Jonathan who took-up position as "acting president" in 2010, became Nigerians president after winning the 2011 general election. As part of his agenda for a better and prosperous Nigeria, his counterterrorism tactics was clearly articulated. Jonathan's counterterrorism tactics were expressive under political, developmental and military tactics (Hakeem, 2017, p.61).

The political tactics of Jonathan was birthed with the popular understanding that in the north, Boko Haram was an expression of existing "unequal power and resource distribution at the national level", believed not to be in the interest of the Northern region. Boko Haram issue was then perceived as an manifestation of legitimate grievances of the Northern youths in Nigeria. With this understanding by the Jonathan administration, they developed a technique to negotiate with the group so as to reach a compromise by way of an "Amnesty Program". The issue of dialogue was premised on the fact that the technique was effective when it was applied to the issue of the Niger Delta crisis, so there is a believe that it would also prove effective when applied on Boko Haram crisis. In April 2013, the government set up a 17-member Committee on "Dialogue and Peaceful Resolution of Security Challenges in the North"; this committee will identify and constructively engage key leaders of Boko Haram, and develop a workable framework for amnesty and disarmament of members of the group (Agande, 2013, April 24).

According to (Uzodike and Onapajo, 2015, p.49) the Jonathan political tactics failed for three main reasons. Firstly, the growing skepticism among the Nigerian elites surrounding the desire of the government to handle the crisis owing to previous federal government failure to adhere to agreements reached between other groups.

Secondly, there was disappointment among the Northern politicians when the 2011 general election did not work in their favour. This election "did not

favour the power rotation arrangement in the then-ruling PDP political party which was against a northern candidate” (Hakeem, 2012, p.42).

And thirdly, the fragmentation of Boko Haram into different factions, this led to a loose network of the Boko Haram, and it became hard to identify who to start a negotiation with, because the sect were in different faction, and each faction commanding their different numbers of followers.

The developmental tactics of the Jonathan-led administration was a socio-economic approach. This approach was to address the perceived root causes of terrorism in Nigeria (Poverty, illiteracy and Unemployment). The primary targets of this tactics were the army of Almajiri youth (this youths were Islamic “students who were destitute and vulnerable to criminal activities while pursuing their Islamic education”) to be properly educated and socially empowered. In 2012, this tactics spawned the establishment of the “Madrassa-Model of Almajiri Islamic Education”, which is now popular in Northern Nigeria. The main objective of the transformation of the “Madrassa-Model of Almajiri Islamic Education” was to empower, re-orient the northern youths and also correct the thoughts process of the youths about the believe that “Western Education is a taboo”. Despite the tremendous outcome that the program promised, poor implementation was the ‘cancer’ that mitigated its success.

The military approach under the Jonathan-led government was the primary counterterrorism approach the military method was headed by a “Joint Task Force” (JTF), made up of the “Nigerian armed forces”, and the “Multi-National Joint Task Force” (MNJTF) that include countries in the Lake Chad region (Chad, Cameroon, Niger and Benin), and the “Civilian Joint Task Force” (CJTF) made up of indigenous “vigilante group” that were involved in “grassroots military operations”. The establishment of the JTF and the declaration of “a state of emergency in three states in north-eastern Nigeria (Borno, Yobe and Adamawa) was a total declaration of war on Boko Haram”.

This approach was expected to be a great success following Nigeria's military prowess and records of multiply “successful peacekeeping missions in Africa”. Unfortunately, the reverse was the case. The Nigerian “military

displayed gross incompetence in confronting the terrorists”; and this led to loss of huge number of military men and women. According to the Premium Times Report, January 10, 2016, the incompetence of the military attitude is attributed can be connected to different factors. First, the high level of “corruption that has bedeviled the defense budget for the purchase of weapons, this had a substantial negative effect on the military operations. The corruption also extended to unpaid salary of soldiers, obsolete weapons and lack of weapons. According to the same report by Premium Times, (Ibid) about \$2.1billion earmarked for the operation and purchase of weapons was diverted by military chiefs and politicians.

Another cause of failure of the Nigerian military in the fight against terrorism under the Jonathan led government was the growing of the United States and some other international bodies who criticized the level of abuse of human rights in the country against civilians and victims by the Nigerian soldiers. This led to an arm sanction against Nigeria. The sanction by the United States made it difficult for the Nigerian government to purchase arms to enable it fight the terrorist.

#### **4.6 Counterterrorism tactics under the Buhari administration**

Buhari emerged as Nigeria's president in 2015 following his strong campaign message on the issue of insecurity and the fight against corruption which was seen as the 'cancer' mitigating the growth of Nigeria's economy and security challenges. The campaign mantra greatly worked in his favour. His record as military General in the Nigerian army boosted his campaign to earn him the seat of the president. In 1984 when he became the military head of state in Nigeria he successfully fought similar group of militias; also his “anti-corruption” crusade during the popular “War Against Indiscipline” (WIA) in Nigeria thoroughly advocated during his military administration was leverage for him to garner support and votes from Nigerians. Owing to the observation that corruption was deterring the progress against terrorists. his reliability and antecedent were perceived as being important and a reliable ground to defeat insurgency in the country.

In May 2015, Buhari emerged the president of Nigeria for four-year tenure. His tactics against terrorism was clearly military. Thus, his counterterrorism tactics is principally military based. Buhari's military tactics against terrorist was built on two levels; "the diplomatic/multilateral" tactics and "internal military restructuring".

When Buhari came into power, he saw the need to rebuild Nigeria's international image that was soared by previous administration; also to seek international cooperation and support to fight terrorism. According to Vanguard Newspaper June 11, 2015 report, the president Buhari traveled to Cameroon, Niger, and Chad "in other to strategize the building up of the capacity of the MNJTF to wage an effective campaign against Boko Haram". Following another report, in June 2015, the president held a meeting of the "Lake Chad Basin Commission" (LCBC). During the meeting President Buhari on behalf of Nigeria donated \$100million to revitalize the "joint military operations", with Nigeria leading at the front of the operation.

Also President Buhari sort for support from other countries in the West to cooperate with Nigeria on the fight against terrorism, following their frustration with former president Jonathan's administration. In Germany at the meeting of G7 in June 2015, Buhari took advantage of the meeting to involve world leaders for support and cooperation in fighting Boko Haram. In June, Buhari visited Washington on President Obama's request for discussions on rebuilding US-Nigeria relations on counter-terrorism. According to Reuter's report in June 16, 2015, the visit tremendously improved the bilateral relations between Nigeria-US and Washington pledged \$5million to Nigeria for the fight against Boko Haram. America offered to support Nigeria by way of technical training of personnels, and intelligence sharing.

Following the gross ineffectiveness of the military to effectively seize the war under the "Jonathan's administration", Buhari sacked the heads of the Nigerian Armed Force, the National Security Adviser and replaced them with new authorities and personnels that he considered fit to do the job.

According to the President during his introductory speech, President Buhari broadcast the repositioning of the "operational base of the military" from the



country's capital to the epicenter of the crisis in Maiduguri, Borno State capital. Also the president upgraded "welfare packages and ensured prompt payment of the salaries and entitlements" for soldiers, this he believe would encourage the soldiers to put in their best and dedication (Hakeem, 2017, p.63.).

Despite Buhari's bold counterterrorism tactics to ensure peace is restored in the country, the group continue to launch more attacks and outweighs the President's tactics; owing to the fact that compromise proposal did not work out well. Former president Jonathan during his tenure, he open dialogue with Boko Haram on the foundation that if the latter lays down its arms, "it will grant it amnesty" but this met a brick wall because members of the sect remain faceless (Akinbi, 2015, p.32).

According to (Popoola, 2012, p.43) "Boko Haram is not a registered organisation with a physical address and their press statements are usually sent to the media with hardly any trace". There have been lack of will on the part of the group to negotiate, because they have splitted into smaller other groups. In March 2016, a statement issued by Abubakar Shekau the leader of a faction of Boko Haram "revealed that the sect is not willing to negotiate at all" (Vanguard, 1st April 2016). During the cause of the crisis, President Buhari accepted a swap negotiation with the group (Nwabughioqu, 2016, Vanguard Newspaper), this involve the swap of over 200 girls that were kidnapped from Chibok Local Government Area in April 2014 (Adetayo as cited in Olumuyiwa, 2017, p.8).

Other challenges mitigating the success of Buhari's counterterrorism tactics is the limited adherence to judicial orders. There are a hand full of individuals suspected to be terrorist, children and women, young men as well, detain in undisclosed places without being charged to court; which include the unlawful arrest and detention of leader of the Islamic Movement of Nigeria, Ibrahim El-Zakzaky and his wife Malama Zeatudden, former National Security Adviser to former President Goodluck Jonathan, Col. SamboDasuki (rtd.) even with several court orders releasing the duo (Punch, June 3, 2017); unlawful arrest and detention without trial of Jones Abiri a Journalist

suspected to be a militant (Premium Times, July 1, 2018), using the military force to arrest and detain 249 people suspected to be Boko Haram terrorists that include 34 children and 46 women (Premium Times, July 18, 2016).

#### **4.7 Conclusion**

In conclusion, the chapter has succeeded in discussing and analyzing Global Counterterrorism and the protection of the rule of law. Discussion on Global counterterrorism reveal that States must not only ensure that measures of counterterrorism adopted comply with human rights laws and international humanitarian laws, state must ensure that those measures follow due process and are not running ultra-vires the provisions of the laws.

Issues of counterterrorism policy framework in Nigeria and laws addressing security challenges were discussed. The National Counterterrorism Strategy of Nigerian formed part of the discussion; also to complement the essence of the discussion on NACTEST was an analysis on the Terrorism Prevent Act of 2013 as amended enacted by the Nigerian National Assembly. The researcher also outlined some of the security laws in Nigeria that are applicable on issues of crime and terrorism. According to the Nigeria Law, acts of terrorism are classified as criminal acts. The constitution of the Federal Republic of Nigeria was introduced as a landmark for other laws in the country.

Paramount to the study is issues of the judiciary. The researcher discussed issues of the judiciary under the chapter, its roles and power as an arm of the government in Nigeria. The researcher outlined several sections of the Nigeria constitution that created the Judiciary and empowers it to function as an arm of government.

The latter part of the chapter was a comprehensive discussion and critic of the counterterrorism tactics deployed by President Goodluck Jonathan and President Buhari. The researcher mentioned their strengths and their weakness, despites all the glooming efforts to combat terrorism in Nigeria; terrorism in Nigeria continues to grow and kill Nigerians in their numbers on every attack.

The next chapter will address issues of different counterterrorism cases and the tactics deployed by President Buhari. The Chapter will also analysis the decision of the Supreme Court regarding the cases and the presidents tactics and actions. Different cases of arrest and detention without trial will form the later part of the chapter. The researcher will conclude the chapter by outlining his findings.

## **CHAPTER FIVE**

### **PRESIDENT BUHARI'S VIOLATION OF JUDICIAL ORDERS**

#### **FROM 2015 – 2018**

##### **5.1 Introduction**

Issues of counterterrorism are essential to state especially in this era of terrorism. In recent time counterterrorism has began to form part of major policy consideration for policy makers. There is need to protect the society and the people in the society, which is the pivotal role and function of any government; in achieving this function as a government, the government must maintain sanctity within the ambit of the law in which society is built upon. What this means is that, must we violate the pillars of society (laws) for the sake of national security?

Nigeria has been enmeshed in the curb of insecurity resulting from terrorism and other forms of security challenges. From 2015 to 2018, there have been efforts by the government under the leadership of President Buhari to strategically and technically curtail terrorism and extradite the country into a safety net, but the ability to achieve these has come with different challenges and setbacks. Violating laws while combating insecurity has never been a successful tactics; violating laws will result to reenergizing groups, people and community to respond against the government in the manner commensurate with government actions or more deadly than expected which may result to civil casualties.

When the government that is suppose to assist society to maintain and respect the law engages in violation of laws then society is in absolute mess and total disorder especially in the African Region particularly Nigeria.

The chapter entails a broad analysis and discussion of cases involving judicial violations, arrest and detention without trial by Buhari, Nigerian's President from 2015 – 2018. The chapter will also retrospect on public reactions towards his actions and the motive behind his actions whether for national interest or partisan interest.

## **5.2 Violation of Judicial Orders by President Buhari**

### **5.2.1 Case of Ibrahim El-Zakzaky**

The case of El-Zakzaky is a landmark case when we talk about issues of states violation of the judicial order in Nigeria. Radical Islam in Nigeria grew very strong after the Iranian revolution of 1979. In Nigeria, radical Islam can be connected with the struggle and ideology of the Islamic Movement of Nigeria (IMN) headed by El-Zakzaky. The movement was influenced following the revolution in Iran and got its inspiration from the Shiite Islamic ideology in Iran.

El-Zakzaky has been a strong critic of the Nigerian government especially Northern leaders, calling for a turnaround and overturn of the political, religious and cultural practice prevailing in Nigeria. According to (Nathaniel Soonest, 2019, pg.1) "El-Zakzaky is a disrupter of the status quo". According to (Isa, 2010, p.313) El-Zakzaky has led followers who are loyal to the course of IMN and has led several radical battles with the government of Nigeria; there have been outright criticism and rejection of the country's national identity like the national anthem, and coat of arms by the IMN (Ibid).

Followers of El-Zakzaky have been grounded with the ideology that anything west is evil, forbidden, and not in tandem with Islamic principles and teachings. According to (Paden, 2008) El-Zakzaky has faced several incarceration and torture from the Nigeria government from 1981 – 1998 because of his outright criticism and rejection of the states practice. El-Zakzaky's actions and protest had reached the height of distracting and causing mayhem in the country as his loyalists are in tune with his ideology (Ibid).

In order to curtail El-Zakzaky and his ideology, former Governor Ahmed Makarfi of Kaduna State appointed him to be his special adviser. According to (Baba-Ahmed, 2015, August 11) El-Zakzaky's political appointment influenced a new dimension of course and struggle under the IMN. The organisation adopted peaceful methods in spreading the Shiite Islamic ideology. His new pattern witnessed recruitment of a lot of loyalists who gave financial support

and ideological support especially from abroad like Iran; these support boosted the effort and works of the organisation and the use of other medium of communication and engagement.

His strong message to the Northern Nigerians includes the support of “charitable work” and acquiring western education. The message of IMN gained improvement as the financially deprived Muslims and uneducated Northerners joined the movement believing in the Shiite ideology and supported El-Zakzaky's course. Another instrument that boosted support and inspired more people to the El-Zakzaky's ideology was the policy of the United State for supporting Israel's foreign policy towards Palestinians; El-Zakzaky out rightly condemned US's for supporting Israel's action against the Palestinians.

### **The Shiite Movement in Nigeria**

According to Nathaniel (Ibid) El-Zakzaky was a student activist during his days at the University; who became a member of the Muslim Student Society of Nigeria (MSSN) and rose to become the Secretary-General of the society. This society was made up of both Sunni and Shiite Muslims. In 1979 El-Zakzaky's active participation in the MSSN made him reach the position of the "Vice President (International Affairs)" of the society, and it is this same year and period that the Iranian revolution took place under the leadership of Ruholla Khomeini birthing a new era in the history of Iran known as the “Islamic Republic of Iran”. Ruholla's revolution set off El-Zakzaky to become a member of Shiite believers. In Nigeria, Sunni Muslims makes 50% of the total Nigerian population including Northern elites and top Nigerian politicians. There have always been sectarian dispute among Islamic believers in Nigeria and this was the major cause of dispute and divide in the MSSN that called for the creation of the Islamic Movement of Nigeria headed by El-Zakzaky (Shiites Muslim) and the Izala (Sunni Muslim) (Loimeier, 2012, p.138).

According to Sanusi in 2015, the Sunnis juxtaposed the claim that members of the Shiites did not believe in the wife and companions of Prophet Mohammed, and so they rejected the believe, others scholars argued that

there was huge difference among the Sunnis and the Shiites in areas of Islamic innovations, Sunnis argued that the Shiites are largely connected with facilitating innovations in Islam. Salkida 2015 argued that the reason for the dispute was the hatred the Boko Haram sects mainly Sunnis had against the Shiites Islamic Ideology. Another critical argument was from Baba-Ahmed, who pointed out the method of practice by the Shiite believers. The Shiite believers are known for their 'long procession walk' during celebrations like the Maulud Nabi, Arba'een and the Al-Quds. This procession always involve the blockade of roads and leg walk from a long distance, prayers and recitations are made in loud voices causing pollutions and disturbing other people, religion and believers. This long walk usually is done by all Shiite members numbering in their hundreds (Ibid) making traffic very difficult for road users.

Based on the (Pew Forum 2009 report as cited in Solomon et al, 2017, p.44) out of the over 200million Muslims in the Sub-Sahara Africa, over 78millions Muslim population are from Nigeria constituting over 45% of the Nigerian population; the Shiite believers are in the tune of 4million faithfuls, while other Muslims are Sunnis (Isa, 2010, p.314) of the "Maliki School of Thought". Despite this division among the Muslim believers in Nigeria, they are still to some degree united by an organisation called "Nigeria Supreme Council of Islamic Affairs" and the "Jama'atuNasril Islam", these are large body of Muslim leaders in the country. The organisation is under the spiritual leadership of the head of the "Sokoto Caliphate the Sultan of Sokoto. The Sultan has some spiritual functions that he performs on behalf of Muslims in Nigeria especially during the holy month of Ramadan, protect and advocate on behalf of Muslims in Nigeria.

It was in 2014 and 2015 that the bloody contestation between the Nigerian Security and members of the IMN gained international attention and media concern. However, during one of the 2009 Alquds processional walk by the Shiite group, according to the Islamic Human Right Commission (IHRC) report of 2014, a clash ensure between the Nigerian Police and the Shiite members resulting in the death of four members of the Shiite group. The 2014 clash was the bloodiest clash that resulted in the death of three sons of

El-Zakzaky and over 34 Shiites members during an Alqudsprocessional walk in the city of Zaria, Kaduna State. According to a news report from the Sahara Reporters in 2014, "Three of El-Zakzaky's sons and thirty four others were killed with several others seriously injured during theAlquds procession". According to an interview with El-Zakzaky, he said that his 3 sons died as a result of extreme torture by the Nigerian Army (Ibid). Following this incident, the IHRC in its 2014 media report said that, the actions of the Nigerian Army was inhuman and in gross violation of the right of assembly of the Shiite members and their human rights. This incident attracted large criticism from Nigerians and NGOs against the Nigerian Army and the government. According to (Gumi, 2015, DailyTrust 2015) in his letter to the press, he said that the attitude of the IMN and its leaders is unfashioned and un-Islamic and so that he deserved the nemesis that caughtup with him, however he showed condolence for the loss of his sons.

In November 2015, Shiite members were attacked during a procession in the rural area of Kano State, the Nigerian Army claimed they were attacked by the Boko Haram, contrary to the claim, El-Zakzaky argued that the attack was not carried out by Boko Haram but was planned by the Nigerian government (Lere, 2015, PremiumTimes) this contrary claim caused several reactions against the government. According to a report by the Report Afriquein December of 2015,the convoy of the Nigerian Chief of Army Staff "Lieutenant General Tukur Buratai" got into a clash with the Shiite members during one of their procession; the clashed resulted into a fierce battle resulting to gunshots and attacks, subsequent to this incident, the home of El-Zakzaky was raided and attacked by members of the Nigerian Army, destroying properties and killing over 300 Shiite members leaving several others injured (Leadership 2015).

According to Ahmed, 2015, the Nigerian Army in their claim, said that, the Shiite members acted violent and attacked the Chief of Army Staff's convoy with intention to assassinate him; the Army said the only defense option available at that moment was to attack because they were been attacked. However, members of the group argued that no attack was melted on the



COAS's convoy and that they were on their peaceful procession when the Nigerian Army attacked them.

This attack was declared one of the bloodiest and deadliest attacks on innocent citizens who were observing their religious rights. Several reactions came in from within and around the globe criticizing the attitude of the Nigerian Army. After this incident, other members of the Shiite organisation in several states organized protests against the government calling for support from the international community (BBC, 2015, December, 1). According to some NGOs in the country like the Christian Association of Nigeria, condemned with great displeasure the attack against the Shiite members and called on the government to look into the issues and address it effectively. According to several observers who were expecting a press statement from the president after the president failed to address the nation within the clock, said that the president was reluctant and that his "body language" did not show any sign of concern and then nonchalant attitude of the president could further escalate the situation into a full blown civil crisis (Aljazeera, 2015).

According to (Channels TV, 2015, October 21) Sequel to reactions and criticism against the government, an investigative inquire panel was set up "The Judicial Commission of Inquiry", however the Shiite members rejected the panel claiming it has no superior authority to investigate the issue and claimed the panel was a partial panel with intention of conspiracy. Following the rejection of the first panel, the Kaduna state government under the leadership of Governor El-Rufai, set up another panel but it was rejected by the Shiite organisation claiming the panel was unjust and partial.

The rejection and strong criticism by the Shiite members against the Nigeria Army and the government of Kaduna State, inspired the Kaduna State governor to proscribe IMN the Shiite organisation as a terrorist organisation ready to destabilize the security of the country and to overthrow the government of the state, subsequent to the proscription of the Shiite organisation, the Kaduna State governor called for prosecution of El-Zakzaky, the leader of the Shiite organisation. A counter-reaction ensued from the Shiite members who argued that El-Rufai was against Shiite and a

"religious extremist". Following this strong criticism and accusation, the governor of Kaduna state ordered the destruction of the Shiite worship center and all its properties (Dailypost, 2015). The government claimed that IMN does not possess the license to operate a worship center (Sahara Reporter 2015).

According to the Premium Times report in 2015, the Emir of Kano Sanusi criticized the Nigerian Army for the excessive use of force against unarmed civilians while accusing the Shiite members and their procession pattern as uncivilized and a nuisance to the public. International community's had their share in criticizing the actions of the Nigerian Army and called for an immediate investigation into the issue. According to the Islamic Human Rights Commission in 2015, they claimed that the over 300 Shiite members who were killed during the December 2015 clash were buried in mass in an unnamed location.

The aftermath of the December 2015 clash was the arrest and detention of El-Zakzaky and his wife, the arrest provoked several protest in most Shiite countries and communities like Iran, India, and Pakistan (Aljazeera online, 2015 October, Ahlulbayt News Agency, 2015, February). According to (Freeman, 2015, December 16) the Iranian parliament accused the US and Israel for been behind the attacks and killings of Shiite Muslim in Nigeria. According to the Herald 2015, King of Saudi Arabia, King Salman confirmed with the attack by the Nigeria Army against the Shiite and pledged to support the government in the fight against terrorism. This statement fueled strong criticism from the Iranian government against the King of Saudi.

### **Court Orders and Judgments**

Since the arrest and detention of El-Zakzaky and his Wife Zeenah in December, 2015 their location have been unknown to the Nigerian public. After several protest by members of the Shiite organization against the continued detention of El-Zakzaky and his wife, in May of 2018, El-Zakzaky and his wife were charged to court for "Unlawful gathering, Criminal conspiracy and culpable homicide" after 3 years of detention without trial.

Before the government charged El-Zakzaky to court, applications of bail and release have being filed to different Federal High Court both in Abuja for their release and for an “interlocutory injunction” against the arrest of El-Zakzaky and his wife. The Abuja Division of the Federal High Court headed by Justice Gabriel Kolawole passed a judgment in December 2016 ordering the release of El-Zakzaky and his wife referring to his continued detention as unlawful, null and void (Pulse.ng, 2018), the rulings of the court was not complied with by the government.

According to the Judgment of the High Court, the sum of 25million naira each was award to El-Zakzaky and his wife "for the violation of their rights, for being held in unlawful custody since December 14, 2015". Justice Kolawole added that the continued detention of El-Zakzaky and his wife was a breach of his rights under section 35(1) of the CFRN and provisions of the "African Charter on Human and Peoples Rights. In the judgment, the court ordered the government to provide a comfortable house for El-Zakzaky and his wife within 45 days because their home was destroyed when they were attacked by members of the Nigerian Army; the court ordered that a personal security officer should be provided for them until the threat to their life is quenched. According to the government, "El-Zakzaky and his wife were being held in protective custody due to alleged security threat against the neighbor and the neighborhood" where they live. According to the Judge, "no law including the constitution and the National Security Agencies Act, which established the DSS made provision for keeping a citizen in Custody against his or her consent".

Justice Kolawole further said in his judgment that "no relevant provisions of the National Security Agencies Act and the constitution of the Federal Republic of Nigeria as amended could justify the detention of El-Zakzaky since December 14, 2015. "I have not been shown any incident report or any complaint lodged by residents around the neighborhood that El-Zakzaky and his wife has become a nuisance to their neighborhood" said Justice Kolawole. The judge in his judgment added that the continued detention of El-Zakzaky and his wife for so long could result to several unprecedented killings and danger. The Judge cited the death of the former leader of Boko Haram who

died while in Police Custody, saying that should El-Zakzaky die in the custody, it could amount to needless death of other innocent Nigerians. Justice Kolawole, (2016) "When I read the provision of section 45(1),(2) and (3) of the Constitution which is the provision that deals with both restriction on/and derogation from fundamental rights and which relates to the fundamental rights guaranteed by provision of sections 37, 38, 39, 40 and 41 of the Constitution, I was unable, even by the most liberal interpretation of the provisions to justify the detention of the applicant in the custody of the first respondent in accordance with the said sections 45(1), (2) and (3)." (Punchng, 2016) The court after interpreting the laws said that the detention of El-Zakzaky remained unproved.

According to Amnesty International Nigeria's Interim Director, Makmid Kamara, "The 45 day deadline given for the release of El-Zakzaky and his wife expires today the 16 day of January, 2017. If the government deliberately disregards the orders of its own courts, it will demonstrate a flagrant and dangerous contempt for the rule of law". Furthermore, Amnesty International has called on the Nigerian authorities to release other hundreds of IMN members who were arrested without charge or trial but still in detention.

According to the Chairman of the Shiite Media forum Ibrahim Musa, "the refusal to release El-Zakzaky by the government in the face of the High Court Order is regarded as the highest "height of impunity" committed by a democratic government like Nigeria". The chairman also argued that it is a worse scenario for a government to continue to detain a citizen when a court of competent jurisdiction ordered the release of the detainee. The Chairman further argued that pursuant to Decree No. 2 of 1984 "States Security Detention of Persons Decree, under the military dictatorship headed by Military General Muhammadu Buhari, "Nobody was detained without an order made by the detaining authority". He argued that it is illegal and undemocratic of the government of Buhari to detain a citizen for over two years without trial.

According to Femi Falana, a Human Right Lawyer and Activist, he argued that the president should "stop the physical and mental agony that has been inflicted on El-Zakzaky and his wife, to allow them have proper medical attention; Femi Falana further argued that the refusal of the President to release them despite the order of an Abuja Federal High Court has created a "dangerous impress that the federal government does not operate under the rule of law". According to a letter sent to President Buhari by Femi Falana, the lawyer argued that El-Zakzaky was suffering from glaucoma a "risk of total blindness" while his wife is passing through serious pain and distress as a result of the bullets she sustained during the raid and arrest at her house. According to the Human Right lawyer, El-Zakzaky has lost one of his eyes as a result of the torture meted on him by the Army during the raid, the Lawyer argued that El-Zakzaky may lose his other eyes if not granted bail to get proper medical treatment as recommended by the Doctor in charge. The lawyer pointed out that alternative decision to bring foreign doctors to treat the duo have been rejected by the government.

### **5.2.2 The Case of Colonel Sambo Dasuki**

The case of Col. Sambo Dasuki is not different from that of El-Zakzaky in terms of outright violation of court orders by the President. During the time when Boko Haram attack became fierce and bloody, former President Goodluck Jonathan appointed Sambo Dasuki as the country's National Security Adviser as provided by the Terrorism Prevent Act 2013 amended. Dasuki became a key player in the Jonathan's administration leading the security organisation of the country and in the fight against terrorism.

After the 2015 election that ushered in a new government under the leadership of Muhammadu Buhari, in July of 2015 President Buhari dissolved the cabinet formed by the Jonathan's administration and set-up a new cabinet (Newsweek, 2015); also heads of security and military officers were dismissed including Dasuki the National Security Adviser. Following the dismissal, an investigating panel was set up to inquire into the procurement of arms under the last administration of President Goodluck Jonathan. This was the period when the Islamic group Boko Haram had killed over 4000 civilians

so far (Amnesty International, 2015, September 30). The panel after its investigation indicted Dasuki for "stealing \$2billion" (BBC,2015, December 1) meant for the procurement of weapon that included 12 helicopters, 4 fighter jets, and other ammunitions. These weapons according to BBC report (Ibid) was meant to equip the ill-equipped Nigerian Soldiers fighting Boko Haram; because there have been several complains for lack of weapons and equipment despite huge military budget, and that had lead to the weak effort of the Nigerian military to effectively defeat Boko Haram.

Before Dasuki's indictment by the investigating panel, Col. Dasuki was facing criminal allegation for illegal possession of firearms and he was placed on "House Arrest" by the "Nigerian State Security Service" ((Newsweek, 2015). According to a statement from Col. Dasuki in response to the arm fraud, he said he was never informed or invited formally or informally to appear before the "Weapon Procurement Investigating Panel" for allegation of arm fraud.

During the trial of the alleged illegal possession of firearms, the court ordered that Col. Dasuki be released on bail to travel to the United Kingdom for treatment for "Prostate Cancer". However, the government rejected the order of the court to grant Dasuki bail or be released to travel on ill ground (Ibid). In December of 2015 when the court granted Dasuki bail, all conditions of bail were meant and the order to release Dasuki was signed by the court, but on the day of his release, members of the State Security Services (SSS) came and rearrested Col. Dasuki and since then he has been in the custody of the SSS.

In 2016, Dasuki filed a suit to the ECOWAS Court for "fundamental human right" enforcement asking the court to order the federal government to release him from custody; the "Economic Community of West African States Court of Justice" upon receiving application against the arrest and detention of Col. Dasuki and duly investigate and study the evidence presented before it, passed a judgment that the continued detention of Dasuki by the Federal government was arbitrary, unlawful and in total violation of his right to liberty. The court ordered that the detained Colonel be released to his family after been arrested shortly when he was granted bail in 2015. The judgment of the

court read by a three-man Judges was led by Justice ChijiokeNwoke, Justice Nwoke in his judgment ordered that the sum of 15million Naira be paid to Col. Dasuki by the Federal government as compensation for breach of his fundamental human rights (Punchng, 2016).

According to the judgment of the ECOWAS court, the federal government of Nigeria lack the necessary evidence to justify their continued detention of Dasuki, and that the actions of the government is a fragrant abuse and violation of International and national laws on the "rights of persons and citizens to personal liberty". In the judgment of the court (Ibid), the government of Nigeria faulted in its action to initiate a search on the properties of Dasuki without warrant of search, and his arrest and detention was without a warrant (Ibid). "The Nigerian government took the law into its hands and made mockery of the rule of law by arresting Dasuki without a warrant of arrest or warrant of detention at a time when he had legally been granted bail by a competent court" (Punchng, 2016). According to Justice Nwoke, an order to detain a suspect must be made in writing and must be given to the accused person personally."The order of the ECOWAS Court of Justice in 2016 directing the federal government to release Dasuki from unlawful custody has yet not been obeyed by the Federal Government" as of the time the study was conducted.

According to a Human Right lawyer Mr. Femi Falana "Government should honor the order of the ECOWAS court directing the release of Dasuki". Falana argued that, the order to release Dasuki from custody is not an exoneration of the charges level against him". According to the provisions of the CFRN and the African Charter on Human and Peoples Rights, the detention of Col. Dasuki without a court directive amounts to illegality before the law. Falana argued that the order of the ECOWAS court to release Dasuki was to enable him to enjoy his fundamental rights and liberty in conformity with the conditions of bail granted to him. The human right lawyer criticized the attitude of the federal government not to release Dasuki, and that the Federal government has treated the "orders of its own courts with contempt".

In 2018, Col. Dasuki while in Security custody filed a fresh petition to an Abuja Federal High Court through his lawyer for the enforcement of his fundamental human rights and demanding his release. In his petition he demanded a compensation of 5billion naira as "general damages and compensation" for violating his rights (Punchng, 2018).

On 2nd of July, 2018, a Federal High Court in Abuja headed by Justice Ijeoma Ojukwu in her judgment after hearing the submission from lawyer representing Dasuki, and the submission of the Federal government, ordered the federal government to release Dasuki from unlawful custody; Justice Ojukwu said that the "continued detention without sufficient reasons violated Dasuki's right to liberty" (Thisday, 2018). The judgment delivered by Justice Ojukwu was in connection to the enforcement of human right suit filed by Dasuki, the Justice in her judgment granted Dasuki bail in the sum of "200million naira, two sureties who must be either a civil servant of Grade level 16 in the Federal civil service or a private individual who has landed properties in the city of Abuja" (Ibid). The court criticized the continued detention of Dasuki in custody and declared it an "aberration to the rule of law and the constitution". During the judgment, the court called to mind several court orders directing the release of Dasuki from custody which were rejected and never honored by the federal government. According to the court "no country could aspire to greatness, when the rule of law is flagrantly disobeyed" (Ibid).

According to a claim by the federal government, the continued detention of Col. Dasuki was that he poses security risk to the country. Contrary to the argument made by the federal government, Justice Ojukwu in her judgment said that the case against Dasuki was a case of money laundering and there is no connection between money laundering and "threat to the country". The federal government further argued that other reasons for the continued detention of Dasuki was in connection to the illegal possession of firearm and ammunitions found in his resident in 2015, contrary to this argument, Justice Ojukwu in her judgment said that since the alleged arms have been recovered and criminal charges filed against Dasuki, then there is no need for his continued detention. The court declared that the "fundamental rights of



Dasuki had been grossly breached with his detention since 2015" without trial on any new charge(s).

According to response to a letter written by wife and members of Col. Sambo Dasuki's family to the Attorney General of the Federation and Justice Minister, Abubakar Malami through the Nigerian Bar Association, and the Director General of SSS, requesting the compliance with the order of the court to release Dasuki, the AGF according to Dasuki's wife was "unprofessional and unsalutary" the AGF said in his response to the letter that the "order of the court as relates to Mr. Dasuki would not be obeyed by the federal government" (PremiumTimes, 2019).

Reactions and criticisms have also come from International actors; according to a 2018 report of Transparency International (TI), the Buhari led government should comply with court orders in the case of Col. Dasuki. According to Musa Rafsanjani, the head of Transparency International in Nigeria, he said that "Nigeria is operating a democratic government under a constitution, that means every of government actions must be in line with the constitution". Rafsanjani, argued that the order of the court is an order to grant Dasuki bail and not an order that exonerate him of the charges against him.

Sequel to the reaction of TI; Debo Adniran director of Centre for Anti-Corruption and Open Leadership (CACOL) argued that the federal government should free Dasuki as directed by the court. According to Adniran "the government does not have to flout its own laws, because it is a wrong example of civility". CACOL director argued that for the government to represent as a responsible body before its citizens, the government must obey the law and not take the law into "its own hands to violate court orders". Adnira argued that the refusal of the federal government to comply with court orders amount to a high level of impunity and this does not "speak good for the government that calls itself progressive" (theelitejournal, 2018).

### 5.3 Cases of Arrest and Detention

"Please, I am begging. Please, pity me. Anyone that is holding my son, please release him for me, "Mama cried."I gave birth to him. I breast feed him. I know my son. He is not a terrorist, He is not a criminal. He is a journalist" (PremiumTimes, 2018). Arrest and detention of innocent civilians including journalist has made the rounds in Nigeria under the leadership of President Buhari. On July, of 2016, the Publisher of "Weekly Source Newspaper" Mr. Abiri was arrested without warrant of arrest in his office in Yenagoa, Bayelsa state capital. According to an eye witness who was present during the arrest Mr. Garba Suleiman "Some men wearing black came to where we were and asked who is Jones Abiri, and Mr. Abiri identified himself as John Abiri, they grabbed him, handcuffed him, and too him, Nobody knew why" Suleiman said.

According to Mr. John Angese, who is the chairman of the "Nigeria Union of Journalist" Bayelsa State chapter, during an interview said that officers of the SSS had threatened members of journalist at gunpoint threaten to shot if journalist crosses a line. According to Angese, members of the SSS searched the office of Mr. Abiri for several hours and after which they took his computer and other documents while sealing his office. "I was personally there when he was taken away. I tried to ask what the problem was but I was rebuffed with their guns. I was threatened to be shot if I went any closer, everyone was scared", Angeses said during his interview with PremiumTimes (PremiumTimes, 2018).

According to a statement by the office of the SSS in July 23 of 2016 "Mr. Abiri is a militant and has been operating with other criminal gangs in the Niger Delta region". Further statement by the SSS indicated that Mr. Abiri accepted to a confession of "bombing and vandalising oil pipelines in the Niger Delta region, kidnapping for ransom, and threatening to launch missile attacks against the Presidential Villa and some selected areas in the country's capital" (Ibid). However, this claim made by the SSS was never verified by Mr. Abiri, because he was never allowed to speak to the public on his side of the story or to the allegations leveled against him. He

was never arraigned before any court for criminal charges and was not allowed access to any of his family members or lawyer.

According to Jackson Ude, publisher of "Pointblanknews.com" an online news platform based in the U.S said he has received several death threats from unknown members of the SSS also threaten to arrest him whenever he comes to Nigeria. Mr. Ude who publishes critical political stories against the Nigerian government, in an interview with PremiumTimes in 2016 said that "he had received threats from proxies of the SSS demanding him to remove stories from his website which local based journalist like Mr. Abiri were re-publishing and sourcing from in their newspapers and tabloids".

Mr. Abiri's family members on August of 2016 instituted a suit against the SSS for the enforcement of Abiri's fundamental human rights. The suit prayed that the Court should declare the arrest of Abiri and his continued detention without arraigning him before any court as unconstitutional, illegal, unlawful, and that the court should order the SSS to release Abiri on bail and Abiri's office should be opened.

The SSS through its Director replied to the suit with confessional evidence allegedly signed by Abiri, indicating his acceptance to various criminal activities and conspiracy to launch an attack against the Presidential Villa. According to the confessional statement, Mr. Abiri admitted to "being the founder, co-coordinator and spokesperson" of a militant group, and instructing his foot soldiers who are still on the run to carry out bombings of oil pipelines" and blackmailing oil companies for money with threats of further bombings should they refuse to pay the ransom".

According to a High Court in Bayelsa, in September 7 2016, Justice Nayai Aganaba, in her judgment "ordered the SSS to reopen the office of the Weekly Source Newspapers but ruled that the SSS arrest and continued detention of Mr. Abiri was lawful. In the judgment delivered by Justice Aganaba "The offence of terrorism and related offences for which Mr. Abiri was arrested and detained is a capital offence by virtue of Section 1 (2) under paragraph (h) of the Terrorism Prevention Amendment Act 2013 and

by virtue of Section 35 (7) of the 1999 Constitution, the arrest and detention of Mr. Abiri by the SSS is therefore not unlawful".

According to the SSS "the seeming delay in charging Abiri to court" was due to the "ongoing efforts to arrest other members of the militant group" as well as results of "scientific analysis of evidence" still been awaited"(Ibid).

According to one Comrade in an interview with PremiumTimes in 2018 who spoke on anonymity for security reasons said that he was arrested by the SSS for criminal charges; while he was in the SSS custody he met Abiri. According to Comrade "We were all together for over one year so we knew ourselves. I was in New Depot detention facility while Jones was in old depot. I remember one particular day Jones was shouting: "They wan go beat me again. They wan go beat me again." It pained me so much I cried".

In 2016, when the Federal government declared the arrest of an ex-Niger delta militant commander, Ekpemupolo popularly known as Tompolo; when his supporters noticed what the intention of the government is, to arrest and detain their commander whom they recognized as influential personality in the Niger Delta region, they recounted several cases of the federal government's arrest and continued detention without trial of several Nigerians. Also the government's refusal to "obey Nigerian and international court orders granting the release on bail to several high-profile suspects been held by the SSS", comrade recalled.

According to Comrade, while in SSS custody, Mr. Abiri told him that "he was been set up by powerful people who capitalized on the government's clampdown in the Niger Delta to punish him for publishing a story that exposed how a company which was a local contractor to one international oil company (unnamed), failed to fulfill its corporate social responsibility to oil-producing host communities". In his article the oil company discovered that their company was cheating the host communities and this was the cause of the problem between the community and the company. High personalities in the company were angry about the publication and then petitioned the SSS claiming that Abiri was working with the militants as a media personnel, Comrade said Abiri recounted to him.

According to comrade, arrested suspect in the custody of the SSS are highly tortured and dehumanized. Comrade recounted his ordeal on how he was tortured with electrocution and radiation light plunged to his manhood just to compare him to accepting that he is a militant. During comrade's interview with PremiumTimes he quoted the officer in charge of his cases always saying that “the DSS is above the laws of the land. DSS only listens to the instruction of President Buhari and that anything short of that including court orders, you are just wasting your time”.

In a letter written to President Buhari by a foremost Nigerian lawyer and human rights lawyer, Mr. Femi Falana, he called on the President to stop the illegal arrest and continued detention of Nigerian citizens by the SSS. The lawyer described the act as been unconstitutional, against the provisions of the African Charter on Human and Peoples Rights Act, the Nigerian Administration of Criminal Justice Act, and as sure it is an embarrassment and mockery to our democracy. According to Falana, “from the information at our disposal the DSS has detained several Nigerians and foreigners to settle personal scores”. Also, “others have been arrested and detained by the DSS on the suspicion that they have committed criminal offences, a matter that is within the purview of the Police and the anti-graft agencies. To compound the illegality of such arrest and detention, the orders made by competent courts of law directing the DSS to either release or produce detainees in court have been treated with contempt”, Mr. Falana wrote.

Since 2015 when President Buhari appointed Mr. LawalDaura as the Director of the State Security Service, the mode of operation by the agency has been akin to that of a military dictatorship. The agency has operated in like manner as the military junta who uses arrest, intimidate, endless detention without trial, torture, dehumanizing treatment to force Nigerian citizens including journalist, activists or any political dissidents to accept to crime. According to Mr. Falana in his interview with PremiumTimes, the lawyer argued that the SSS has been operating in secrecy and impunity, with total disrespect to the rule of law. The lawyer indicated that there have been series of violation of court orders by the SSS under the directives of President Buhari. According to the Lawyer, Mr. Abiri's situation is just one in hundred cases of Nigerian

citizens who are been arrested and detained, tortured by the SSS across the nation. Mr. Falana argued that there is a fragrant abuse of the provisions of the Terrorism Prevent Act 2013 and the violation of citizens rights to fair hearing in a court. According to Mr. Falana in his interview cited Section 27 of the Terrorism Prevention Act, which allowed, subject to obtaining a court order, the detention of a suspect for a period of 90 days; after the expiration of the 90 days subject to renewal, the suspect must be released on bail conditionally or otherwise.

The continued arrest and detention of Nigerian citizens without trial has attracted the attentions of several advocacy agencies in the international community, civil society organizations, and human rights lawyers calling on President Buhari to release on bail Nigerians who are been arrest and detained without trial.

#### **5.4 Military Operations**

Military operations in Nigeria under the leadership of President Buhari have always come with different forms of dehumanizing treatment and extrajudicial killings of innocent Nigerian Citizens. In 2017, when the Nigerian Air Force launched an airstrike in Rann area of Born State, the strike killed about 200 innocent Nigerians, including humanitarian aid workers and left over 100 people injured (Human Right Watch, 2018). According to the Service Chief who spoke to the media, he claimed that the air strike was initially targeted at Boko Haram fighters who were suspected to be at the location during the strike based on the intelligence report received.

In December of 2015, a military operation that swept the house of the leader of IMN El-Zakzaky in Zaria, Kaduna State killed over 300 Nigerian Citizens (Ibid) leaving other Nigerians serious injured.

On September of 2017, a military operation code name "Operation Python Dance" was carried out in the compound of the leader of the Indigenous People of Biafra (IPOB) a separatist movement, Nnamdi Kanu. During the military operation, properties of the IPOB leader were destroyed and his Dog was killed, some Nigerian citizens who were in the house during the

operation sustained serious injury. The operation was meant to suppress the agitation for the actualization of the State of Biafra (Punchng, 2018). According to a report by Punch Nigeria Online publication, “The soldiers, during the operation, invaded the home of Kanuwho was then on bail granted by the Federal High Court in Abuja where he was being prosecuted alongside others on charges of treasonable felony”. According to the lawyer of the IPOB leader, Ifeanyi Ejiogor, who argued that he received a phone call from the IPOB leader when the operation was going on at his house saying that his house is under siege, “soldiers are forcing themselves in, shooting at everything in sight, you can hear the sound of the sporadic gunshots from the background; please alert the world to the development in my house” (words of Mr. Kanu in the Phone Conversation). Furthermore, quoting Mr. Kanu during the phone call Mr. Kanu said “I can see it clearly from my room that they have gunned down many of my people downstairs, as they advance rapidly to my room; my life is no longer safe; tell the British Government, the United States and the world that the Nigerian government should be held responsible if anything happens to me”.

According to the Amnesty International report of 2015/2016, the Nigerian Military have committed extrajudicial killings and crime against humanity like sexual abuses and rape on people suspected to be terrorist. Some suspect who were arrested and detained by the Military during an operation do not have access to their family members or a lawyer, and were never charged to court at the time the study was conducted, inspite of different court rulings to release them. “Torture and other ill-treatment by the Police and Military remained uncontrollable in Nigeria. Extrajudicial executions, extortion, and indefinite detention of suspect were on the increase” (Amnesty International, 2016). According to a media report by the Inspector General of Police Mr. Ibrahim Iddris, the police Force has paid over 1billion naira (US\$5Million) as compensation to citizens for the violation of their human rights by the police force.

## **5.5 President Buhari's Reaction concerning the Rule of Law**

Following the 2015 general elections in Nigeria which ushered in President Buhari as the winner of the election, during the president's acceptance speech, he told Nigerians, that he is "commitment to ensure compliance to the rule of law by all agencies of government under his administration". Four months after his inauguration as Nigerian President cases of human right violations and abuses by the Nigerian Soldiers fighting Boko Haram made the rounds on the Media in reports from Amnesty International and Transparency International; the president reiterate his administration's concern to punish any agency found violating the rights of the citizens and his government would not condole any form of violations or abuse of the rule of law. "Let me reiterate this administration's commitment to due process, merit and total observance of the rule of law as central pillars of a prosperous and democratic society," the president said (PremiumTimes, 2017).

During the meetings of Commonwealth members in May of 2016, President Buhari in his keynote address, restated again with eloquence his administration's commitment to work within the ambit of the law and respect for the rights of his citizens and people in the Country." am committed to applying the rule of law and to respecting human rights," the President said (Ibid).

Sequel to the president's statements and commitment to work within the ambit of the law, the Vice President, Mr. Yemi Osinbajo during an interview section with journalist at the State House echoed loud the stands of the president to comply with the rule of law and obeying court orders. "I very strongly believe that we must obey the law. It is our duty as government to respect the orders of the court" said Mr. Osinbajo (Ibid).

Despite the president's verbal statement and public concern to adhere to the rule of law and obedience to court order, the president has come under "fire" and "strong criticism" for statements he made during his opening remarks at the "Opening of the Nigerian Bar Association's annual conference in Abuja" in 2018. During the conference the President said that "where national security and public interest are threatened or there is likelihood of their being



threatened, the individual rights of the person must take second place in favor of the greater good of society" (news24, 2018).

Following the president's statement at the conference, was a strong reaction from main opposition party the PDP saying "Our national interest as Nigerians is thoroughly embedded, protected, express and enforced only under the rule of law, and there is no way how Nigerians can allow an individual to superimpose or override the constitution with his personal whims and impulses" (Ibid).

This statement by the president also draw criticism from other civil advocacy group like the "Citizens Advocacy for social and Economic Rights" (CASER) they argued against the statement of the president saying, "President Muhammadu Buhari cannot use national security or national interest to justify his government's disobedience to orders of court directing it to either grant bail to specific citizens or commanding it to perform specific acts" (Ibid).

## **5.6 Conclusion**

The chapter has succeeded in investigating issues of counterterrorism tactics of President Buhari from 2015 to 2018. The Chapter analyzed the case of the Shiite leader El-Zakzaky and his wife, during the investigation and analyses of the case, the researcher undernoted that there was a case of outright disregard for court orders by the President even when the presidency cited reasons for the continued detention. El-Zakzaky has lost one of his eyes as a result of aggrieve torture melted on him by the Nigerian Army during his arrest. The unconducive environment where his is been held has point him in the threat of the possibility of losing his second eyes despite the court issuing his release on health grounds. The chapter also investigated the case of Col. Sambo Dasuki, a highly influential retired military officer and politician. The research also undernoted that the president of Nigeria, President Buhari has acted aggressively against his own people that he claimed to be protecting. The various cases of arrest and continued detention of Journalist and suspected terrorist members, ordering of military actions against unarmed civil individuals in their private homes in lure of national interest

suggest that though the president may be acting in good faith, but on the wrong path to achieving the “good faith”.

The next chapter concludes the study with the researcher reviewing the chapters of the research and drafting his findings based on the theories used and answering the questions that the research intend to answer which formed the bases of the study. The researcher will make come recommendations about his findings and suggest areas for further study.

## CHAPTER SIX

### SUMMARY OF THE CHAPTERS AND FINDINGS, RECOMMENDATIONS, AND CONCLUSION

#### 6.1 Introduction

Judicial orders are sources of law which contribute to the body of existing laws. The sanctity of any society depends largely on how the laws governing the society are being treated either justly or unjustly by all actors in the society. In a society where the laws of the land are treated with impunity and outright disregard, danger looms in such society.

The chapter summarizes the work of the study and the findings of the study. The researcher has made some recommendations and remark based of the findings of the study.

#### 6.2 Summary of the Study

##### **Historical Background of Nigeria`s Security and Terrorism**

In chapter two, while addressing the historical background of Nigeria's security and terrorism, the researcher identified that tribal conflict and religious battle has continue to rock down the country's security architecture, killing over thousands of Nigerians in every attack since decade. Issue of Global Security and terrorism indicated that terrorism remains one of the biggest threats to Global Security. The fight against terrorism has not only turned out to become an elementary concern for all states but also as an area of study for scholars especially as they have direct consequences on global security. As at the time of the research, the researcher identified that Nigeria is faced with five major security challenges which are; Boko Haram Crisis, Farmer-herder crisis, Islamic Movement of Nigeria Crisis, Niger Delta Crisis, and the Cameroon border crisis. The writer finds out that among others, terrorism in Nigeria is caused by Structural factors, failure of the government to provide primary needs for the people, complex politics in the country, religious and tribal issues are the causes of terrorism in Nigeria.

## **Counterterrorism in Nigeria and its Challenges, Laws and Provisions**

In chapter three, investigation on issues of counterterrorism tactics reveal that States must not only ensure that measures of counterterrorism adopted must comply with human rights laws and international humanitarian laws, state must ensure that those tactics follow due process and are not running untra-vires the provisions of the laws.

In the NACTEST is the policy framework that inspires the counterterrorism tactics used by previous Nigerian President including President Buhari. According to the NACTEST policy document, it is built under five pillars, (1) *to forestall* means to reduce the risk of radicalization, extremism or any factor(s) that may lead to violent protest in the country; (2) *to secure* means that the security situation of the country must be upgraded to face any threat of terrorism; (3) *to identify* indicates that there should be the ability to discover earlier any form of threat, and to ensure that the judiciary is empowered to adjudicate issues of terrorism in the best manner for the purpose of national security; (4) *Prepare* means that the government should be able to reduce any risk of terrorism in the country and in situation where they occur, the government must have the capability to respond to such occurrence; and (5) *to implement* is aimed at ensuring a coordinated harmony and cooperation among security agencies both within the country and outside the country especially borderlines.

The National Counterterrorism strategy was designed to mitigate incidence of terrorism in the country; the strategy was meant to handle issues relating to geographical deficiency, operational lapses and structural problems which may be exploited by terrorist to harm or attack the country.

The Nigerian counterterrorism tactics has suffered different forms of challenges in areas of operational deficiency like, inadequate skilled and trained personnel and inadequate weapons especially for the military which is the main tactics used by the Nigerian government. Human Rights abuses and corruption of the highest form part of the challenges. Different laws like "National Action Plan for Preventing and Countering Violent Extremism (PCVE), Terrorism Prevent Act, Administration of Criminal Justice Act, and

the Constitution of the Federal Republic of Nigeria have been put in place to bumper the counterterrorism tactics in Nigeria.

The Judiciary is a significant part of every counterterrorism tactics, and if the orders of the Judiciary are not obeyed, this could amount to outright loss of confidence and trust in the government system; when this happens it jeopardizes every chance for a counterterrorism tactics to succeed.

The counterterrorism tactics under former president Good luck Jonathan were expressive under political, developmental and military tactics. Good luck was more anxious to address issues of political stiffness and adversaries politics; sequel to that, the developmental needs of the people was the next in line, to ensure to educational system is prep up and out of school children return to classes; Jonathan's administration was not quick to deploy the military to the battlefield to fight Boko Haram, military was the last option if the political and developmental tactics fails.

While Jonathan during his term as Nigerian president saw issues of terrorism as a problem can could be addressed from the humanitarian angel, President Buhari saw otherwise; Buhari's counterterrorism tactics was all military in their nature, the initiated the relocation of the military base to the region were the insurgency was taken place, the increased the salaries of the military officers as a way to boost their moral. Buhari's counterterrorism tactics also include arrest and detention, and military operations.

### **President Buhari's violation of Judicial Orders from 2015 – 2018**

Chapter four forms a significant part of the study, the chapter addresses the issues of different violation of judicial orders by President Buhari, the case of El-Zakzaky and his wife, who is still in detention by the SSS since 2015 to the time the study was conducted. Different courts in Nigeria possession constitutional right to hear cases relating to that of El-Zakzaky have given orders to release the duo on bail, but those orders fell on deaf ears with no intention to obey the orders as at the time of the study. Because of the government refusal to obey the order of the courts, there have been several upraising springing from different supporters of El-Zakzaky and other

sympathizers especially from the international community. Human rights lawyers and advocates have made cases and written letters to the president to obey the order of its own court, in spite of all these concerns, the federal government is yet to obey the orders of its own courts.

Another case is the case of Col. Sambo Dasuki, who was arrested in 2015 also on charges of money laundering, possession of illegal firearm, and arms fraud. Different courts have made interlocutory judgment to release Dasuki on bail. Dasuki was released however rearrested on the same day, time and place of his release. However he has filed different law suit for the enforcement of his Human Rights, but the outcome of the suit were never obeyed by the federal government.

Countless of cases of arrest and detention are also matter that was discussed in the chapter, case of one Journalist John Adiri and others. Unlawful torture and dehumanizing treatment meted on Nigerians suspected to be member of a terrorist group.

### **6.3 Findings of the Study**

The researcher's findings are based on the rigorous analysis and understanding of the various cases studied in the research. The social settings in Nigeria based on ethnicity and religious factors also formed the bases of the researcher's findings.

After studying the different cases, the researcher finds out that President Buhari's counterterrorism tactics has been largely the use of the Nigerian Military Force both within the country and at the borders of the country, Arrest of different people suspected as terrorist, and the continued detention of arrested suspect on the premise of national interest and security.

Evidence have shown in different cases where the Nigerian Military was deployed to fight insurgency but rather ended up killing innocent people. The Military forces while carrying out their operations have killed over thousands of innocent Nigerians who died as a result of failed intelligence received by the Nigerian military. Different innocent villages and localities have been

attacked and bombed by the Nigerian military during their operations with the assumption that terrorist live there, or they serve as hideout for terrorist.

There are different cases of arrest and continued detention of suspected individuals and terrorist; example is the case of El-Zakzaky and his wife, the case of Col. Sambo Dasuki and the Case of John Abiri, these people were arrested and are in detention without trial or court order to detain them since 2015 to the time the study was conducted.

Military operations against different groups like the IPOB group, the Niger Delta Avengers have killed dozens of members of these groups and several others have been arrested and detained for over two years as at the time the study was conducted.

These individuals who have been arrested and detained have approach different courts of law to enforce their fundamental rights as citizens. The courts in Nigeria which was created and empowered by the constitution to decide on issues brought before it; and its decisions must be binding on all persons or authority(ies) in the country have made declaration and orders, but those declarations and order were not obeyed or complied with by the president.

During the judgment of different cases of human right violations brought before it, the court have ruled for umpteenth time against the actions of the federal government for violating the rights of its citizen; and ordering the federal government to release the detained suspect on bail conditionally or unconditionally. In the light of these court orders, the federal government has vehemently disregarded the court and its orders, flaunting courts proceedings by refusing to bring suspects to court for fair hearing. The federal government has also made known its position concerning the rule of law during its speech before body of lawyers and members of the courts that in issues of national interest the Rule of Law which include court orders shall be subservient and suspended.

Laws are pillars that create the peace and order in a society; they must be obeyed and strictly executed as stipulated by the law (Lord Denning). Society

cannot exist without laws and laws cannot exist in vacuum. Several conditions resulting from human actions have caused the breakdown of laws and these conditions are humanly made, like condition of war, terrorist attack, crimes, kidnapping, money laundering to mention but a few. These lists of activities are caused by the frustration of man resulting from the failure of existing state structure. In situations like this, it is already established from the actions that the laws have been broken, there is urgent need to make amends and prevent further breakdown of laws in the society, because a continue break down of laws signals danger ahead for the society thereby endangering the lives of people in the society.

Putting the case of Nigeria in purview under President Buhari from 2015 to 2018 as the study did, terrorism has led to the death of over thousands of lives in Nigeria, and the rate of tension caused by terrorist attack has risen to the height where men and women no longer feel safe to sleep in their own homes anymore. Sequel to terrorist attack and other forms of crimes in the country, the onus to repair and address the ill situation in the country lies in the hands of the Federal government headed by the President. Government structure like the office of the President is created by law, and the same law that created the Office of the President mandated the President to act within the scope of the law that created it. Thus, any move to act outside the law or beside the law has resulted to disrespect for the law.

In the study, the researcher has hypothesized that the laws that holds manifest in Nigeria have been violated by the President in his attempt to address issues of terrorism. It might be said that policy makers are limited with time in real life and the resource available to them are not much; so decision makers like the president builds up tools to reach final decision from the present situation; in spite of the limited time according to the research, something still remains the same; the president is guided by the law, and must play within the laws, the most important duty is to ensure that all its agencies and institutions operate within the parameters of the law.

The primary function and power of the president is strengthened by the will of the people, and the most respected source of power in Nigeria is the



Constitution of the Federal Republic of Nigeria. The constitution made the President the Commander in Chief of the Nigerian Arm Forces. Thus other agencies operating under the president gets their anointing from the constitution.

Today, Nigeria is facing one of the devastating crises of terrorism and an even complicated policy of counterterrorism has added up to the crisis. The president has deployed various tactics to address the terrorism crisis but several factors still erupt, therefore challenging the effort of the president.

The findings of the researcher also include the fact that the judiciary and judicial orders which are forms of law in Nigeria are under attack by the Nigerian president for the umpteenth time. Such attitude may have essential damage to the democratic system of government in the country, including international laws which the country is a pattern to. The attitude of disobeying court orders could raise so many questions; whether the president is operating under a democratic system or dictatorship, but from recent evidence still in the public domain at the time of the research, proves that the president has step outside the democratic system of government to operate a different and difficult system of government which the Nigerian citizens did not subscribe to, a system akin to military dictatorship.

Judicial orders been an essential form of law if obeyed by all actors in the country, can guarantee an amount of peace in the country and trust in the government. When the people feel they trust and can trust the government to act within the purview of the law, regarding their rights as citizens and addressing issues that affect them fairly for the sincere benefit of the country, they will perform their civic duties and obligations as citizens willingly by way of cooperating with security agencies in the fight against terrorism and other challenges facing the country.

The lack of trust on the government has always made the fight against terrorism in Nigeria very difficult for the government, because there is disconnect between the government and the people resulting from failure of government to obey the orders of its own court, and respect its own laws.

In responds to what informs the president in choosen a counterterrorism tactics, according to the Just War theory, it is the authority who decides on what tactics to use in addressing problems that challenges the society; and the authority can use violent tactics on grounds of "self-defense" to ensure that stolen assets belonging to the government are recovered, and offenders are punished for their wrongful doings. JWT indicates that while the authority uses violent tactics, it is with a positive intention to achieve peace and economic growth for national interest.

However, in reflection of the cases studied in the research, and the various sources deployed during the course of the study, it revealed that President Buhari is being persuaded and manipulated by those person of interest called "the cabals" who financed his campaign and helped him win the 2015 election; whose intention is to feather their nest irrespective of the aftermath.

Al-Mustapha Haruna Jokolo the former Aide de Camp (ADC) to General Muhammadu Buhari echoed this believe in an interview with Premium Times that "the Cabals" who are largely from the North are misleading the President from obeying court orders that concerns the case of Dasuki and other persons, haven an established fact that Dasuki facilitated the 1983 military coup that ushered Buhari as Military Head of State in Nigeria in 1983; Dasuki also supported Buhari's political dream of becoming a civilian president even though Dasuki became a member of the opposition party,(PDP) and was appointed as National Security Adviser by former president Good Luck Jonathan in 2012. Jokolo echoed that, the continued detention of personalities by the President is pre-planned and orchestrated to shut people down especially those who worked against him during the 2011 general election that was keenly contested but was flooded with electoral malpractice that saw Buhari lost to Good luck Jonathan.

According to a statement made by the Attorney General of the Federation, Abubakar Malami, that the federal government reserves the right to arrest and detain any citizen even in the face of court orders; this echoes the fact that the decision to flaunt court orders are not unintentional but with deliberate intention under the guise of national interest.

In the face of selective judgment displayed by the federal government for umpteenth time, the CFRN under Section 287 has imposed the duty on every person and authority to comply with court orders irrespective of any circumstances. The CFRN says that the Judgment of every court of law must be obeyed. There is a duty on everyone to respect the decision of the courts of law, and for no reason should anyone disrespect the order of the court. The constitution only permits that where the Judgment of a lower court or Court of Appeal other than the Supreme Court is passed, the judgment can only be appealed to a higher court or the Supreme Court and the judgment of the Supreme Court is supreme and final and appeal lies to no other court.

The researcher also finds out that most of the President's counterterrorism tactics like arrest and continued detention of people suspected as terrorist are meant to settle scores with people who are disloyal to the administration. Also most people clamp on the Presidents selective judgmental attitude to inflict pain on their adversaries. Like the case of the Journalist, John Abiri who was arrested and detain for over two years after different courts ordering his release, but the federal government disobeyed the order. Abiri while in custody recounted that the reason for his arrest was related to a story he published which some top personalities in the oil industry did not admire, and they clamped on the Presidents bias attitude to petition him referring to him as aiding and abetting terrorism in the country.

Every violence's by the terrorist only result to more violence by the State. Violence is a continuous thing in today's society and killings has become a routine thing in most society today; resulting to violence against violence. Pro-offering a better counterterrorism tactics and proactive move to combat terrorism will mean that Nigeria must be proactive rather than reactive.

In Nigeria, not a single terrorist or person suspected and arrested for terrorist related crime have been tried and convicted through the process of law, but rather what happens is killing and disappearance of people with no trace of recovery. The difficulty that lies in the definition of what terrorism is, cumulate to the problem of pro-offering a violent free counterterrorism tactics; however only act of terrorism has been defined, like bombing, car bombing, suicide

bombing, kidnapping, hijacking, public shooting, all these and many more are classified as acts of terrorism, these has been the bases for counterterrorism tactics not terrorism, because terrorism has not yet been defined.

After the 9/11 attack on the US, the US government declared war against terrorism. And this became a major focus of the US foreign policy; which is a profitable venture for the US. The declaration of war against terrorist adjusted the settings of the society and metamorphosed the society into a "Security Based Society" where everyone is a suspected terrorist. Because of this changes and development the rights and liberty of people are curtailed especially in some countries.

In the name of security, the government through its security agencies acts in a rudeless manner all in the name of security check and protocol. People are arrested without warrant making liberty a casualty. We are now enslaved to security; power now lies in the hand of authority to commit all forms of atrocities in the name of national security.

According to the social contract theory, the social contract gives birth to a "social organisation", called the "State". The social organisation was formed to guarantee individual rights, human liberty and freedom and equality among man. Social contract (Laws and establishment of governing body) are a creation of the general will of the people. And that when the governing bodies or the laws do not conform to the "general will" of the people, both the law and the governing bodies should be made-off with. Equality, rights and freedom of persons should be highly protected and respected by the authority in power because ultimate sovereignty remains with the people. But when the government neglects to provide and protect the rights of the people, relegating its duties, what should the people do? When the people are oppressed without justice what happens to them? When people live in the slump with no chance of a better life who guides their thought process? When people are victims of terrorist attack who have experienced out right killing of their parents, raping of their sisters and mother before their eyes who treats their psychological trauma? When people are victims of social disparity, marginalization and could not get justice in the court of law what is

next for them? These are the big questions to be asked, these are the issues to be addressed because these are the counterterrorism tactics and proactive move to combat terrorism especially in Nigeria where the act of terrorism is fertilized by internal factors.

When the citizens are bedeviled with challenges of these sort mentioned above, when they do not get justice for being victims what they resort to do, is to take care of the situation by themselves by taken things into account and that is the point. This people are called victims or suspect and when they refuse to be called victims or suspect are they labeled as terrorist.

Solutions to acts of terrorism and counterterrorism tactics cannot be settled in arms, or violence, not with harsh laws, or sentimental judgment, not with the minority in mind but the majority in thought. Arms and violence, disrespect for laws has not been able to control acts of terrorism, arrest and detention has not been able to deter or control acts of terrorism because every violence results to more violence. What should be done is to understand and answer the "Why" question. Why do people bomb public places, (Mosque, Church, Market, Malls, Park etc), Why do people engage in kidnapping, Why do people engage in suicide bombing killing themselves? Why the act of terrorism? Until these questions are given the deserved attention, counterterrorism tactics will always cause more harm than the good it was expected for.

Sequel to the "Why" question, the government must address the "How" question; How have we (the government) being able to respond to issues of "right to life" of the citizens which include the right to decent life, food, shelter, clothing, self dignity, protection, freedom, justice.

The government must take a major role not by arresting citizens or detaining them for years without trial or bail, not by enacting laws, not by creating counterterrorism tactics of military format, and not by disrespecting court orders for the sake of national interest, but by taking care of human rights, food, shelter, education, right to a decent living, if these things are taken care of, there will be a change in the society.

#### **6.4 Conclusion, Recommendations and Remark**

Ethnic and religious sentiment has always been alive and healthy in the Nigerian society and this is the “cancer” that the society suffers from when taking decisions. The society is divided on bases of ethnicity. When crimes are committed by a person of an ethnic extraction, such a person cannot be punished by an authority that shares the same ethnic extraction with the suspect, only when such a person is a dissident or disloyal just in the case of El-zakzaky and Col. Dasuki; both victims shares the same ethnic extraction as the President, but Dasuki was disloyal and became opposition, while El-Zakzaky is a Shiite Muslim and the President is a Sunni Muslim. In complex situation of this kind where ethnicity threatens justice, the government must detach its self from the process and allow the process of law to take its course, the government must allow the fate of the suspect to be determined by the content of the law and the government must at all times preach unity of the country with one voice, avoid back slashing of other minor ethnic group just to gain political favor from the dominant ethnic group.

Adversary politics must be avoided when playing the game of politics in Nigeria. Adversary politics is more dangerous than ethnic politics. Adversary politics has the capacity to run the country into deficit and danger of breakdown. It is politics of hatred that involve hate speech, ruining your opponent down at all cost even if it means killing your opponent. Adversary politics deter ideological politics that can promote all other good policies in the good. It can cost the country economy fortune where a political party that emerges in power will disregard the projects started by previous administration that is from the opposition party.

There should be National Policy Document for Nigeria where every administration irrespective of party must seek inspiration from before embarking on any project in the country. This will help to reduce unnecessary projects and spending by different administrations. When there is a National Policy Document, the government can deliver for its people the basic needs that they deserve. When the people are cared for and government play its

major role as the caregiver, then the people can trust the government even in hard times and will refrain from engaging in crimes; because of lack of trust in the government to handle issues in difficult times, people engage in different criminal activities either to overturn the government or to steal from the people to save for rainy day.

The Nigeria judiciary and justice has always suffered in the hands of politicians who offer huge sum of money to decide on matters that affect them, not allowing the process of law to produce the required justice. The judiciary has also suffered from abuses of its proceeding and disrespect for its orders. In a situation like this, the Nigeria judiciary must have the require independence to operate without fear or favor. Legislation should be made that will give more powers to the judiciary to hear cases on issues that may concern politicians or government officials of top positions. If the judiciary operate under fear, then the society will be akin to a "State of Nature".

The government should provide a "Victim Care Policy" (VPC) that will carter for victims who suffered from different forms of abuses and attack. Adequate care must be given to these people, and a thorough examination and clinical test should be conducted for rape victims, and family members, especially those who cannot afford the necessary effort to help themselves from such pain. The policy should include different stages, Post Abuse Stage, Clinical stage and Post Clinical Stage. During the clinical stage there should be engagement activities that will help emancipate the victim from the trauma. Identities of these victims should be made private to avoid verbal abuses from the public that could cause the victim to remember the incident.

The formula of counterterrorism should involve countering their recruitment forces, their finances, ideology and communication and none of this formula can be achieved at the point of gun.

Government should avoid strategic interest in the regions and selective judgment and in the fight against terrorism. And must not neglect civil-military relations while formulating its plans. In this context there should be national agreement on the ownership of the war on terror. The inability to establish a

civil-military corporation could make devising a productive counterterrorism tactics very difficult. Both civilians and the military have a role to play. By involving the civilian forces in formulating a counterterrorism tactics, it can assist in connecting the tactics to suit the law of the country and respect for democracy. When this is done, the policies are formulated in a manner that will address the sect violence, which majorly occurred in the domain or areas of unarmed civilians.

The researcher has been able to identify the different forms of terrorist activities at the global level and at the state level, using Nigeria as case study at the state level. The aftermaths of terrorist attack remains a major concern for the State especially, because act of terrorism occurs within state or spills over to other parts of the state and the aftermath is never pleasant or romantic. The consequence of terrorist attack is what inspires the need to prevent and counter terrorism through a process called Counterterrorism.

Reflecting on the case of the Nigeria's President Buhari's counterterrorism tactics, the sources of data collected and reviewed proved that the President has violated Judicial orders from 2015 – 2018 for the umpteenth time. And this proves the hypothesis of the researcher to be factual and correct based on available evidence.

### **Recommendation for Future Study**

The researcher recommends for future study the following;

- i. An investigation into the actions of the Nigerian government on the violation of Human Rights by the Nigerian Army and laws created to prevent further violation
- ii. An investigation on what happens to victims who suffered from psychological trauma, resulting from death of both parents and rape of their sisters and Mother in Nigeria



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## PLAGIARISM TEST REPORT

### AN ANALYSIS OF THE COUNTERTERRORISM TACTICS OF PRESIDENT BUHARI AND THE VIOLATION OF JUDICIAL ORDERS IN NIGERIA FROM 2015 - 2018

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## ETHICS COMMITTEE APPROVAL



05.08.2019

Dear Ikenna Emmanuel Nwachukwu

Your project "**An Analysis Of The Counterterrorism Tactics Of President Buhari And The Violation Of Judicial Orders In Nigeria From 2015 - 2018**" has been evaluated. Since only secondary data will be used the project it does not need to go through the ethics committee. You can start your research on the condition that you will use only secondary data.

Assoc. Prof. Dr. Direnç Kanol

Rapporteur of the Scientific Research Ethics Committee

A handwritten signature in black ink that reads "Direnç Kanol".

**Note:** If you need to provide an official letter to an institution with the signature of the Head of NEU Scientific Research Ethics Committee, please apply to the secretariat of the ethics committee by showing this document.

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