THE ROLE OF THE UNITED NATIONS IN CURTAILING ASYMETRIC ARMED CONFLICT: BOKO-HARAM IN PERSPECTIVE

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ABSTRACT

This research examines the consequences and implications of the ongoing armed conflict involving Boko Haram insurgents on the one hand and State and state-sponsored groups on other. It also examines the role the United Nations should play in combating and controlling the conflict. The purpose of this study is to provide an in-depth analysis of the character and nature of the conflict between the Nigerian government troops and the Boko Haram insurgents with a view to highlighting the role as well as the mechanisms that can be adopted by the United Nations in preventing, managing or controlling asymmetrical armed conflict. The research reveals that mechanisms available to the United Nations for combating asymmetric conflicts exist under the United Nations Charter 1945. However, their effective application and implementation are largely determined by political considerations. There is a general inclination towards activating those mechanisms to international asymmetric armed conflict than towards non-international asymmetric armed conflict which as has been the major source armed conflict in this contemporary age. In view of findings and analysis, the research makes recommendations for improving the present legal situation.

APPROVAL PAGE

This dissertation project has been read and approved as meeting the requirements of the School of Post Graduate Studies, Faculty of Law, Nasarawa State University Keffi,Master of Law LL.M (Hons).

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CERTIFICATION

I certify that this project is the product of my research and has never been presented by anybody in full or in part and the materials consulted in the course of this project had been accordingly acknowledged.

RahimatuAminu.

transfer –

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LIST OF ABBREVIATIONS

AQIM	-	Al-Qaeda in the Islamic Magheeb
BH	-	Boko Haram
CEP	-	Circular Error Probable
CJTF	-	Civilian Joint Task Force
CI	-	Counter Intelligence
EBO	-	Effects Based – Operations
ECOMOG	-	Economic Community of West African States Monitoring Group
ECOWAS	-	Economic Community of West African States
FDI	-	Foreign Direct Investment
GDP	-	Gross Domestic Product
GEOINT	-	Geospatial Intelligence
HUMINT	-	Human Intelligence
IAC	-	International Armed Conflict
ICRC	-	International Committee of Red Cross
ICTY	-	International Criminal Tribunal for the former Yugoslavia
IDP	-	Internally Displaced People
ISIL	-	Islamic State in the Levant
IPTF	-	International Police Task Force
JSTARS	-	Joint Surveillance and Target Attack Radar System
LAS	-	League of Arab States
MASINT	-	Measurement and Signature Intelligence
MIFOR/MSFOR	-	Multinational Implementation force/multinational stabilization force

MICIVIH	-	International Civilian Mission in Haiti
NATO	-	North Atlantic Treaty Organization
NIAC	-	Non – International Armed Conflict
UN (Charter)	-	United Nations Charter
OAU	-	Organisation of African Unity
OAS	-	Organization of American States
OIC	-	Organisation of the Islamic Conference
OSCE	-	Organization for Security and Cooperation in Europe
OSINT	-	Open –Source Intelligence
PD	-	Probability of Damage
PRST	-	Statement by the President of the Security Council
SIGINT	-	Signals Intelligence
TECHINT	-	Technical Intelligence
TIC	-	Troops in Contract
UAVs	-	Unmanned Arial Vehicle
UNAMIR	-	United Nations Assistance Mission for Rwanda
UNTAES	-	United Nations Transitional Administration for Eastern Slavonia
UNMIBH	-	United Nations Mission in Bosnia and Herzegovina
UNHCR	-	United Nations High Commissioner for Refugees
UNPROFOR	-	United Nations Protection Force
USSR	-	Union of Soviet
US	-	United States
VBIEDS	-	Vehicle-borne Improvised Explosive Devices

MICIVIH	-	International Civilian Mission in Haiti
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UNPROFOR	-	United Nations Protection Force
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US	-	United States
VBIEDS	-	Vehicle-borne Improvised Explosive Devices

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THE ROLE OF UNITED NATIONS (UN) IN COMBATING ASSYMETRIC ARMED CONFLICT: BOKO HARAM IN PERSPECTIVE

CHAPTER ONE

INTRODUCTION

1.1 BACKGROUND TO THE STUDY

Immediately after World War II in 1945, the United Nations Organization (UN) was formed with lofty aims of not only preventing wars but also fostering world peace and security.. The Charter of the United Nations (UN Charter) expressly identifies peace and security of the global community as one of the most fundamental objectives of the UN. However shortly after the formation of the UN, the Cold War started and became an existentialist threat to the UN as an organization as well as the UN's peace and security agenda. Even though, the cold war between the East and the West came to an end with the unification of Germany and dissolution of the Union of Soviet Socialist States (USSR), the relics of the Cold War still creates tension in many parts of the World. During the Cold War, the role played by the United Nations in maintaining international peace and security appears commendable when compared to the role played by its predecessors, the League of Nation before World War II[1].

[1] World War II History net. www.historynet.com_war II

Although the Cold War is over, the UN faces a more serious crisis in the form of guerilla fights, terrorism, insurgency and attacks from non-state actors in general. The armed violence aspects of these forms of crises generally constitute asymmetric warfare[2].

The Boko Haram sects until recently have taken and ceased large swathes of land and proclaiming Kalifate in some towns and villages in northeast of Nigeria prompting a fierce response from the Nigerian government culminating into an armed conflict between the Nigerian troop and the Boko Haram insurgents seeking to create an Islamic Kalifate within Nigeria. The resultant conflict led to a devastating humanitarian disaster. Internal displacement of the civilian population in the affected areas became rampant, there were widespread report of human rights violation committed by both sides involve in the conflict. Stemming from this, a multinational military task force was established by the Nigerian, Nigerien and Chadian states to counter and defeat the insurgents. Consequently, majority of lands and communities earlier taken over by the insurgents were recovered. The insurgents in their part resorted to acts of terrorism and guerrilla warfare against military as well as the civilian population.

While many tend to consider the ongoing insurgency and counter-insurgency armed conflict presently going as domestic affairs of Nigeria and the countries involved in the fight against the insurgents, the situation has international

[2] Wolf Heintschel Von Heeineigg "International Law Studies, Vol 87.

consequences and implications considering the wide scale humanitarian crisis currently experienced in the affected areas such as mass internal displacement, kidnapping and abduction, indiscriminate killings of civilians and the recent pledge of allegiance to the international terrorist group ISIL by Boko Haram.

A major challenge in identifying the role of the UN in asymmetric warfare is the involvement of non-state actors such as the Boko Haram group. These groups do not participate in UN meetings nor do they consent to many treaties applicable to the UN's mandate to ensure peace and security. This challenge is exacerbated by the fluid and debatable meaning of asymmetrical warfare. With the increasing involvement of non-state actors in armed conflict, the definition of asymmetric warfare has moved away from a state-centric view. The terrorist attacks of 9/11 have also lead to an increased focus on asymmetric warfare and its changing nature.

1.2 STATEMENT OF THE PROBLEM

The focus of this research is the determination of the question whether the ongoing armed conflict between the Nigerian government and the insurgents qualified properly as an armed conflict which requires international intervention within the scope of international law.

1.3 THE PURPOSE OF THE STUDY

This research examines the consequences and implications of the ongoing armed conflict involving Boko Haram insurgents on the one hand and State and state-sponsored groups on other and the role the United Nations should play in combating and controlling the conflict. The purpose of this study is to provide an in-depth analysis of the character and nature of the conflict between the Nigerian government troops and the Boko Haram insurgents with a view to highlighting the role as well as the mechanisms that can be adopted by the United Nations in preventing, managing or controlling asymmetrical armed conflict.

1.4 AIM AND OBJECTIVES

The main aim of this research work is to use the Boko Haram conflict as a case study by which the legal framework that the UN can apply in dealing with asymmetrical armed conflict can be ascertained. The objectives are to: confirm the validity of the proposition that the Boko Haram conflict is asymmetrical; ascertain and analyse the existing law and practice by which the UN maintains international peace and security through the prevention or control of asymmetrical armed conflict; and proffer solutions to any identified shortcomings in the identified existing law and practice.

1.5 SCOPE OF THE STUDY

The geographical scope of this research is limited to Nigeria. The subject matter is also limited to Asymmetric warfare and the role of the United Nation in tackling the challenges thereto. It centered on the activities of the Nigerian Boko Haram Sect; (insurgents). Their genesis, and the approach adopted by the Nigerian Government and the international community in tackling since its bold manifestation in 2011. The research will also focus on the role of the United Nations in controlling the conflict.

1.6 SIGNIFICANCE OF THE STUDY

The vast majority of armed conflicts are now non-international. These non-international armed conflicts are mostly asymmetrical. This research will contribute to the legal discourse on the role of the UN in preventing and combating asymmetrical armed conflict. In addition to the academic contribution from attaining the aim and objectives of this research, the legal analysis done in this research can be applied to the practical work of the UN in situations of asymmetrical armed conflict.

1.7 METHODOLOGY

The method to be used would be doctrinal. The United Nation Charter, International Conventions, Regional treaties, the Military/para Military manuals would be analyzed in relation to the activities of *Boko Haram*. Books by

eminent scholars and journals, newspapers and periodicals will also be used. Reference will be made also to the various materials, which include Statutes, Papers presented at various workshops, the media and other electronic information assessing system.

1.8. LITERATURE REVIEW

The delicate nature of the subject matter entails a global discussion in respect thereof. Lawyers, international commentators and jurist have given much scholarly and pragmatic analysis of the concept and operation of asymmetric armed conflict and its effect on global understanding of warfare and world peace. Academic time and effort has been placed in the discussion of asymmetric armed conflict and insurgency around the world as well as the role of the United Nations in the midst of warfare or armed conflict. The researcher takes a review of some of the most relevant for the purpose of this thesis.

Micheal N. Schmit, in his published article[3] discussed the asymmetry's influence on the law governing method and means of war fare. The article examines the various form of asymmetric war fare with particular reference to technological asymmetric war fare. The author citing Johnson and Metz[4] provided a broad definition to asymmetric warfare to mean *acting, organizing, and thinking differently than opponents in order to maximize one's own advantages, exploit an opponent's weaknesses, attain the initiative, or gain*

[3] Asymmetrical Warefare and International Humaniterian Law.
[4] Asymmetry and US Military strategy: Definition, Background and Strategic Concept (2001)

greater freedom of action. It can be political-strategic, military strategic, or a combination of these. It can entail different methods, technologies, values, organizations, time perspectives, or some combination of these. It can be short-term or long-term. It can be deliberate or by default. It can be discrete or pursued in combination with symmetric approaches. It can have both psychological and physical dimensions.

In his classification of asymmetric warfare, the author classified the concept to wit: Doctrinal, Normative, Participatory, Technological and Ad Bellum or Moral Asymmetric warfare.[5] The general scope of the article was the effect of technological asymmetric warfare of the United States of America against the Iraqi military during the invasion of 2003 and its legal implication especially within the framework of the international human right law.

This article viewed asymmetric warfare only within the perspective of states belligerency i.e United States Military and the Iraqi Ba'athist party of Saddam Hussein. Indeed, in his analysis of the concept of asymmetric warfare reference was not made to insurgency as a form of armed conflict that can result in asymmetric war, rather asymmetric warfare was only consider within the scope of state actors. Thus, the author took a much a narrow path in the discussion of the concept of asymmetric warfare as it relates to armed conflict.

[5] N. Schmit, Asymmetrical Warfare **and International Humanitarian** Law, 62 A.F. L. Rev. 1 2008

Stephen J. Blank, in his discussion of the concept of asymmetric warfare rejected the traditional conceptualisation of asymmetric warfare.[6] He postulates that asymmetric warfare is more of a military strategy and tactics than of strength and technological advantage. He identified nine problems with the traditional definition of the term and opined that an attempt to define the concept will lead to more confusion and undermine the US and its allies' readiness to deal effectively deal with any threat of warfare. He advocated that the US should replace the concept of asymmetrical threats with the concept of strategic threats, such as the proliferation and/or use of weapons that can inflict truly strategic losses or negative outcomes upon the United States and/ or its allies.

According to him; while the term "asymmetry" is entirely appropriate to a consideration of strategies, operations, tactics, the nature of the enemy, and the war itself, using it to analyse and assess threats seems misplaced and insufficient. The author view point intrinsically linked asymmetric warfare to strategy and tactics and not military might thus be expunging the existence of asymmetric warfare within the concept of military strength.

The view point of Stephen J. Blank only took a narrow approach to the understanding of the concept of asymmetric warfare based on the conceived existentially threat to the US. This analysis is limited in scope to the extent that its limit asymmetric warfare to strategy only without looking at the differences

[6] Rethinking Asymmetric Threats (2003)

in technological, financial and physical ability to organised, perpetrate, initiate or counter-these strategies. Indeed, a strategy without the means of execution amounts to nothing.

Eliav Lieblich and Owen Altermann in their book took a general outlook on the implication of asymmetric warfare between state actors and non-state actors within international human right law. The authors, focuses on the more problematic aspects of this type of warfare: how to apply the principle of distinction between combatants and non-combatants, between military and non-military targets, the proportionality requirement, and how to ensure compliance with the law unilaterally specifically the duty to investigate alleged violations. The book also look at the various international treaties governing the principles of international humanitarian law. The major area of focus of the book is the application of international human right law to transnational asymmetric armed conflict.

While this book provides an insight into the application of human right law in transnational asymmetric armed conflict its focus is limited in scope to transnational asymmetric armed conflict i.e conflict by a state actor against a non-state actor within the territory of another state.

Andreas Paulus and Mindia Vashakmadze, in their article consider the notion of armed conflict focusing on how the rules of international human right law applies to asymmetric war fare. The article examined contemporary asymmetric armed conflict and the application of international human right law to them. The

article attempts to show that the traditional dichotomy between international and non-internationally armed conflict is not readily feasible in line with contemporary realties in particular the existence of transnational asymmetric armed conflict and the operation of non-state actors within the territory of occupied state. The discussions of the authors were focused mainly on the Geneva Convention and its supporting Protocols I and II. In their analysis, the rules of international law apply to internal conflict and extent to an identifiable terrorist network within the state.

The article though did not discuss other mechanism of the United Nations in dealing with asymmetric war fare, it only focused on the determination of the applicability of rules of international law to asymmetric armed conflict with particular reference to the Geneva Convention.

Daniel O. Donnell in his article[7] examines international treaties and laws against terrorism and terrorist related activities. The concept of terrorism within the field of international law circle was considered. The article examined acts of terrorism within the scope of international law, international human right law and international humanitarian law.

The article also observed the scope of international treaties against terrorism as it relates to the conventions on safety of aviation, maritime navigation, crime

[7]International Treaties Against Terrorism and The Use of Terrorism During Armed Conflict and by Armed Forces International Review of the Red Cross, Vol 88. No 864, 2006

against internationally protected persons, against hostage, taking, against bombing and financing of terrorism.

United Nations publication, discusses the issues regarding the application of human right law to armed conflict. provides a thorough legal analysis and guidance to State authorities, human rights and humanitarian actors and others on the application of international human rights law and international humanitarian law for the protection of persons in armed conflict. outlines the legal framework within which both international human rights law and international humanitarian law apply in situations of armed conflict, identifying some sources of law, as well as the type of legal obligations imposed on the different parties to armed conflicts. It explains and compares the principles of both branches and also analyses who the duty bearers are of the obligations flowing from international humanitarian law and international human rights law.

The article also deals with accountability and explores the legal framework determining State and individual responsibility for violations of international human rights and humanitarian law. Examined also is selected United Nations practice in applying international human rights and humanitarian law in situations of armed conflict, including practice by the Security Council, the Human Rights Council and its special procedures, the Secretary-General, and the Office of the High Commissioner for Human Rights. This chapter shows

that the United Nations has a well-established practice of simultaneously applying international human rights law and international humanitarian law to situations of armed conflict, including in protection mandates for field activities. While this article provides a general framework for the application of international human right and humanitarian law to armed conflict it provided scant analysis of the modalities for the enforcement of these laws on non-state actors who may generally consider themselves as not bound by international law.

Robin Geib in his article,[8] discussed the effect of asymmetric armed conflict on general principle of international humanitarian law. The articles examined how the tactics deployed by belligerent in asymmetric armed conflict leads to violation of principles of international humanitarian law such as proportionality, distinction as well as reciprocity. The article took a critical view of these breaches as occasioned during the Iraqi invasion of 2003 and how civilian lives were lost due to asymmetric armed conflict. This non-compliance to the rules of international law according to the article is mostly perpetrated by the weaker side in its attempt to avoid the superior military strength of the stronger side. The article also examines the resort to the principle of military necessity by some powerful country during asymmetric armed conflict with its attendant devastating consequence on civilian lives.

[8] Robin Geib, Asymmetric Conflict Structures, International Review of the Red Cross, Vol 88 NO. 864, 2006.

The article for all purpose did not provide mechanism or necessary legal suggestions on modalities to enforce compliance with the rules of international humanitarian law during asymmetric conflict. It's also short on the responsibilities or duties of the United Nations in such circumstance.

Toni Pfanner, in his own article,[9] examines the concept of asymmetric warfare and humanitarian law. The articles consider asymmetric warfare from broad categories of international, internal and transnational asymmetric warfare. The article examines the difficulty in applying some of the principles of international humanitarian law to some complex aspect of asymmetric warfare such as terrorism. The author posit that such principles of international humanitarian law should not apply to activities of terrorist organisation rather domestic and international human right should be the applicable law with international humanitarian law providing the general guidelines.

The article also considers the role of some international agencies such as the International Committee of Red Cross (ICRC) in situation of asymmetric warfare and how to deal with it.

The article in proposing the removal of the application of international humanitarian law to some terrorist organisation such as Al-Qaida will inevitably lead to the conclusion that conflict involving such organisation and a state actor is not an armed conflict. International humanitarian law applies to any situation

[9] Toni Pfanner, Asymmetric Warfare from the Perspective of Humanitarian Law and Humanitarian Action, International Review of the Red Cross, Vol 87 , N0.857 2005.

of armed confliction without distinction as to parties. What is of concern is the appropriate international humanitarian law or rule applicable in each circumstance.

Ekaterina Stepanova, in her book,[10] examines the act of terrorism as asymmetric armed conflict. The author defined terrorism as the intentional use or threat to use violence against civilians and non-combatants by a non-state (trans- or sub-national) actor in an asymmetrical confrontation, in order to achieve political goals. The book considers various categories of terrorism. The concept of asymmetric conflict was classified as power asymmetric, status asymmetric and two-way asymmetric. The book considers some of the ideological considerations for terrorism and the structures of terrorist organisation.

It examines the synergy between the extremist ideologies and the organizational models of non-state actors that use terrorist means in asymmetrical conflict. This synergy is what makes these terrorist groups so resilient in the face of the counterterrorist efforts of their main opponents the state and the international system which are conventionally far more powerful. The book argues that the high mobilization potential of the supra-national extremist ideology inspired by al-Qaeda cannot be effectively counterbalanced at the global level by either the mainstream secular ideologies or moderate Islam. Instead, it is more likely to be affected and transformed by radical nationalism. Unless the political transformation of violent Islamist movements in specific national contexts is

[10] Ekaterina Stepanova, Terrorism in Asymmetric Conflict; Ideological and Structural Aspect, Stockholm International Peace Research Institute, Oxford University Press

encouraged and the transnational ideology of violent Islamism is 'nationalized', it is unlikely to be amenable to external influence or to be destroyed by repression.

Wolff Heintschel von Heinegg in his article[11] consider asymmetric warfare to mean applying armed hostilities in which one actor / party endeavours to compensate for its military, economic or other deficiency by resorting to the use of methods or means of warfare that are not in accordance with the laws of armed conflict or of other rules of public international law. The article critically highlighted the problems associated with the application of international humanitarian law to situations of asymmetric conflict. The article suggested means by which international humanitarian law can be enforce during asymmetric warfare particularly by domestic or international.

criminal prosecutions of those involved in the breach of rules of international humanitarian law.

The difficulty involve in the proposition of the article is the means of ascertaining the degree of breach of the rules of international humanitarian law by the parties in asymmetric warfare.

Bruce W. Bennett, Christopher P. Twomey, Gregory F. Treverton, in their article,[12] outlined the strategies of asymmetric conflict and the means of countering it. They considered asymmetric strategies to be attack of

[11]Wolff Heinstchel Von Heingeg, Asymetric Warfare: How To Resopond, International Law Studies Vol 87

[12]Bruce W. Bennett, Christopher P. Twomey, Gregory F. Treverton, What Are Asymmetric Strategies? National Defense Research Institute

vulnerabilities not appreciated by the "target" (victim) or capitalize on the victim's limited preparation against the threat. To them a definition of asymmetric or symmetric strategies should be taken in a relative term. Though the focus of their paper was on US strategies against asymmetric threats it offers a guide on military steps to be taken against groups such as Boko Haram in terms of a military solutions.

Nicklas Jansler and Mandela Lofton in their published article,[13] examined the economic impact of Boko Haram insurgency in the Nigerian economic. The asserted that in macro-economic sense, Nigerian Foreign Direct Investment dropped from about 8.9 Billion dollars to 5.5 billion dollars. And in the area of micro-economics, about 97 percent small scale businesses were affected in the area in which the activities of Boko Haram were much felt thereby increasing the level of unemployment in the country. They advocated for the involvement and support of the US, European Union as well as the Chinese government in the fight against Boko Haram.

ROBERT D. POWERS, JR in his article[14] explores the conflict between state and insurgents. It is argued that a state has the right to use all means necessary to preserve its continued existence in the face of threat from insurgence. It was argued that under Article 39 of the Charter of the United Nations civil strife or

[13] Nicklas Jensler and Mandela Lofton, The Rise of Boko Haram and Its Economic Implication, Centre for African Research and Resolutions

[14] Roberts D. Powers, INSURGENCY and THE LAW OF NATIONS, 16 JAG J. 55 1962

insurgency may be determined to be a "threat to the peace. That recognition of insurgency should be an act of the Organization of the United Nations.

O. D. Olaniyan, in his article[15] reflect on the impact of Boko Haram insurgency on the educational system of Nigeria. The article traced the history of insurgency in Nigeria to different sect, political group and organisations. Leadership of the Boko Haram sect were traced to Mohammed Yusuf who was killed by the Nigerian security force during a raid on the premises of the sect.

The article examined the multi-faceted dimensions to the Boko Haram insurgency in Nigeria some of which include; political, religious and economic. Of particular reference are the consequences and implication of the activities of the sect on the educational system in Nigeria. Article also made some extensive recommendations on how to improve the educational standard in areas affected by the activities of the sect.

Jideofor Adibe, in his own article,[16] highlighted the characteristics of Boko Haram from inception to mode of operation. The article observed that not much is known about Boko Haram and its agenda and make suggestions for further studies on the group and ways of curtailing it. It's the view of the author that the current idea or knowledge of Boko Haram is devoid of any empirical analysis.

[15] O. D. Olaniya, effect of Boko Haram Insurgency on The Nigerian Educational System

[16] Jideofor Adibe, What Do We Really Know About Boko Haram, Boko HARAM; Anatomy of Crisis, E-International Relations (Bristol) Uk

Freedom Onuoha, in his own work[17], explores Boko Haram attacks on the telecommunication infrastructure in Nigeria. His piece draws from the Taliban case in Afghanistan to demonstrate that emerging jihadist groups tendencies to copy tactics or strategies adopted by other terrorist groups. The article draws attention to the impact of such damage on the socio-economic lives of Nigerians and called for a robust action to tackle the menace.

Salisu Salisu Shuaibu, Mohd Afandi Salleh, and Abdullahi Yusuf Shehu, in their article,[18] considered the security implication of Boko Haram insurgency in some part of Northern Nigeria. The paper revealed how the group transformed from a local Salafist militia into a regional terrorist group, with linkages and support from other Islamic insurgent in Africa like Al Qaeda in the land of Islamic Maghreb (AQIM) and Al-Shabaab. The article recommends eradication of poverty, illiteracy, and direct and positive military solution against the group as a solution of ORHERO, Abraham Ejogba, in his article,[19] explores the economic and security implication of Boko Haram sect in Nigeria. The article traced the historical operation of the sect when its struck on July 26, 2009 in Dutsan – Tanshi, Bauchi State. Its argued that the activities of the sect have render Nigeria as a failing state. The sect has observed in the article; the

[17]Freedom Onuoha, Understanding Boko Haram's Attacks on Telecommunication InfrastructureAnatomy of Crisis, E-International Relations (Bristol) Uk

[18]Salisu Salisu Shuaibu, Mohd Afandi Salleh, and Abdullahi Yusuf Shehu,The Impact of Boko Haram Insurgency on Nigerian National Security, International Journal of Academic Research in Business and Social Sciences 2015, Vol. 5, No. 6

[19] Orhero , Abraham Ejogba, The Economic and Security Implications of Boko Haram Terrorism, International Journal of African and Asian Studies, Vol.10, 2015.

intention of the sect is the overthrow of the legitimate government of Nigeria through violence means. The article draws a parallel line between failure of security of lives and property and a decline in economic growth as a result of the sect activities in Nigeria.

Chukwurah, Daniel C., in his own work,[20] argues that the northern Nigeria economy before Boko Haram terrorist activities was and used to be a bubbling and thriving economy but now is grounded to a halt as a result of act of terrorism by the Boko Haram sect. The article observed that it would take about 20 years to recover from the economic damage occasioned by acts of terrorism in the affected places. Terrorism is considered from the viewpoint of the use of violence and intimidation to achieve political ends. Eight signs of terrorism were identified by the article using the model provided by the New Hampshire Department of Safety.

Ovaga, Okey H., like others writers on the effect of Boko Haram, in his own publication,[21] traced the origin of Boko Haram to long years of accumulated grievances against the northern elite groups, who have been exploiting their ignorance to their own advantage. The article observed that the incessant bombings and gun attacks in the Northern parts of the country by the Boko Haram fundamentalists, have seriously affected the economic lives of individuals in the areas. The article linked the activities of Boko Harm to a

[20] Dr, Chukwurah Daniel C. Implication of Boko Haram Terrorism on Northern Nigeria, Mediterranean Journal of Social Sciences(MCSER) Publishing, Rome-Italy, Vol 6 No 3 May 2015.

[21] Ovaga Okey H., Review of Public Administration & Management, VOL. 1. N0 2

theory of conflict. Conflict in the sense of attempt to create a more dominant interest as against the existence one. Boko Haram interest is therefore viewed from the perspective of resistance to exploitation from the northern elites.

Aminu Umaru, in his article,[22] examines the impact of insecurity and poverty on sustainable economic development in Nigeria with special emphasis on the Boko Haram insurgency. Some theories were canvased for the reasons of Boko Haram insurgency which include, frustration-aggression model and poverty profile. The article shows that Nigeria is confronted with the problem of insecurity. Some recommendations made include good governance with a robust institutional framework that ensures a prudent and effective management of resources to better the lives of its citizenry and creation of a strong viable institutions that can proactively respond to the challenges of security.

John Campbell, in his discussions of Boko Haram,[23] highlighted Nigerian government response to activities of Boko Haram. It was observed, that the government's response to Boko Haram is to see it as a terrorist movement in isolation from any environment that may have fostered it, and state security forces have reacted with violent repression. The government's seemingly indiscriminate killing of alleged Boko Haram members and many others who were simply in the wrong place at the wrong time appears to be a driver of popular support for or acquiescence to Boko Haram (Amnesty International

[22]Aminu Umaru,The Impact of Insecurity and Poverty on Sustainable Economic Development in NigeriaInternational Journal of Humanities Social Sciences and Education (IJHSSE) Volume 2, Issue 2, February 2015, PP 32-48

[23]Boko Haram: origins, challenges and responses, Norwegian Peace Building Resource Center, Policy Brief 2014

A collaborative effort was advocated for in tackling the activities of Boko Haram. It was observed that any outside intervention by the Western countries will interpreted within the circle of religion. It will be viewed as an attack on Islam thus the need to engaged with the government of Nigeria directly.

Ekereke, Aniefiok Silas, examines the impact of Boko Harm on the school system in Nigeria.[24] He traced the emergence of the sect and its popularity to their involvement in the Jos crisis in 2009. Some of the impact of the activities of the sect were listed to include, economic, social, political as well as educational. The article advocate for setting up of a new security strategy in dealing with the scourge of Boko Harm insurgency.

Titilope Ajayi, in her work,[25] examines the structural relationship between the United Nations, African Union and ECOWAS combating insecurity in Africa. The article identified some of the challenges to the effective implementation of the security mechanism between the UN and the African regional bodies. The paper calls for an effective partnership between the UN and African regional bodies by identifying a clear objective goals and objective of the partnership.

Karel Wellens, examined the role of the United Nations Security Council in the maintenance of world peace in the face of emerging new threats to peace.[26] The paper highlighted the rules of practice governing the operation of the UN

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[24]Ekereke, Aniefiok Silas, The Effects of Boko Haram Insurgency and the School System; A Case Study of Selected States in Northern Nigeria, Science Journal of Sociology&Anthropology, Volume 2013 (2013)

[25] Titilope Ajayi,The UN, the AU and ECOWAS – A Triangle for Peace and Security in West Africa? FES Briefing Paper 11 | November 2008.

[26] Karel Wellens, THE UN SECURITY COUNCIL AND NEW THREATS TO THE PEACE: BACK TO THE FUTURE, 8 J. Conflict & Sec. L. 15 2003

Security Council in their determination of threat to world peace. Obstacles to attainment of the objective of the Security council were also highlighted.

Pooja Sinha and Sudhir Krishnaswamy, examines the role of UN in conflict prevention,[27] it was posited that The U.N. can only contribute to peace and security in those settings where capabilities and mission are more or less congruent. The paper called for a more ambitious approach by the UN in its approach to the resolution of conflicts.

A United Nations Security report[28] outlined the role of the United Nations in solving armed conflict. This report highlights the importance of cooperation between the United Nations and other regional bodies in implementing its roles of protecting civilians during armed conflict. The report arose out of the need to strengthen efforts to prevent and respond to violations of international humanitarian and human rights law in situations of conflict and violence as result of the situation in the Syrian Arab Republic.

A note by the United Nations Department of Peacekeeping Operations, outlined the major mechanism adopted by the UN in ensuring the maintenance of world peace.[29] The note draws inspiration from an in-depth study of six cases on cooperation between the United Nations and regional, sub-regional organizations and arrangements, which have involved co-deployment (Liberia,

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[27]Pooja Sinha and Sudhir KrishnaswamyUNITED NATIONS AND GLOBAL PEACE AND SECURITY, 9 Student Advoc. 58 1997.

[28] United Nations Security Council; Report of the Secretary-General on the protection of civilians in armed conflict,S/2013/689

[29] COOPERATION BETWEEN THE UNITED NATIONS AND REGIONAL ORGANIZATIONS/ARRANGEMENTS IN A PEACEKEEPING ENVIRONMENT; Suggested Principles and Mechanisms, March 1999

Georgia, Bosnia); joint deployment in peace support (Haiti); operational support (Eastern Slavonia); and diplomatic support (Cambodia).

The six case studies conducted by the Lessons Learned Unit have revealed that, despite the difficulties, there are many advantages that emanate from cooperation between the UN and regional, subregional organizations and arrangements in peacekeeping and peace support operations. Through such cooperation, the international community can mount effective strategies for preventing crises, for peacekeeping and peace support, as well as for humanitarian assistance and peace-building. Cooperation between the UN and regional and subregional organizations/arrangements enables the sharing of responsibilities, based on the comparative strengths of each, leading to complementarity and the avoidance of competition. Although there may be cases when a regional or sub-regional body will choose to become involved not because it enjoys a comparative advantage, but for a political or other imperative. The notes identified cooperation between the UN and the regional bodies as the most effective means of peace keeping missions this is because the Security Council is bedevilled by the continuous use of veto power by some permanent members for political reasons.

Nico Schrijver, in his lecture,[30] examines the principle of the limitation to the use of force under international law and the exceptions and controversies thereunder. The lecture traced the development of the principle from the defunct

[30]The Use of Force under the UN Charter: Restrictions and Loopholes delivered at The ACUNS 2003 John W. Holmes Memorial Lecture 2003

League of Nations to the present United Nations. It was argued that the unilateral use of force to achieve the enforcement of resolutions or other goals, for example regime change in another country, could destroy the fragile but indispensable system of collective security and that the use of force can never be excluded as a final resort. This has been proven by the Security Council's decisions in the cases of Somalia, Haiti, East Timor and Afghanistan. In these cases, the 'old' international law of sovereignty and non-intervention had to give way to the 'new' international law aimed at preventing genocide, crimes against humanity, international terrorism, and the use of weapons of mass destruction.

It was observed that, Development assistance and human rights policy can play an important role in the maintenance or restoration of peace and security, either preventive or after a conflict.

The Secretary General of the UN in a report sent to the Security Council,[31] reviews the state of the protection of civilians in key conflict-related crises, it identifies existing and emerging protection challenges and highlights ongoing efforts to strengthen the protection of civilians. The report maintained that upholding humanity is at the core of humanitarian action and of the Charter of the United Nations. Civilians caught in armed conflict are among the world's most vulnerable. It observed the need for the UN to ensure more systematic engagement with non-State armed groups to press for their compliance with the law and their assurance of the protection of civilians and humanitarian access to

[31] United Nations Security Council, Report of the Secretary General on the Protection of Civilians During Armed Conflict, S/2015/453

people in need. This report identified Nigeria among others to be a country in special need of the UN intervention efforts to alleviate the suffering cause by the Boko Harm insurgency and the military campaign in the northern part of the country. The report recommends among others the search for and prosecute or extradite persons suspected of grave breaches of international humanitarian law or serious violations of human rights law;

Dr.Elijah O. Okebukola In his research work "[32] analyses the basis of determining Non-International Armed Conflict thereby categorized Boko Haram conflict as NIAC drawing inference from the parties involved, military structure, chain of command and other factors provided in Article 1(1) of Additional Protocol II of the Geneva Convention.

He distinguishes Boko Haram conflict from the Nigerian civil war of 1967 and successfully explore on the participation of CJTF and its legal implication. The research highlighted the legal implication of the conflict in line with international humanitarian law. However, the paper does not distinguish the root causes and influencing factors of the civil war from the current Boko Haram conflict even though both conflicts are non-international.

[32]"Calibrating the Legal Obligation in the Ongoing Non-International Armed Conflict in Nigeria" Forthcoming 2016.

1.9 CHAPTERS ANALYSIS

The topic is discussed the in five (5) chapters.

Chapter one gives the background of the study, it contains inferences from the experience of various scholars and authors. It also defined the scope of the research and its significance and limitations.

Chapter two discusses the asymmetrical nature of the Boko Haram conflict

Chapter three discusses the United Nation mechanisms for controlling use of force

Chapter four analyzes the effectiveness of the United Nations use of force mechanisms in relation to asymmetric conflict such as the Boko Haram conflict.

Chapter five is the concluding chapter and it ,contains a summary of finding, observations and recommendations.

CHAPTER TWO

2.0 ASYMMETRIC NATURE OF THE BOKO HARAM CONFLICT

2.1 NATURE OF ARMED CONFLICT.

What constitute armed conflict in the sphere of international law is clouded by political, military as well as social circumstance. The term armed conflict has no ease of definition. The difficulty is derived from inability to ascribed with a degree of certainty criteria for designating a conflict to be an armed conflict under international law. In earlier times it was the norm to officially declare that a state of armed conflict exists.[33] After Second World War the reliance on an official declaration has become increasingly abandoned.[34]

The International Criminal Tribunal for the former Yugoslavia (ICTY) proposed a general definition of international armed conflict. In The **Prosecutor v. Dusko Tadic**[35] case, the Tribunal stated that an *armed conflict exists whenever there is a resort to armed force between States or protracted armed violence between governmental authorities and organized armed groups or between such groups within a state.* Department of Peace and Conflict Research[36] defined armed conflict to mean *a contested incompatibility which concerns government and/or territory where the use of armed force between two parties, of which at least one is the government of a state, result in at least*

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[33] Article 1 of Convention III relative to the Opening of Hostilities (Hague Convention III), 18 October 1907.
[34] See Andreas Paulus and Mindia Vashakmadze, Asymmetrical war and the notion of armed conflict – a tentative conceptualization, International Review of the Red Cross, Vol 91, N0 873 2009.
[35] Decision on the Defence Motion for Interlocutory Appeal on Jurisdiction, IT-94-1-A, 2 October 1995, para. 70.
[36] Department of Peace and Conflict Research, University of Uppsala, Sweden

25 battle-related deaths. The definition took narrow conceptualization of armed conflict. indeed, *situations* of armed conflict may be deemed to exist even without the actual involvement of state[37] or where no death is recorded.[38] The International Committee of the Red Cross (ICRC) defines armed conflict to mean resort to armed force between two or more States or are protracted armed confrontations occurring between governmental armed forces and the forces of one or more armed groups, or between such groups arising on the territory of a State.[39] This definition only considers an armed conflict as existing only between state parties to the Geneva Convention. Armed conflict is a matter of social fact, thus, its scope and determination should not be limited to particular place of occurrence.

Generally, international humanitarian law recognized the existence of two types of armed conflict. International armed conflict and non-international armed conflict.[40] An international armed conflict is a resort to arms between two or more states in the resolution of conflict.[41] Elaborating on the concept of international armed conflict, " J. Pictet opined that the situation may include any difference arising between two States and leading to the intervention of armed forces is an armed conflict within the meaning of Article 2, even if one of

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[37] ICTY, The Prosecutor v. Dusko Tadic, supra.

[38] J. Pictet, Commentary on the Geneva Convention for the Amelioration of the Condition of the Wounded and Sick in Armed Forces in the Field, ICRC, Geneva, 1952, p. 32.

[39] How is the Term "Armed Conflict" Defined in International Humanitarian Law? International Committee of the Red Cross (ICRC) Opinion Paper, March 2008.

[40] Common Articles 2 and 3 of the Geneva Convention.

[41] Common article 2 ibid

the Parties denies the existence of a state of war. It makes no difference how long the conflict lasts, or how much slaughter takes place.[42]

This view was also shared by H.-P. Gasser when he argued that any use of armed force by one State against the territory of another, triggers the applicability of the Geneva Conventions between the two States. It is also of no concern whether or not the party attacked resists. As soon as the armed forces of one State find themselves with wounded or surrendering members of the armed forces or civilians of another State on their hands, as soon as they detain prisoners or have actual control over a part of the territory of the enemy State, then they must comply with the relevant convention.[43] From this analysis an international armed conflict does not require the active participation by parties involve; a positive use of arms by one of the parties against the other suffices as an armed conflict.

A non-international armed conflict arises where there is situation of arms conflict between a state or group of states and a non-governmental armed group or groups.[44] Article 3 was interpreted to include armed conflict between groups within the territory of states or states without the involvement of the state itself.[45] It is argued that in order to separate a non-international armed conflict from the less serious forms of internal disturbances such as riot, protest or acts

[42] J. Pictet, Commentary on the Geneva Convention for the Amelioration of the Condition of the Wounded and Sick in Armed Forces in the Field op cit.

[43] H.P. Gasser, International Humanitarian Law: An Introduction, in: Humanity for All: The International Red Cross and Red Crescent Movement, H. Haug (ed.), Paul Haupt Publishers, Berne, 1993, p. 510511.

[44] Common Article 3 Geneva Convention.

[45] See ICRC, How is the Term "Armed Conflict" Defined in International Humanitarian Law? International Committee of the Red Cross (ICRC) Opinion Paper, March 2008.

of banditry there should be a degree of intensity and the non-governmental armed group have to be under a certain command structure and have the capacity to sustain military operations.[46]

A more restrictive and narrow definition of non-international armed conflict was adopted Additional Protocol to the Geneva Convention to mean conflict "which take place in the territory of a High Contracting Party between its armed forces and dissident armed forces or other organized armed groups which, under responsible command, exercise such control over a part of its territory as to enable them to carry out sustained and concerted military operations.[47]

This definition is narrow in scope and restrictive in application. The Protocol introduced an element of a territorial control by the armed groups and also does not recognized armed conflict between non-governmental armed groups only.[48] The requirement that the armed groups be under a responsible command makes its interpretation even more difficult to achieved.

Sharing light on the scope of non-international armed conflict, D. Schindler posited that, the hostilities have to be conducted by force of arms and exhibit such intensity that, as a rule, the government is compelled to employ its armed forces against the insurgents instead of mere police forces. Secondly, as to the insurgents, the hostilities are meant to be of a collective character, [i.e] they have to be carried out not only by single groups. In addition, the insurgents have

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[46] D. Schindler, The Different Types of Armed Conflicts According to the Geneva Conventions and Protocols, RCADI, Vol. 163, 1979-II, p. 147

[47] Additional Protocol II, art. 1, para. 1

[48] ICRC, How is the Term "Armed Conflict" Defined in International Humanitarian Law? International op cit

to exhibit a minimum amount of organization. Their armed forces should be under a responsible command and be capable of meeting minimal humanitarian requirements.[49]

From the foregoing, whether an armed conflict exist in a given situation will be dependent on the presence of some features and factors which include,

i. use of arms by a state or group of states against another state or group of states.

ii. Use of arms between states

iii. Use of arms by the armed forces of a state and an identified and organized arm group or groups

iv. Sustained and intensify use of arms between armed groups within the territory of a state or across the territories of two or more states.

2.2ASYMMETRIC ARMED CONFLICT

The term asymmetric conflict has no shortage of controversies and debates of conceptualizations. Lawyers, international legal commentators, military experts and analyst as well as the academics have all disagreede on the precise nature and character of asymmetric conflict. So many definitions and classifications has been proffered in the description of asymmetric conflict to precise definition without success.

[49]D. Schindler, The Different Types of Armed Conflicts According to the Geneva Conventions and Protocols, RCADI, Vol. 163, 1979-II, p. 147

Traditionally asymmetric conflict was defined as state of belligerency between two states having unequal military strength, economic resources.[50] This definition was severely criticized as too narrow.[51] The definition only considers asymmetric armed conflict from the perspective of only state actors. Johnson and Metz[52] provided a broad definition to asymmetric warfare to mean *acting, organizing, and thinking differently than opponents in order to maximize one's own advantages, exploit an opponent's weaknesses, attain the initiative, or gain greater freedom of action. It can be political-strategic, military strategic, or a combination of these. It can entail different methods, technologies, values, organizations, time perspectives, or some combination of these. It can be short-term or long-term. It can be deliberate or by default. It can be discrete or pursued in combination with symmetric approaches. It can have both psychological and physical dimensions*. This definition appears to be most favored by the US.[53] The definition though may appear broad is in fact narrow in concept and perspectives. If taken literally, it will appear that this definition view asymmetric conflict not from the perspectives of military capabilities but strategy. Strategy cannot be equated with military and technological strength as the definition seems to suggest. Having a superior military strength itself is one thing having the strategical ability to execute a plan of action is another. While

[50]See Thaza v. Paul, Asymmetric Conflicts:War initiation by weaker powers 20 (1994). Also cited by Wolff Heintschel von Heinegg in his article; Asymmetric Warfare: How to Respond? International Law Studies Vol 87.
[51]See for example the views of Blank J.S, Rethinking Asymmetric Threats.

[52] Supra
[53]See Blank J. S ibid.

military strength and technological may be a demonstration of power as such strategy is a matter of planning. Strategy is a feature of asymmetric conflict as well as symmetric conflict and not what defines them. The realization of this fact led some scholars to consider asymmetric armed conflict not from the point of view of definition but form.[54] Thus, N. Schmit, in his analysis of asymmetric conflict classified it as technological, doctrinal, normative and moral.[55]

Tony Pfanner, argues that all conflicts are asymmetric in nature as there not equal belligerent in any conflict.[56] He argued that asymmetric conflicts are fought in different forms and dimension and levels.[57] According to him there is an operational level (including ruses, covert operations, perfidy, terrorism, etc.), a military strategic level (guerrilla warfare, massive retaliation, Blitzkrieg, etc.) and a political strategic level (moral or religious war, clash of cultures). The different forms include asymmetry of power, means, methods, organization, values and time.[58] He asserted that symmetric warfare was only possible during the 18th and 19th centuries, and that with advent of technological innovations of the 20th and 21st centuries warfare are becoming more complex and more unequal.[59] Asymmetric armed conflict means the absence of common basis of

[54]See Michael n. Schmit, Asymmetrical warfare and international humanitarian law, 62 A.F. L. Rev. 1 2008.
[55]Michael n. Schmit, ibid.
[56]Toni Pfanner, Asymmetrical warfare from the perspective of humanitarian law and humanitarian action, International Review of the Red Cross Selected articles on international humanitarian law Vol 87, No. 857, 2005.
[57]ibid
[58] ibid
[59]ibid

2.2.1. Types and Forms of Asymmetric Armed Conflict

Relying on the model of classification provided by Micheal N. Schmit,[62] this thesis will examine the forms of asymmetric armed conflict on the basis of the under listed as follows;

Technological Asymmetric Armed Conflict; This category of warfare involves the use of superior modern technology in the execution of war. The party with a sophisticated military technology will stand at an advantage over the party having inferior military technology. Today, battlefields are multi-dimensional, i.e., technology has evolved to the point where the concept of a line marking the heart of the battle (with combat fading the greater the distance from that line) no longer makes sense. There may be ground forces facing each other, but the conflict is everywhere.[63]

Technology advancement has render the battlefield to become phenomenally transparent to those fielding advanced ISR assets. No longer are the obstacles that traditionally masked enemy activity-such as night, poor weather, range, terrain, and intelligence processing and distribution times-insurmountable. Contemporary technological advanced militaries draw on information from an amazing array of sources: geospatial intelligence (GEOINT); human intelligence (HUMINT); signals intelligence (SIGINT); measurement and

[62] N. Schmit, ASYMMETRICAL WARFARE AND INTERNATIONAL HUMANITARIAN LAW, Citation: 62 A.F. L. Rev. 1 2008.

[63] MICHAEL N. SCHMIT, ibid.

signature intelligence (MASINT); open-source intelligence (OSINT); technical intelligence (TECHINT); and counterintelligence (CI).[64]

Present day innovatively propelled battle air ship going from the F-16 to the B-52 now regularly dispatch without a set target, depending rather on the frameworks depicted above to bolster information to capable charge and control resources that thus vector them to the assault. They can fly and strike during the evening and amid poor climate, dally for developed periods (particularly when tankers are accessible), and much of the time shoot their weapons from past the danger envelope of adversary protections. Accuracy frameworks significantly expand the likelihood of harm (Pd) coming about because of such assaults. Today, modem weaponry has a roundabout mistake plausible (CEP) measured in feet, many feet even from a pessimistic standpoint.

Most noteworthy among the innovative wizardry is an organized order and control framework that connections data, leaders, and shooters continuously. Watching the unfurling fight, commandants can move the right resources for the right area at the perfect time, either to misuse an open door or protect vulnerabilities. At times, knowledge is bolstered straightforwardly to the cockpit, along these lines bypassing officers and different organizers inside and out, and caving in basic leadership timing drastically. At last, modem flying corps normally appreciate not air prevalence, but rather air matchless quality.

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[64]Ibid.

Mechanical asymmetry in ground-to-ground battling is less misrepresented, yet at the same time amazing. Propelled ground constrains straightforwardly connected to a large number of the sensors portrayed above, especially the JSTARS and UAVs, have a photo of the front line significantly more exhaustive, exact, and opportune than that of their adversaries. Also, hostile frameworks can fire from extents far in overabundance of the foe's and with more prominent exactness. Case in point, electronic counter-battery radar frameworks are fit for distinguishing an approaching shell at the summit of its flight and instantly figuring counter-shoot information. In view of the PC inferred area, flame is returned rapidly, apparently before the adversary has a chance to migrate.

Warriors are better prepared also, brandishing lightweight body covering, night vision goggles, worldwide situating frameworks, and individual weapons furnished with cutting edge locating. They can convey sans hands among each other even at the squad level. Secure, remote portable PCs are conveyed into the field with vertical and even linkage and access to databases extending from territory outlines to current foe request of-fight information. Helicopter or altered wing air backing is ordinarily accessible as needs be and quickly accessible in the contact territory.

Illustrative of the preferred standpoint is the Blue-Power Tracker, a satellite following and correspondence framework that permits mechanized coordination and dispersal of information. With Blue-Power Tracker, all echelons of charge and staff can take after a TIC (troops in contact) occasion and give close concurrent battle support. Utilizing a mix of PC maps, constant mechanized information overhauls (on benevolent and adversary areas, and in addition other front line data), and visit room coordination, troops drawing in the foe no more need to depend on preplanned support or what happens to be "on-station" (in the region). Rather, they can draw on the full scope of theater resources, almost all the while.

Then again, compels that are mechanically burdened have two fundamental issues how to survive and how to successfully connect with the foe. Managing first with the previous, it is plainly obvious that the most ideal approach to survive is to disappoint the adversary's capacity to find and recognize you. Numerous legal systems for doing as such exist: encoding transmissions, disguise, ploys, mobility, sticking, meaconing, constraining the battle into a more worthwhile environment, for example, a urban region, et cetera.

The unevenly hindered party either pretends ensured status or utilizations nearness to secured people and protests dissuade assaults. Confronting a mechanically predominant foe, the Iraqi military (and others battling nearby

them) efficiently turned to these systems. They had adapted right on time in the contention that meeting the Coalition powers in great power on-power activity was almost self-destructive. Such strategies are an awful, yet legitimate, result of the Coalition's capacity to slaughter them nearly freely once they had been found and recognized.

In war, each side hopes to be technologically and tactically superior to its opponents. Both search for that doctrinal approach which best leverages their strengths and exploits the enemy's weaknesses. For advanced Western militaries, effects based-operations (EBO), which are made possible by technological asymmetry, represent the emerging prevailing approach. Because the lack of technological wherewithal precludes lesser-equipped forces from engaging in EBO, its application creates doctrinal asymmetry. [65]

Doctrinal Asymmetry Armed Conflict; This approach involves the use or adoption of identifiable doctrines in the prosecution of war in order to gain a superior military advantage over the opponent.

Effects-based operations begin with identification of the effect(s) that the attacker hopes to create through attack. The enemy's systems are then deconstructed to identify those components that should be attacked to best realize the desired effect. As an example, EBO posits that it is unnecessary to destroy an enemy formation that can be rendered combat ineffective through

[65]Schmitt, Effects-Based Operation Note 14

computer network attack on its command and control system. In a real-world application of EBO, U.S. forces engaged in a decapitation campaign during operation designed to kill senior Iraqi leaders. Leadership is an attractive effects-based target set because, at least in theory, decapitation paralyzes enemy command and control (the effect), thereby avoiding the need to destroy the enemy armed forces.[66]

Present day innovatively propelled battle flying machine extending from the F-16 to the B-52 now frequently dispatch without a set target, depending rather on the frameworks depicted above to sustain information to capable summon and control resources that thusly vector them to the assault. They can fly and strike around evening time and amid poor climate, stand around for expanded periods (particularly when tankers are accessible), and much of the time discharge their weapons from past the risk envelope of adversary barriers. Accuracy frameworks significantly build the likelihood of harm (Pd) coming about because of such assaults. Today, modem weaponry has a roundabout mistake plausible (CEP) measured in feet, several feet best case scenario.

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[66]MICHAEL N. SCHMIT,

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Illustrative of the favorable position is the Blue-Power Tracker, a satellite following and correspondence framework that permits automated mix and dispersal of information. With Blue-Power Tracker, all echelons of order and staff can take after a TIC (troops in contact) occasion and give close synchronous battle support. Utilizing a mix of PC maps, continuous computerized information upgrades (on benevolent and foe areas, and additionally other war zone data), and visit room coordination, troops connecting with the foe no more need to depend on preplanned support or what happens to be "on-station" (in the region). Rather, they can draw on the full scope of theater resources, almost at the same time.

Then again, constrains that are mechanically distraught have two essential issues how to survive and how to adequately draw in the foe. Managing first with the previous, it is plainly obvious that the most ideal approach to survive is to disappoint the foe's capacity to find and recognize you. Numerous legal methods for doing as such exist: encoding transmissions, cover, stratagems, mobility, sticking, meaconing, constraining the battle into a more beneficial environment, for example, a urban territory, et cetera.

The unevenly hindered party either fakes secured status or utilizations closeness to ensured people and questions deflect assaults. Confronting a mechanically predominant enemy, the Iraqi military (and others battling nearby them) methodicallly depended on these strategies. They had adapted ahead of schedule in the contention that meeting the Coalition powers in exemplary power on-power activity was about self-destructive. Such strategies are a sad, however coherent, outcome of the Coalition's capacity to murder them just about freely once they had been found and recognized.

The U.S. agrees it is bound by this provision of article 5 of Geneva Convention 1949 dealing with obligation to convene a tribunal to determine the status of detainees when doubt as to their entitlement to prisoner of war status arises, but has made a blanket determination that no doubt exists about the status of any of the detainees at Guantanamo.[67] Some States disagree with this approach. Thus, how belligerents conduct themselves may be determined as much by their interpretation of the law as by the fact that the law binds them.

The complexity of formal treaty applicability and interpretation is exacerbated by the fact that, as a matter of policy, States may require their troops to observe the terms of a treaty regardless of provisions therein that release them from compliance. It is, for example, difficult to imagine Germany, France, or the

[67]George Bush, Memorandum, Humane Treatment of Taliban and al Qaeda Detainees, Feb. 7, 2002, available at http://www.pegc.us/archiveWhite House/bush memo 20020207_ed.pdf.

United Kingdom-all States that regularly deploy forces abroad-acquiescing to any violations of Protocol Additional I even in a conflict in which the agreement was inoperative.[68]

Further, a belligerent may impose normative restrictions on its forces' conduct that are not derivative of law, but instead based purely on policy. As an example, Coalition rules of engagement in Iraq during the ground war forbade soldiers from targeting "enemy infrastructure (public works, commercial communications facilities, dams) lines of communication (roads, highways, tunnels, bridges, railways) and economic objects (commercial storage facilities, pipelines) unless necessary for self-defense or if ordered by your Commander.[69] Thus, legal concerns by parties who are more obligated to observe them influence the tactical approaches they may deplore towards a particular warfare.

Participatory Asymmetry Armed Conflict; This category of asymmetric armed conflict considers the parties involved in the conflict. Thus, who is involved in a conflict will affect how the hostilities are conducted. This fact derives from two related factors: enforcement mechanisms and sanctions.[70].

The list of actors in the modem battlespace is becoming extraordinarily confusing. Many countries, most notably the United States, now employ private contractors to perform functions that were traditionally within the purview of

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[68]N Schmidt, op cit.
[69]CFLCC ROE Card, Iraq, 2003, at para. le, reprinted in OPERATIONAL LAW HANDBOOK, supra note 125, at 101,
[70]N. Schmit, op cit.

military personnel. Indeed, there are more contractors in Iraq today than all non-U.S. Coalition forces combined.[71]

First, many such participants are not subject to an internal disciplinary system designed to ensure compliance with International Humanitarian Law. Consider US civilians' government employees and contractors in Iraq. Only recently has the Department of Defense begun to attempt to exert criminal jurisdiction over such individuals, and to date it has prosecuted none. Of course, as should be apparent from the catalogue of participants on the Iraqi side, it may be that there is no disciplinary oversight at all of those engaging in hostilities.[72]

Individuals who do not qualify as combatants will not enjoy the protections that the status offers upon capture. In particular, they may be punished under the domestic law of their captor (or another State) for their actions, including having attacked combatants. If they have committed war crimes, international tribunals (with jurisdiction), as well as national courts viz-a-viz crimes for which universal jurisdiction exists, may also try them. Yet, as a practical matter, the fact that they are already punishable for participating in the conflict diminishes the incentives for complying with International Humanitarian Law. In a sense, they have less to lose than lawful combatants in violating International Humanitarian Law. Therefore, the make-up of the forces opposing each other influences the extent to which the participants will abide by International Humanitarian Law.

[71] ibid
[72] ibid

Moral Asymmetry; This approach looks at the morals regarding compliance with rules of International Humanitarian Law. The fact that a State acts in violation of the jus ad bellum does not release its victim from adherence to the jus in bello. For instance, that the U.S. and its Allies were acting in legitimate collective defence in Afghanistan, does not excuse mistreatment of prisoners they took on the field of battle. In an armed conflict parties may be morally asymmetrical. Despite justifiable discomfort with adjudging morality, the truth remains that in many conflicts one side acts immorally.[73]

Whatever the objective reality, States understandably often demonize their opponents in order to shore up civilian and military morale and garner international support. For better or worse, conflicts continue to be viewed in terms of "good" and "evil." The persistence into the 21st century of ancient notions such as just war and jihad evidences this dynamic.

Following from this it will be apt to consider the nature of the armed conflict between the Nigerian government troops on the one hand and the Boko Haram insurgents on the other for a proper determination of the nature of the conflict.

[73] Ibid.

2.3 BOKO HARAM; ORIGIN, CREED AND IDEOLOGY

2.3.1 ORIGIN OF BOKO HARAM

Scholars and analyst are yet to agree on the precise date of the emergence of Boko Haram as an Islamic sect in Nigeria. According to Olaniyan, it was founded by Mohammed Yusuf in 2013, as a Muslim sect that intends to abolish secular system of government and establish Sharia law in Nigeria.[74] He stated that the sect is an offshoot of a radical Islamic youth group which worshipped at the Alhaji Muhammadu Ndimi Mosque in Maiduguri, in the 1990s.[75] The leader Yusuf was stated to be a charismatic leader and cleric who travelled through the Northern part of Nigeria to preach Islamic tenets. By his translation of the Holy Quran, he was of the view that certain part of western education is contrary to the dictates of the Quran. Yusuf was also critical of government which he perceived as being deceptive and insincere.[76]

Nicklas Jansler & Mandela Lofton traced the origin of the sect to 2002[77] with the objective of establishing Sharia government in the northeastern part of Nigeria.[78] Salisu Salisu Shuaibu & Mohd Afandi Salleh on their part traced the origin and emergence of the sect to 2002 under the leadership of the charismatic

[74]O. D. Olaniyan, EFFECT OF BOKO HARAM INSURGENCY ON THE NIGERIAN EDUCATION SYSTEM, Journal of Research Development, Volume 24 No.2, July, 2015
[75]Ibid.
[76]Ibid.
[77]Nicklas Jansler & Mandela Lofton,The Rise of Boko Haram and its Economic Implications, Student Center for African Research and Resolutions,
[78]ibid

imam Mohammed Yusuf.[79]They expressed that Jama'ah al-Ahlu al-Sunnah Li al-Da'wah wa al-Jihad, known as Boko Haram rose around 2002 as a serene neighborhood Salafist Islamic development under Mohammed Yusuf that the gathering was at first working under the name Shabaab Muslim Youth Association under the authority of Mallam Lawal. At the point when Lawal ventured out to proceed with his training in Madina Saudi Arabia, Yusuf turned into the pioneer of the development. Also, Yusuf's Initiative opened the gathering to the notoriety and political impact. The gatherings began as quiet development from 2002 whose unique point was lecturing and helping the poor. The exercises of Boko Haram took savage measurement in 2009 and Nigerian security forces, conflicted with the gathering in five days rough that brought about death of a large number of his adherents. It was expressed that the contention between the gathering and the Nigerian forces began from the contradiction once again the wearing of wellbeing protective cap by a few individuals from the faction against government mandate and request. A few individuals from the gathering who declined to wear security head protector were captured by the police and a mob followed between the gathering and the police that brought about the passing of around four individuals from the gathering with scores harmed. The gatherings' pioneer Mohammed Yusuf, kept in touch with the administration of Nigeria requesting for an investigation and resolution of the conflict within 14 days. At the point when the pioneer's

[79]Salisu Salisu Shuaibu & Mohd Afandi SallehHISTORICAL EVOLUTION OF BOKO HARAM IN NIGERIA: CAUSES AND SOLUTIONS

solicitations were not address that, the gathering began strategizing on the best way to connect with the Nigerian government viciously through the decree of Jihad.The Nigerian army on 28 July 2009 reportedly launched an offensive attack on the sect leader, Muhammad Yusuf's compound and a nearby mosque used by the members in Borno state capital of Maiduguri. This violence between the Boko Haram and Nigerian security forces, which claimed the lives of 1000 people with over 700 killed in Maiduguri Borno State capital. This crisis later spread to Kano, Yobe and Jigawa states. In Maiduguri, 100 bodies were reported to be found beside police headquarters. Thousands of people flee their homes in order to escape the violence, while several civilian corpses lie on the city's streets; many were shot dead after being pulled from cars.

This violence led to the killing of the sect leader Muhammad Yusuf while in police custody, which brought to the end of five days uprising. Consequently, since the 2009 uprising, the activities of the group appeared to be dissipated, but they regroup and re-emerged in 2010 under the new leadership of Abubakar Shekau.[80] Since the rise of the new leadership, the attacks have escalated in terms of frequency and intensity. The group carried out its first attacks when it orchestrated a large prison breaks in September 2010 in Bauchi which led to the escape of more than 700 inmates including its members.[81]

[80]Ibid.
[81]Ibid.

Subsequently, the group turned out to be more sophisticated and organized. It has connections with various international terror networks across the globe.[82] Carrying out several coordinated attacks against government facilities and installations. It has seized large swathes of land in the state of Maiduguri and declared them its own Islamic caliphate. The group was able to carry a sustained attacked on the military and civilian targets within and outside Nigeria. There repots of attack against military barracks and troops. The group attacked civilian settlement and communities. In April 2014, the group orchestrated the kidnapping and abduction of over 200 school girls in the community of Chibok. So many schools, religious places of worship were made the subject of attacks. At time, they controlled all three international borders of the Borno state, making spill overs more likely. In early January 2015, Boko Haram committed what Amnesty International calls their "deadliest massacre" to date in the northeastern town of Baga.[83]

In response, the Nigerian government in collaboration with the states of Niger, Chad and Cameroun created a Joint Multi-National Military Task Force to combat the security challenges the group poses.

Violence linked to the Boko Haram insurgency has resulted in an estimated 10,000 deaths between 2002 and 2013. On November 13, 2013 the United

[82] http://www.thedailybeast.com/articles/2014/05/11/boko-haram-s-bin-laden-connection.html
[83] Financial Times (2015) Timeline: Boko Haram's Deadly Evolution. August 25, 2015.

States government designated the group a terrorist organization.[84] On 22 May 2014, the United Nations Security Council added Boko Haram to its list of designated al-Qaeda entities, bringing "funding, travel and weapons sanctions" against the terrorist group and officially declared Boko Haram as terrorist group affiliated to Al-Qaeda in the Islamic Maghreb. International sanctions including asset freeze, travel ban and arms embargo were imposed against the Islamist extremist group.[85]

Boko Haram rejects secularism and western influence in general which it considers to be the source of secularist ideology such thinking was also evident in Boko Hara's early years under Yusuf, as it was opposed to the western education and argued for severing any connections to the secular State by seeking *hijra*[86] to maintain religious' purity. Boko Haram also espouses a *Takfir*[87]ideology that permits declaring other Muslims infidels (unbelievers) and targeting them for death.

The Joint Multi-National Military Task Force has succeeded in regaining most of the land and territories seized by Boko Haram, and has continually engaged the group in fierce in gun battle. The group still carries out small scale attacks

[84] http://www.clarionproject.org/analysis/finally-us-names-boko-haram-foreign-terroristorganization
[85] Ibid.
[86] The group use the term in the context to mean that muslim should migrate to their own proclaimed caliphate.
[87] In Islamic law, takfir refers to the act or practice of ex-communication, one Muslim declaring the other an unbeliever.

against military and civilian targets and has largely been the harbinger of the worse humanitarian disaster in Nigeria after the civil war.

2.2.2 Membership and Strength

There are no current and credible public estimates of Boko Haram's current membership. Shekau leads the group with an iron fist, killing rivals and not permitting other commanders to get publicity by appearing in his videos.[88]

In terms of organization, it operates as an insurgency/guerilla force, with units having between 300 and 500 fighters each. Boko Haram carries out acts of terrorism, but also tries to control territory and establish authority.[89]

The group has little public support in Nigeria. A 2013 Pew poll found that Boko Haram's support among Muslims in Nigeria has decreased 24% from 2010 to today, with only two percent expressing a favorable opinion of it. About 83% expressed an unfavorable opinion. The remaining 15% did not have an opinion on the group.[90]

2.2.3 Creeds and Ideology of Boko Haram

Boko Haram was founded as Sunni Islamic fundamentalist sect, influenced by Wahabi Movement[91], advocating a strict form of Sharia Law. It developed into a salafist-jihadist group in 2009. Boko Haram is motivated by extremist

[88] http://edition.cnn.com/2014/05/08/world/africa/boko-haram-leader-plan/
[89] http://uk.reuters.com/article/2014/05/09/uk-nigeria-military-insightidUKKBN0DP0PV20140509
[90] http://www.clarionproject.org/analysis/new-poll-muslim-countries-finds-large-supportterrorists
[91] The History of Saudi Arabi

religious ideology and seeks to overthrow Nigeria's secular Constitution in favour of an Islamic Caliphate governed under fundamentalist Sharia. Socio-economic conditions in the North generally and North-East in particular facilitate religious demagoguery poverty, unemployment, illiteracy and ignorance, decades of tolerance for sectarian politics combined with hegemonic aspirations and an inclination to deploy violence for political ends, and a large, "un-parented" and uneducated youth population bereft of skills and employability whose only social conditioning has been through a bankrupt "Almajiri" system.

The movement is diffuse, and fighters associated with it do not necessarily follow salafi doctrine. The group has denounced other Muslim members of Sufi[92], the Shiite,[93] and the Izala[94] sects as infidels. The group seeks to abolish the secular Nigerian constitution in favour of an Islamic state, and want to establish a complete Sharia based state in the 19 Northern States and all over Nigeria. Sometimes known as "Yusuffiya" after its founder, the sect also abhors banking, taxation and western jurisprudence/court systems and regarded the mixing of; boys and girls in schools improper. Yusuf also rejected scientific explanations for natural phenomenon.

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2.3 Tactical Approach of Boko Haram

The tactical approach of Boko Haram in their attacks is similar to that of its international counter-part such as Alqaida, Islamic Magrib (Aqim), Alshabab etc whose method of attacks are asymmetrical. Asymmetric strategies can take the form of Terrorism, Guerilla Warfare and Insurgency, while terrorism is the generic name for violence directed towards Civilian to obtain a political gain, insurgency is directed against a constituted authority for the same end. Insurgency can also direct attacks on soft targets to cause death and slow insidious attacks are aimed at undermining Public institutions, the economy and Public confidence in Government.

Terrorism

Terrorism is primary the chief tactical move by the Boko Haram in their insurgency against the Nigerian state. Nigerian has witness a tremendous amount of terrorist related activities resulting from the activities of Boko Haram. The group carried out series of successful suicide bombing activities in so many parts of Nigeria. Local communities were terrorized into feeling their communities, market and motor parks were constantly bombed, army barracks and police stations were not left out of the incidence and experience of terrorist activities of Boko Haram with aim of causing psychological as well as physical defeat to the Nigerian government. Chief among the terrorist activities of the

group is the use of teenage girls' suicide bombers; a situation so rampant and common in most part of northern Nigeria.

Suicide bombing is an asymmetrical technique to which the disadvantaged side increasingly resorts. Such attacks are seldom isolated acts by religious or other fanatics. On the contrary, most suicide bombings are tied to an organized political or military campaign, usually one designed to "compel modem democracies to withdraw military forces from territory that the terrorists consider to be their homeland.[95]

Terrorism is criminal acts intended or calculated to provoke a state of terror in the general public; a group of persons for political purposes are in any circumstance unjustifiable, whatever the consideration of a political, philosophical, ideological, racial, ethnic, religious or any other nature that may be invoked to justify them.[96]

Terrorism is the use of violence, or the threat of violence, against military or non-military targets as a means to create a general climate of fear and intimidation in order to gain publicity or influence an opponent to adopt or concede changes or conditions sought by the protagonist[97].

Terrorist organizations themselves naturally want to avoid the terrorist label and often choose names with a more sympathetic connotation, including words such

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[95]Robert A. Pape, Blowing Up an Assumption, INT'L HERALD TRIB., May 19, 2005, at 8.

[96]Osita-Njoku, Agnes and Chikere, Princewill, CONSEQUENCES OF BOKO HARAM TERRORISM ON WOMEN IN NORTHERN NIGERIA. Applied Research Journal Vol.1, Issue, 3, pp.101-107, May, 2015

[97] Wurzel et al (1998) a survey of unclassified literature on the subject of asymmetric warfare. (Sherman Oaks), CA Arete Associates 1998

as liberation (e.g. the Palestine Liberation Organization), freedom (e.g. Freedom for the Basque Homeland), or defense (e.g. the Jewish Defense Organization). Other names give the impression that the organization has a military structure and that its members are combatants (e.g. the National Military Organization) [98].

In recent decades, the role of ideology for terrorist groups has also been growing due to their changing structural patterns, especially the rapid spread of network features. For complex network structures, the role of common ideological beliefs and goals as an organizing principle tends to be considerably more significant than for hierarchically structured entities. This common ideology acts as a structural glue that helps to connect often fragmented, informally linked elements and enables them to act as one movement.[99]

It is generally accepted that an act of terrorism forms an integral part of asymmetric conflict.[100] Terrorism is resorted to by the group in recognition of the fact the state actor whom they are fighting is better organized in terms of financial and military power. Terrorism is a strategy of asymmetric armed conflict mostly resorted to by the weaker side in an armed conflict. The weaker side engaged in the unconventional warfare through terrorism does so the get a

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[98] Whittaker 2003; the terrorism reader, 2007 pg 7

[99] EKATERINA STEPANOVA, TERRORISM IN ASYMMETRICAL CONFLICT IDEOLOGICAL AND STRUCTURAL ASPECTS, SIPRI Research Report No. 23.

[100] Toni Pfanner, Asymmetrical warfare from the perspective of humanitarian law and humanitarian action op cit.

greater advantage and minimized shortage of man-power by inflicting psychological as well as physical damage to the opponent.

2.4.2 Guerilla warfare

Another asymmetric tactic adopted by the Boko Haram group in their campaigned against the Nigerian state. Guerrilla warfare strategy is the organization of a portion of society for the purpose of imposing costs on an adversary using armed forces trained to avoid direct confrontation.[101]

Guerilla warfare is a strategy used by non-state actors to impose costs on an adversary, who often is the armed forces of the state in which the guerilla is operating. Costs may be either material or psychological, such as the destruction of an adversary's camp or the prolonging of a conflict by attacking and then withdrawing, thereby avoiding the conflict coming to an end.[102]

The rationale behind guerilla warfare is that the adversary is assumed to give up if realizing that proceeding with the strategy will not be worth it. It is also a way for the guerilla organization to get the time to gain in strength and to recruit more fighters. Guerrilla warfare is generally characterized as conflict waged by small, irregular, formations that utilize unconventional methods and tactics against a numerically or technologically superior conventional foe.[103]

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[101] Arreguín-Toft How the weak win wars: A theory of Asymmetric conflict, 2005
[102] Ibid.
[103] Franklin 1990

Guerrilla warfare is certainly one of the oldest forms of asymmetric combat. Hebrew tribes fought guerrilla actions against Roman Legions in the days before Christ. The Gauls and Celtic tribes also used guerrilla tactics (such as ambushes and deception) against the Romans during the Roman invasion and occupations of Germany and Britain. The Germanic chieftain Arminius, for example, ambushed and destroyed three elite Roman legions in the Teutenburg Forest in 9 AD.

There are both similarities and differences between guerilla warfare and terrorism. The same tactics are often employed and neither terrorists nor guerillas are likely to distinguish themselves from the civilian population by the wearing of uniform or other insignias[104].

The Boko Haram insurgents camped in their safe haven in Sambisa forest in the border between Nigeria, Cameroun and Chad had been launching surprised attacks against military targets and the civilian populations. The strategy mostly adopted by the grou is ambush. They have constantly engaged in the ambush of military personnel during conflicts. Indeed, most of the military confrontation between the insurgents and the military has always been in the form of an ambush and surprised attacks.

Guerilla warfare like terrorism is an integral part of asymmetric warfare. It is a strategy adopted to avoid detection and to secure an advantage through the element of surprise. Often the perpetrators disguised will strike at their targets

[104] Whittaker supra

and disappear. Its recognized as an effective tool of asymmetric conflict normally adopted by the weaker side in a conflict.[105]

2.4.3 Insurgency

Insurgency is the armed attack of rebellions against a constituted authority to achieve a political goal. One could say that rebellion turns into insurgency once having survived the initial suppression from the authorities. There is no clear definition of insurgency, however, it has been suggested that when the government of the state in which the insurgents are operating finds it necessary to establish relations with the insurgent party in order to overcome it, then there is generally a Non International Armed Conflict going on[106] . The only criterion for insurgency is thus that of necessity.

The problem of recognizing insurgency from the state's point of view is that once this is done, the insurgent party becomes a legitimate contestant instead of simply being seen as lawbreakers. From a legal point of view, though, recognition of belligerency is not necessary, since the existence of a Non International Armed Conflict is governed by the objective criteria of intensity and organization[107].

Supporting insurgents, or the governments fighting the insurgency, has since a long way back been a way for states to achieve own policy goals in foreign

[105] Arreguin-Toft How the weak win wars: A theory of Asymmetric conflict, 2005

[106] Curllen 2010: The concept of non-international arm conflict in international humanitarian law, 2010 pg 10 – 11

[107] Ibid

countries. During the Cold War, the U.S. backed up the contras in Nicaragua who were fighting the communist government, whereas the former Soviet Union supported communist guerillas in Greece and Angola[108]. Since insurgency is aimed at overthrowing a government, other states often have a political interest of a certain outcome, and there is thus a risk of the conflict changing from being a NIAC to an IAC over time.

Insurgency is mostly fought at the frontline between state actors and non-state actors which invariably takes it to the realm of asymmetric conflict. The Boko Haram insurgency has as its central political objective the overthrow of constitutional democracy in Nigeria and the substitution of same with an Islamic Caliphate based on the strict application of Islamic sharia law. It is that political objective the fuel the Boko Haram insurgency giving it members the moral justification to continue with the armed campaign against the Nigeria state.

[108] Bayman et al 2002: The new face of insurgency, 2002 pg 1 – 2

CONCLUSION

Flowing from the discussion above, it becomes clear that the Boko Haram insurgency falls within the realm of armed conflict under international legal regime. What is more, the Boko Haram group is an identifiable group within the context of law and operates under a standing organized leadership under the command of Mallam Shakau and his sub-lieutenants. The group has in its possessions large cache of arms and ammunition for which it utilized its war against the Nigerian state.

The armed conflict between the group and the Nigerian government is fought on a clear agenda; whilst the Boko-Haram groups' primary objective is to carved out of Nigeria a mini independent state under the operation of strict Islamic sharia law, the Nigerian government is set out to maintained the territorial integrity of the state and to restore peace and order. This irreconcilable differences between the belligerents have fuel the continuation of the armed conflict for years with so much intensity leading to the adoption of different strategy of warfare.

The Boko-Haram insurgency is a Non-International armed conflict (NIAC), it is an armed conflict between a state and a non-state actor. The conflict is asymmetric by its nature, features and characteristic. The Nigerian state is militarily organized than the insurgents and has more economic and technological advantage over the them. The group aware of their military

disadvantage have resorted to the use of unconventional means of warfare such as terrorism and guerilla warfare.

It should be maintained that the designation of a conflict has Non-International Armed Conflict (NIAC) does not imply that it is outside the legal regime of international law, rather the terminology is only use to distinguished armed conflict between a state and a non-state actor or between non-state actors only which is of international character. Indeed, the designation of a conflict as (NIAC) will bring it more within the realm of international law than the term suggests.

The Boko Haram insurgency is asymmetric both in form and execution. the conflict is a Non-International Armed Conflict (NIAC). The Boko Haram group is an organized armed militia with its source of funds and military command structures with sizeable number of semi-trained personnel engage an armed conflict with the Nigeria state which is better organized and financed. The groups recognition of the superior military power of the Nigeria state resorted to different asymmetric tactics and strategy such as suicide bombings and guerilla warfare.

The conflict has been intense over the years leading to massive economic and humanitarian crisis within and outside Nigeria. Thus, it will be safe to say that the crisis falls squarely within the definition of armed conflict under Common Article 3 of the Geneva Convention 1949.

CHAPTER THREE

3.0 UNITED NATIONS MECHANISM FOR CONTROLING ASYMMETRICAL ARMED CONFLICT

3.1 PROHIBITION ON THE USE OF FORCE

The rules governing resort to force form a central element within international law, and together with other principles such as territorial sovereignty and the independence and equality of states provide the framework for international order.[109]

The activity of power inside the comity of countries is driven by political contemplations and in addition other non-lawful variables. In any case, the law attempted to rebuffed or constrain the resort to compel by part states.

Truly the teaching of the simply war exuded from the Christianisation of the Roman Realm and the consequent relinquishment by Christians of pacificism. States were legitimized to utilize power furnished it agreed to the heavenly will. The idea of the simply war exemplified components of Greek and Roman logic and was utilized as a definitive authorization for the upkeep of a requested society

[109] Malcolm Shaw, International Law, Cambridge University Press, Cambridge (Sixth Edition 2009) pg 1118

The ascent of the European country states, changed the degree and materialness of that regulation. It got to be connected with the power of states and confronted the oddity of wars between Christian states, every side being persuaded of the equity of its cause. This offer ascent to alteration of the way to deal with the simply war regulation. It now got to be obvious that modalities for serene determination of contention ought to be used before the resort to war. This practice reflected the new condition of global issues, this is expected to some extent to the presence of arrangement of ward states, uneasily coinciding in Europe in a primitive equalization of force framework. The utilization of power against different states, a long way from reinforcing the request, postured genuine difficulties to it and debilitated to undermine it. In this way the accentuation in lawful teaching moved from the use of power to stifle wrongdoers to a worry (if barely obvious now and again) to keep up the request by quiet means.

Bit by bit as details valued the impact of law on the activity of drive it started to be acknowledged that a specific level of right may exist on both sides, despite the fact that the circumstance was befuddled by references to subjective and target equity. At last, the legitimateness of the response to war was seen to rely on the formal procedures of law. This methodology foretold the ascent of positivism with its focus upon the sovereign state, which must be bound by what it had assented to.

Grotius, contended in support rejection of religious thought as support of a simply war, in perspective of the dangerous seventeenth-century religious conflicts, and upheld for redefinition of the idea of the simply war as far as legitimate and social contemplations, for example, self-preservation, the assurance of property and the discipline for wrongs endured by the nationals of the specific state.

In any case, with the selection of the Peace Settlement of Westphalia, 1648, and the ensuing acknowledgment of the equalization of force by the European expresses, the idea of the simply war vanished from global law thusly. States were sovereign and break even with, and in this manner nobody state could attempt to judge whether another's cause was just or not. States were bound and committed to respect assentions and admiration the autonomy and trustworthiness of different nations, and needed to attempt and resolve contrasts by tranquil techniques.

The main World War denoted the end of the equalization of force framework and brought up new issues in regards to the tenet of out of line war. It additionally brought about endeavors to remake global undertakings upon the premise of a general universal organization which would manage the behavior of the world group to guarantee that animosity couldn't happen once more.

The making of the Class of Countries reflected a totally diverse state of mind to the issues of power in the global request. The Contract of the Association committed individuals to submit question prone to prompt a burst to intervention or legal settlement or request by the Gathering of the Alliance. In no circumstances were individuals to depend on war until three months after the arbitral grant or legal choice or report by the Committee.

This was proposed to give a chilling period to interests to die down and arrangement produce results. This reflected the perspective that such a deferral may well have broken the apparently irreversible chain of disaster that connected the death of the Austrian Archduke in Sarajevo with the episode of general war in Europe. Alliance individuals concurred not to go to war with individuals agreeing to such an arbitral recompense or legal choice or consistent report by the Board.

The League system did not, prohibit war or the use of force, but it did set up a procedure designed to restrict it to tolerable levels.[110] It was a constant challenge of the inter-war years to close the gaps in the Covenant in an effort to achieve the total prohibition of war in international law and this resulted ultimately in the signing in 1928 of the General Treaty for the Renunciation of War (the Kellogg–Briand Pact). The parties to this treaty condemned recourse

[110] ibid

to war and agreed to renounce it as an instrument of national policy in their relations with one another.[111]

The prohibition on the resort to war does not mean that the use of force in all circumstances is illegal. Reservations to the treaty by some states made it apparent that the right to resort to force in self-defence was still a recognized principle in international law. Whether in fact measures short of war such as reprisals were also prohibited or were left untouched by the treaty's ban on war was unclear and subject to conflicting interpretations.[112]

3.2 Mechanisms Under the United Nations Charter

United Nations Charter is a constituent treaty, and all members are bound by its articles. Furthermore, Article 103 of the Charter states that obligations to the United Nations prevail over all other treaty obligations.Most countries in the world have now ratified the Charter.

3.2.1 Prohibition of the Use of Force

Article 2 (4) of the Charter provides that:

> All members shall refrain in their International relations from the threat or use of force against the Territorial Integrity or Political

[111] Article I League of Nations
[112] Brownlie, Use of Force, p. 87.

Independence of any State, or in any other manner inconsistence with the purposes of the United Nations.[113]

This provision is regarded now as a principle of customary international law and as such is binding upon all states in the world community.[114] The reference to 'force' rather than war is beneficial and thus covers situations in which violence is employed which fall short of the technical requirements of the state of war.[115]

Article 2(4) was elaborated as a principle of international law in the 1970Declarationon Principles of International Law and analysed systematically. It was intended to prohibit aggression by one state against the other. Aggression is considered as a crime against with intended responsibility under international law. States where restrained from the threat or resort to force in the settlement of their international dispute. States were placed under a duty to refrain from acts of reprisal involving the use of force; and states must recognised the right of self-determination and must not use force to deprive peoples of their right thereof and states must refrain from organising, instigating, assisting or participating in acts of civil strife or terrorist acts in another state and must not encourage the formation of armed bands for incursion into another state's territory.

[113] UN Charter Article 2 (4)
[114] J. P. Cot, A. Pellet and M. Forteau, La Charte des Nations Unies: Commentaire Article par Article, 3rd edn, Paris, 2005, and The Charter of the United Nations (ed. B. Simma), 2nd edn, Oxford, 2002.
[115] Malcolm Shaw, op cit.

Many of these items are crucial, but ambiguous. Although the Declaration is not of itself a binding legal document, it is important as an interpretation of the relevant Charter provisions.[116]

Article2(6) of the Charter provides that the UN shall ensure that states which are not members of the United Nations act in accordance with these Principles so far as may be necessary for the maintenance of international peace and security'. As suggested many of the resolutions adopted by the UN are addressed simply to 'all states,' for example, Security Council resolution 757 (1992) adopted under Chapter VII of the Charter, and therefore binding upon all member states, imposed comprehensive sanctions upon the Federal Republic of Yugoslavia (Serbia and Montenegro). However, the invocation in that decision was to 'all states' and not to 'member states'[117].

Article 2(4) extend and covers also situation of threats of use of force as well as use of force. This issue came up for discussions in the International Court in its Advisory Opinion to the General Assembly on the Legality of the Threat or Use of Nuclear Weapons.[118] The Court stated that a '*signalled intention to use force if certain events occurred 'could constitute a threat under article2 (4) where the envisaged use of force would itself be unlawful.*

[116] ibid
[117] ibid
[118] ICJ Reports 1996

Article 2 (4) equally prohibits the use of force by or military intervention against the domestic affairs of another state without its consent and approval.[119] The prohibition against the use of force has been described by the International Court of Justice as the corner stone of the Charter of the UN.[120]

The responsibilities and powers of the Security Council as enshrined in the UN Charter are central to the Security Council's ability to uphold international stability and peace by averting or ending conflicts.

The controversy centred on the second part of the Article 2 (4), should the word against the territorial integrity or political independence of any state, or in any other manner inconsistent with the purposes of the United Nations' be construed as a strict prohibition on all use of force against another state, or did they allow the use of force provided that the aim was not to overthrow the government or seize the territory of the state and provided that the action was consistent with the purposes of the United Nations.[121]

In view of the Nicaragua's case it was argued as to whether Article 2(4) of the Charter reflected existing customary International law or it was in 1945 a

[119] See The1965DeclarationontheInadmissibilityofIntervention in the Domestic Affairs of States
[120] Democratic Republic of the Congo v. Uganda, ICJ Reports, 2005, pp. 168, 223.
[121] Bowett, Self-Defence in International Law (1958) at 52

radical departure from previous customary law, to be narrowly interpreted.[122] Many argued that the Interpretation of Article 2(4) of the Charter depends on the effective functioning of the United Nations collective security system, and therefore that the inability of the Security Council to act because of the veto of the five permanent members meant that Article 2(4) should be read to allow the use of force to further 'word public order' or the principles and purposes of the United Nations.[123] Although prohibition of the use of force under Article 2(4) appears absolute, it nevertheless allowed use of force in self - defence when an armed attack occurred under Article 51 and action authorized by the UN Security Council.[124]

Where there is an issue as whether the action of a state constitute a threat to peace, breach of peace or act of aggression, such incidence should be referred to the United Nations to be debated upon and decides anyone found wanting should be condemned.

The Security Council clearly has an important role but there is a controversy as whether its findings are conclusive as to legality, illegality and as to the context of the applicable norms... or does the Security Council has a final say only as to

[122] Bowett, Supra
[123] Reisman, Coercion and Self Determination: Construing Charter Article 2(4) and reply by Schacter, The Legality of Pro-Democratic Invasion. (Argument in Articles).
[124] Enforcing International Humanitarian Law (Supra).

what is an act of aggression, threat to the peace and or breach of the peace under chapter VII of the Charter.[125]

With all the powers of the Security Council in determining the action of a State, it is reluctant in condemning the act of a state whether legal or illegal.

There are some resolutions pass by the Security Council on certain actions by some state and condemned the act of aggression against the sovereignty, independence and territorial integrity of the state region, but no name was specifically mentioned as responsible.[126]

It was argued that failure of the Security Council to condemn (whether because of the veto or not) constitute acquiescence by other state or helps to undermine the prohibition on the use of force or intervention or to support controversial doctrine of international law.[127]

3.1.1. THE MEANING OF FORCE.

The meaning of the notion "force" referred to in Article 2(4) is essential. It is generally agreed among scholars that this provision covers, in the first place, the threat or use of armed or military force—i.e., the employment by a State of its regular armed forces,[128], the employment by a State of its regular armed forces

[125] Talmon, The statements by the President of the Security Council; 2 Chinese Journal of International Law (2003) 419. International Law Supra pgs 13-14
[126] Ibid
[127] D'Amato, International LAW: Process and Prospect (2nd edition,1995) Chapter 6.
[128] Christine Gray refers to "an invasion by the regular armed forces of one state into the territory of another state" as "[t]he paradigm case" of an armed attack.

(in a broad sense currently accepted in international law), or of irregular armed groups. and of means and methods of warfare (in the sense of applicable international humanitarian law) against another State, its nationals, public or private property.[129]

3.1.2. TYPE AND CATEGORIES OF FORCE

Under the United Nations Charter three categories of force are generally recognised as available to the states; retorsion, reprisal and self-defence.

a. **RETORSION;** is the act of engaging legally in an unfriendly and harmful manner towards another state as a retaliation for its legally injurious conduct to towards the other state. Such acts include severance of diplomatic relationship, deportation of aliens and impositions of high import tariffs on the target state. Retorsion was stated to be a legitimate method of showing displeasure in a way that hurts the other state while remaining within the bounds of legality.[130] Act of retorsion is also directed can also be directed by state towards an unlawfully conduct of another state[131]

b. **REPRISAL; this** unlike retortsion, is the adoption of illegal and harmful conducts by a state as a retaliation of another state's prior illegal conduct. The element of illegality makes reprisals quite distinguishable

[129] S. Sayapin, The Crime of Aggression in International Criminal Law,
[130] Malcolm Shaw op cit.
[131] ibid

from retorsion.[132] Reprisal may be lawfully carried out if there was a demand for reparation made to the other party and it fails to obliged. In view of the current article 2(4) on the prohibition of the use of force against other states, armed or military reprisal are largely unlawful except the fall under self-defence.[133]

c. **SELF-DEFENCE;** the in the **Carorline case**[134] a classic exposition of what constitute self-defence as stated as follows; There had to exist 'a necessity of self-defence, instant, overwhelming, leaving no choice of means, and no moment for deliberation'. Not only were such conditions necessary before self-defence became legitimate, but the action taken in pursuance of it must not be unreasonable or excessive, 'since the act, justified by the necessity of self-defence, must be limited by that necessity, and kept clearly within it.[135]' These principles were accepted by the British government at that time and are accepted as part of customary international law.[136] Thus, Article 51 of the Charter provides that:

NothinginthepresentChartershallimpairtheinherentrightofindividual or collective self-defence if an armed attack occurs against a member of the United Nations, until the Security Council has taken the measures

[132] Ibid.
[133] Ibid.
[134] 29 BFSP, p. 1137 and 30 BFSP, p. 195.
[135] This definition was proffered by US Secretary of State Daniel Webster,
[136] Malcolm Shaw op cit. This led to the adoption of the Webster-Ashburton Treaty of 1842.

necessary to maintain international peace and security. Measures taken by members in the exercise of this right of self-defence shall be immediately reported to the Security Council and shall not in any way affect the authority and responsibility of the Security Council under the present Charter to take at any time such action as it deems necessary in order to maintain or restore international peace and security.

The precise scope and application of Article 51 has been a matter of scholarly debate.[137] While writers like Brownlie[138], Jimenez de Arechaga,[139] H. Kelson[140] and Skubiszewski[141], supports the view that Article 51 together with are 2 (4) are exhaustive, writers such as Bowett,[142] Stone,[143] H. Waldock,[144] J. Brierly[145] and Gray[146] argued to the contrary and posited that the right to self-defence does exist to the states.

The International Court Justice in the **Nicaragua case**[147] affirm the existence inherently of the right to self-defence under international law and the Charter. The court held that; *Article 51 of the Charter is only meaningful on the basis that there is a 'natural 'or 'inherent' right of self-defence and it is hard to see*

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[137] ibid
[138] Brownlie, Use of Force, pp. 112–13 and 264
[139] E. Jim'enez de Ar'echaga, 'International Law in the Past Third of the Century', 159 HR, 1978, pp. 1, 87–98.
[140] H. Kelsen, The Law of the United Nations, London, 1950, p. 914.
[141] Skubiszewski, 'Use of Force', pp. 765–8
[142] Bowett, Self Defence, pp. 185–6;
[143] Stone, Aggression and World Order, pp. 43, 95–6
[144] o H. Waldock, 'General Course on Public International Law', 166 HR, 1980, pp. 6, 231–7
[145] Brierly, The Law of Nations, 6th edn, Oxford, 1963, pp. 417–18,
[146] Gray, Use of Force, pp. 98 ff
[147] ICJ Reports, 1986, pp. 14, 94; 76 ILR, pp. 349, 428

how this can be other than of a customary nature, even if its present content has been confirmed and influenced by the Charter...It cannot, therefore, be held that article 51 is a provision which 'subsumes and supervenes' customary international law.

The court also considered arms attack as including not only the use of the regular armed forces but also the sending by or on behalf of a state of armed bands or groups which carry out acts of armed force of such gravity as to amount to an actual armed attack conducted by regular armed forces or its substantial involvement therein.

The court in **the Oil Platforms (Iran v. US) case,**[148] noted that in order to be able to resort to force in self-defence, a state has to be able to demonstrate that it has been the victim of an armed attack and it bears the burden of proof.

It should be noted that article 51 requires that states report 'immediately' to the Security Council on measures taken in the exerciseoftheirrighttoself-defenceandthatactionsotakenmaycontinue 'until the Security Council has taken the measures necessary to maintain international peace and security.[149] In **Democratic Republic of the Congo v. Uganda,**[150] the International Court of Justice pointed out that Uganda failed to report to the Security Council events which it feels justified its acting in self-defence.

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[148] ICJ Reports, 2003, pp. 161, 189 and 190; 130 ILR, pp. 323, 348–50
[149] Malcom Shaw op cit.
[150] ICJ Reports, 2005, pp. 168, 222

3.2 CHAPTER VII OF UNITED NATIONS CHARTER

Chapter VII of the United NationsCharter sets out the United Nations Security Council's powers to maintain international peace. It allows the Council to "determine the existence of any threat to the peace, breach of the peace, or act of aggression" and to take military and nonmilitary action to "restore international peace and security".[151]

Chapter VII also gives the Military Staff Committee responsibility for strategic coordination of forces placed at the disposal of the United Nations Security Council. It is made up of the chiefs of staff of the five permanent members of the Council[152].

The initial plan was that the Security Council would have its own standing army to use in response to the peace, breaches of the peace and act of aggression. But the standing army never materialize hence the security council was not able to carry out its primary responsibility for the maintenance of international peace and security under Article 24 and also its powers to take decisions binding on members' state under Article 25 was little used because of the veto power of the five permanent members of the Security Council under Article 27 of the United Nations Charter.

[151] United Nation Charter.
[152] Cases and materials on international public law by M.T. Ladan, Professor of law at ABU Zaria

The contextual analysis of the Charter demonstrates that dangers and threats to international peace and security may vary in degree and kind, and consequently require different responses.[153]

Article 24 of the Charter vests in the Security Council, the primary responsibility of maintenance of international peace and security.[154] Chapter VII empowers the Council to deal with actual threats to the peace, breaches of the peace and acts of aggression. The competences set out in both chapters make clear, on the whole, that the Council's role in the international legal system is strictly functional.[155]

THREAT TO PEACE AND BREACH OF THE PEACE

The Security Council is empowered to determine the existence of international threat to peace or breaches of the peace as well as act of aggressions.[156] What constitute threat to peace or breach to peace has no agreed scope of definition. The factors that may expand or limit the interpretation of that article is largely determine by the inter play of international politics.

It is recognized that the determination of what constitute threat to peace and breach of the peace is within the discretion of the Security Council which it must exercise within the purview of certain recognized limitations imposed by

[153] Alexander Orakhelashvili, The Power of the UN Security Council to Determine the Existence of a 'Threat to the Peace'1 Irish Y.B. Int'l L. 61 2006.
[154] Article 24 United Nations Charter 1945.
[155] Alexander Orakhelashvili op cit
[156] Article 39 United Nations Charter 1945

the Charter. Thus the Tribunal for the Yugoslavia observed in relation to article 39 that;

> it is clear from this text that the Security Council plays a pivotal role and exercises a very wide discretion under this Article. But this does not mean that its powers are unlimited. The Security Council is an organ of an international organization, established by a treaty which serves as a constitutional framework for that organization. The Security Council is thus subjected to certain constitutional limitations, however broad its powers under the constitution may be. Those powers cannot, in any case, go beyond the limits of the jurisdiction of the Organization at large, not to mention other specific limitations or those which may derive from the internal division of power within the Organization. In any case, neither the text nor the spirit of the Charter conceives of the Security Council as legibus solutus (unbound by law). ~~the "threat to the peace" is more of a political concept. But the determination~~ that there (not complete)~~.....~~

A Security Council Resolution is considered to be 'a Chapter VII resolution' if it makes an explicit determination that the situation under consideration constitutes a threat to the peace, a breach of the peace, or an act of aggression,

and/or explicitly or implicitly states that the Council is acting under Chapter VII in the adoption of some or all operative paragraphs.[157]

Under the Charter framework, the Council possesses political discretion as to the initial determination of the substance of threats to the peace, but the legal limitation on this discretion following from the text of Article 39 is that the such determination must relate to something that exists and threatens the peace. The discretion provided enables the Council to cover the range of situations not specified in the Charter; it does not empower the Council to extend its determination to anything it likes.[158]

Once the Security Council makes a determination that threat to peace or a breach of the peace has occurred it may either take measures not involving the use of armed forces or may resort to use armed forces where it becomes necessarily for the maintenance of international peace.

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AGGRESSION; another element under article 39 is the determination of the existence of aggression by the Security Council. On 14 December 1974, the General Assembly adopted by consensus resolution 3314 (XXIX) annexing the Definition of Aggression which had been adopted by the fourth special committee. The Definition begins with a broad definition of aggression, drawn

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[157]Johansson, Patrik. The Humdrum Use of Ultimate Authority: Defining and Analysing Chapter VII Resolutions, *Nordic Journal of International Law* 78:3 (2009), pp. 309–342. An appendix lists all Chapter VII resolutions 1946–2008

[158]Alexander Orakhelashvili op cit

largely from Article 2, paragraph 4, of the Charter (though omitting reference to threats) and then enumerates specific examples of acts of aggression.[159]

The acts set out in article 3 qualify as acts of aggression, subject to the provisions of article 2, which envisage that the Security Council may decide not to make a determination of aggression in the light of the circumstances, including the fact that the acts are not of sufficient gravity. Article 4 specifies that the list is not exhaustive and that the Security Council may determine that other acts constitute aggression.[160]

The issue of self-determination was a live one during the negotiations and it was dealt with in a saving clause in article 7. Invasion of a State by the armed forces of another State, with or without occupation of the territory, heads the list of aggressive acts set out in article 3. Of the other acts listed, a few problems that arose in the negotiations may be mentioned. The reference to port blockade in paragraph (c) gave rise to demands from landlocked States that blockade should include denial of access to and from the sea, a problem that was resolved, not to the satisfaction of all, by including a note in the Sixth Committee's report to the General Assembly that the Definition did not justify a

[159] **Elizabeth Wilmshurst**, Definition of AggressionGeneral Assembly resolution 3314 (XXIX) 14 December1974. Audio Visual Library of International Law.

[160] Ibid

State in blocking access routes to the sea for landlocked countries (A/9890, para. 9).[161]

Concerns were expressed that the reference in paragraph (d) to attacks on marine fleets would include as aggression activities by coastal States to preserve fish stocks or the environment. Again the solution was to add a note stating that nothing in the Definition prejudiced the authority of a State to exercise its rights, compatibly with the Charter, within its national jurisdiction (A/9890, para. 10). Paragraph (g), relating to irregular bands or mercenaries going from one State into another, constituted one of the major difficulties in reaching consensus on the Definition. Agreement was finally reached by narrowing earlier proposals to limit the text to "sending" organized groups, rather than organising and supporting them.[162]

Difficult compromises were necessary to reach consensus on the text. Interpretative statements to express particular interpretations of the Definition were made by Government delegations on adoption of the Definition both in the special committee and in the General Assembly.[163]

Similar to the determination of the threat to peace and breach of the peace once it is established by the Security Council that an aggression exists, it may adopt

[161] ibid
[162] ibid
[163] Ibid.

any of the measures under articles 41 and or 42 of the Charter for the purposes of restoring peace.

3.3 CHAPTER VIII OF THE UNITED NATIONS CHARTER

Although Article 24 in Chapter V of the Charter clearly vests the primary responsibility for the maintenance of international peace and security with the Security Council, the Charter provides a role for regional organizations and arrangements in the maintenance of peace and security in their respective regions. Article 33(1), in Chapter VI, provides that parties to any dispute endangering international peace and security "shall, first of all, seek a solution by negotiation, enquiry, mediation, conciliation, arbitration, judicial settlement, resort to regional agencies or arrangements, or other peaceful means of their own choice."

As the cold war ended, it was hoped that the relevant parts of the UN Charter concerning the role of regional organizations and arrangements in the maintenance of international peace and security could be invoked effectively. In An Agenda for Peace, issued on 31 January 1992, the Secretary-General recommended a greater role for regional organizations in peace-related activities: [164]

"But in this new era of opportunity, regional arrangements or agencies can render great service if their activities are undertaken in a

[164] United Nations Framework for Cooperation with Regional Organizations/Arrangements:

manner consistent with the purposes and principles of the Charter, and if their relationship with the United Nations, and particularly the Security Council, is governed by Chapter VIII. ... Under the Charter, the Security Council has and will continue to have primary responsibility for maintaining international peace and security, but regional action as a matter of decentralization, delegation and cooperation with the United Nations efforts could not only lighten the burden of the Council but also contribute to a deeper sense of participation, consensus and democratization in international affairs. ... and should the Security Council choose specifically to authorize a regional arrangement or organization to take the lead in addressing a crisis within its region, it could serve to lend the weight of the United Nations to the validity of the regional effort." (A/47/277-S/24111, paras 63-65).

The Supplement to An Agenda for Peace, issued on 3 January 1995, outlined the forms that cooperation between the UN and regional organizations was taking at the time in the context of maintaining peace: Consultation, Diplomatic Support, Operational Support, Co-deployment and Joint Operations.[165]

[165] ibid

Under Chapter VIII, Article 52(1) stipulates that nothing in the Charter is to preclude "the existence of regional arrangements or agencies for dealing with such matters relating to the maintenance of international peace and security as are appropriate for regional action." It goes on to invite Member States entering into such arrangements or disputes through such regional arrangements or constituting such agencies to "make every effort to achieve pacific settlement of local disputes through such regional arrangements or by such regional agencies before referring them to the Security Council."[166]

Chapter VIII of the Charter of the United Nations provides the constitutional basis for the involvlement of regional organizations in the maintenance of international peace and security for which the Security Council is primarily responsible.

Article 52 provides for the possibility of the existence of regional arrangements or agencies in the peaceful settlement of disputes, as long as they consistent with the purposes and principles of the United Nations.

Article 53 allows such arrangements to take enforcement action, but only with explicit authorization by the Security Council, it therefore, creates a mechanism that allows the Council to utilize regional arrangements to implement its enforcement measures.

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[166] Ibid.

An August 2013 Security Council Presidential Statement underscored the importance of further developing and strengthening co-operation between the United Nations and regional organizations, highlighting the important role that regional and sub-regional organizations can play in conflict prevention, peaceful settlement of disputes, peacekeeping and post-conflict peace building.

As threats to security become increasingly multi-dimensional and transnational, affecting security at both the regional and global levels, and as the danger of armed conflict is still present and several conflicts remain unresolved, the challenge for the international community is to explore ways to revitalize co-operation between the United Nations and regional organizations under Chapter VIII[167].

[167] Organization for security and co-operation in Europe (Osce) report 2014. The Osce and chapter VIII of United Nations Charter: Confronting Emerging Security Challenges in the Euro – Atlantic and Eurasian Space, Vienna May 2014

CHAPTER FOUR

4.0.EFFECTIVENESS OF THE UNITED NATIONS ANTI-ASYMMETRIC ARMED CONFLICT MECHANISM

4.1. IMPLICATION OF BOKO HARAM INSURGENCY AND ASYMMETRIC ARMED CONFLICT IN NIGERIA.

In order to fully ascertain the effectiveness of the UN anti-asymmetric armed conflict mechanism with it is necessary to briefly highlight the existential implication of the Boko Haram insurgency in Nigeria.

Its without doubt that the lingering armed conflict between the Nigerian government in conjunction with other states i.e Cameroun, Chad and Niger against the Boko Haram insurgents has some long term effect ranging from security to economic. This research will briefly examine some of them.

4.1.1 Security Implication of Boko Haram Asymmetric Armed Conflict

The major violence started in 2009 between the Boko Haram and Nigerian security forces. This violence has claimed the lives of more than 1000 people with over 700 killed in Borno State capital Maiduguri.[168] This violence has exposed the weakness of Nigerian security system by its inability to curb the crisis on time. Subsequently, the group carried out another attack, when it

[168]Salisu Salisu Shuaibu, Mohd Afandi Salleh, and Abdullahi Yusuf Shehu, The Impact of Boko Haram Insurgency on Nigerian National Security, International Journal of Academic Research in Business and Social Sciences June 2015, Vol. 5, No. 6

orchestrated a large prison break in Bauchi in 2010 which freed more than 700 inmates including the sect members. This prison break shows how capable the group is in undermining the security of the country and exposes its weakness to the international community.[169] The sect claimed responsibility for police headquarters attacks that was believed to be the first suicide bombing in Nigeria in 2011. The attack is said to target the former Inspector General of Police (Mr. Hafiz Ringim).

This attack shows how powerful the group is with its ability and strategy to attack such an important place. In the same year, the group carried out another suicide attack on United Nations Headquarters in Abuja in which twenty people were killed and more than sixty were injured.[170]

Boko Haram has also attacked Western institutions, most notably the UN headquarters in Abuja in August 2011. This attack, which killed 21 people, was the organisation's first suicide bombing, using vehicle-borne improvised explosive devices (VBIEDs). The growing sophistication of the attacks suggested assistance from international networks, especially Al-Shabaab (which operates in the Horn of Africa) and al-Qaeda in the Islamic Maghreb (AQIM).[171]

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[169] ibid
[170] ibid
[171] Zenn, J., 'Leadership Analysis of Boko Haram and Anasaru in Nigeria'. CTC Sentinel, special issue,Volume 7/2,February 2014.

Terrorist attacks perpetrated in Abuja also demonstrated the increasing geographical reach of the organisation. Fanning out from its stronghold in Maiduguri and Borno state, over the last five years Boko Haram has also carried out attacks in the north-eastern states of Kano, Yobe, Adamawa and Bauchi. There is ongoing debate as to whether the movement has ambitions to increase its activities outside of Nigeria, as its attacks on western targets such as the UN and activities in neighbouring countries would suggest.[172]

Kidnappings of western nationals for ransom have also been attributed to Boko Haram. Some cases include the kidnapping of a French priest, Georges Vandebeusch, in November 2013 as well as that of a seven member French family, which is believed to have produced a ransom of USD 3 million. Both of these kidnappings took place in Cameroon.[173]

Since 2010, Boko Haram has also carried out raids on banks and money convoys in order to swell its own coffers. Targets have included newspaper, media and telecommunications towers, as well as opponents and even collaborators and informants. Consequently, negotiations with it have proven difficult.[174]

Public spaces such as markets and bus stations (in Abuja, a bus terminal was targeted in April, and a shopping centre in June). It has also attacked schools

[172] European Parliament, Policy Department, Directorate- General for External Policies, Insecurity in context: The rise of Boko Haram in Nigeria.
[173] ibid
[174] ibid

and universities (the massacre of sleeping students in dormitories in Yobe state in February 2014 and the kidnapping of school girls in Chibok). The deaths of innocent Muslims have been a point of contestation within the movement, and are cited as one of the reasons for the official creation of the splinter group known as Ansaru (or in full: Jama'atu Ansarul Muslimina Fi Biladis Sudan or the 'Vanguards for the Protection of Muslims in Black Africa'). In July 2014, Boko Haram was reported for the first time to have taken control over a city - Damboa in Borno state - setting up road blocks and checkpoints in what would represent a major strategic victory over the military.[175]

More than 15 000 people fled as a consequence of the attack, increasing the number of internally displaced people (IDP) which is estimated to have surpassed 3.3 million since 2010. In fact, Nigeria has one of the highest IDP populations in the world, a pressing challenge that requires immediate response, warned UN Human Rights experts. On a conservative estimate, the death toll arising from Boko Haram's activities between July 2009 and July 2014 is over 22000. This includes 2000 deaths in 2014.[176]

Although there appears to be recent gains the insurgents by the Nigerian troops and the Multi-National Joint Task Force, the insurgents still carried small scale attacks against military and civilian targets and objects.

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[175] ibid
[176] Ibid

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4.1.2 Economic Implication of Boko Haram Asymmetric Armed Conflict.

The security challenge posed by the Boko Haram insurgency has crippled the economy of Nigeria and the north in particular.

Incessant bombings and gun attacks in the Northern parts of this country by the Boko Haram fundamentalists, have seriously affected the economic lives of individuals in the areas. For instance, commercial banks have been forced to review their operational hours to begin from 9.00am to close at 2:pm. This is a part of efforts by these financial institutions to safeguard their business premises.[177]

Nigeria is considered to be an emerging economic powerhouse: annual growth rates have averaged more than seven percent per year, making the Nigerian economy one of the fasting growing economies in the world.[178] Foreign Direct Investment (FDI) plays a crucial role in this high growth rate. There is a high dependency ratio between the FDI, the Nigerian oil sector, and the gross domestic product (GDP). A study published in The International Journal of Applied Economics and Finance shows that one unit of FDI increase in the oil sector will increase the GDP by 15-16 units.[179]

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[177] Ovaga, Okey H.The Socio-Economic Implications of Boko-Haram Activities in Northern Nigeria, Review of Public Administration & Management Vo. 1 No. 2

[178] Despite Nigerian Growth Few have (good jobs) www.gallup.com/poll/165761/despite-nigeria-economic-growth-few-good-jobs.aspx (accessed April 4th 2014).

[179] Foreign Direct Investment into oil sector and economic growth in Nigeria http://scialert.net/fulltext/?doi=ijaef.2012.127.135&org=11 (accessed April 4th 2014)

As a result of Boko Haram's activities, FDI has declined. FDI has dropped 21.3 percent in 2012, from $8.9 to $5.5 billion. Although there might be other factors that can have a negative effect on the level of FDI, but it is clear that no foreign investors want to invest capital in an environment of fear, anarchy, and insecurity.[180]

Microeconomic consequences in addition to the devastating macroeconomic consequences of the actions of Boko Haram, the terrorist organization also has had clear microeconomic effects on Nigeria. Boko Haram has attacked soft targets, which has led to closure and abandonment of businesses. Nation Newspaper reported, "Borno and neighbouring Yobe State - the epicenter of activities of the sect - have been crippled economically. Thousands of people have died in the sect's bloody campaign." Additionally, about 97 percent of business were negatively affected by the security problem. Some of them had to close down, some of them had to retrench their workers, and other had to cut down in the number of operation."[181]

Boko Haram has also had a strong negative effect on smaller private entrepreneurs, forcing them to close their businesses and lay off workers. This is alarming, because Nigeria has a startlingly high unemployment rate of 23.9

[180] Economic consequences and management of Boko Haram insurgency in Nigeria by Adeolu Durotoye Vol 3 issue 6 June 2015.

[181] Olide Ismail Ar-Boko Haram Insurgency in Nigeria: Its Implication and Way Forwards toward Avoidance of Future Insurgency-published at: "International Journal of Scientific and Research Publications (IJSRP), Volume 3, Issue 11, November 2013 Edition"

percent,[182] which continues to rise despite high levels of FDI and economic growth.

4.1.3 Socio-Political Implication of Boko Haram Asymmetric Armed Conflict

The activities of Boko Haram and the government efforts at combating has resulted into large scale disruption of normal social activities. The ongoing crisis has left Nigeria with massive internally displaced persons (IDPS) who are residing in different (IDPs) camps across the country and beyond. The people have been cut out from their societies and communities as a result of the conflict.

Academic activities are disrupted intermittently as a result of sporadic attacks on educational facilities. Government has had to shut down schools in order to forestall sudden attacks on them by Boko Haram insurgents. The Boko Haram attacks also culminate in poor student's performance because learning is characterized by threat in the school environment of the north, whereas it is an accomplished fact that learning thrives mostly in an environment devoid of threat[183]

[182] Nigerian unemployment rate trading economics www.tradingeconomics.com/nigeria/umemployment-rate (accessed 4th April 2014)

[183] O. D. Olaniyan, EFFECT OF BOKO HARAM INSURGENCY ON THE NIGERIAN EDUCATION SYSTEM, Journal of Research Development, Volume 24 No.2, July, 2015

On the political front the crisis has generated divided political opinion among the citizens of Nigeria. There is an ongoing debate on whether the crisis is politically motivated. The crisis has created to some extent deep religious divide among the two major religion in the country with some Christians viewing the insurgency as part of operation to wipe out Christians in the northern part of the country. The crisis was a major factor in the determination of the national election of 2015.

While there is no accurate data on the degree of damage arising from the ongoing asymmetric armed conflict between the Nigerian state and the Boko Haram insurgents, it is without debate that the effect of the crisis will continue to have a devastating effect on the territorial integrity of Nigeria except and until effective measures are put in place to combat and possible end it.

4.2 Effectiveness of United Nations Anti-Asymmetric Armed Conflict Mechanism

In the context of the foregoing this project now examines the effectiveness of the earlier identified UN Anti-Asymmetric conflict mechanisms.

4.2.1 Effectiveness of Prohibition against the Use of Force in Combating Asymmetric Armed Conflict

The objective of the article 2 (4) which is the central and cardinal principle of the United Nations Charter is to prevent resort to armsconflict (use of force) by

states in the settlement of their international dispute so as to avoid situation of war. The essence of the article is to provide a medium for negotiation between states over dispute.

Article 2 (4) of the United Nations charter though has been in the forefront in the prohibition of armed conflict around the globe is limited in terms of application and responsibilities to states only. The article's objective is the prevention of international armed conflict. Thus, it does not apply to non-international armed conflict.

The armed conflict between the Nigerian state and the Boko Haram insurgents is classified as a non-international armed conflict (NIAC) that is armed conflict involving states against a non-state actor or conflict between non-state actors without the involvement of states.

Thus, the effectiveness of article 2 (4) as a mechanism for combating asymmetric armed conflict can only be measure with regards to international asymmetric armed conflict. This posed a great challenged in the peace making effort of the United Nations. Sometimes non-international armed conflict may have more devastating effect than international armed conflict and states.

This mechanism of armed conflict control is ineffective in addressing issues arising from the asymmetric armed conflict between the Nigerian state and the

Boko Haram insurgents. The Nigerian state is not bound by any obligation arising under the said article as such.

The designation of an armed conflict as either international and non-international is not intended to distinguish the international character of the one against the other, rather it was so called for the purposes of identifying armed conflicts between states actors as primary belligerents as against armed conflict involving states and non-state actors or between non-state actors.

4.2.2 Effectiveness of Chapter VII of United Nations Charter in Combating Asymmetric Armed Conflict

Chapter VII empowers the Security Council to make a determination of facts and circumstance that may constitute threat to peace, breaches of the peace or acts of aggression. With the exception of acts of aggression which can only be committed by state against a state, threat to peace or breaches to the peace can be committed by both state and non-state actors.

The Security Councils in exercise of its discretionary powers made some resolutions declaring some acts and conducts as constituting a threat to peace or breaches of the peace. We shall set forth to examine a few to determine how they apply to the situation of the Boko Haram conflict.

a. Acts of Terrorism

The expression of deep concern by the council in its 1992 PRST 133 and to which a reference was made after the terrorist attacks in Buenos Aires in July 1994 (PRST/1994/40) developed into a conviction that their suppression, including acts in which states are directly or indirectly involved, is essential for the maintenance of international peace and security[184].

After the attacks in Nairobi and Dar-es-Salaam in August 1998 international terrorist acts as a threat to international peace and security were put as a separate item on the council's agenda. While condemning all acts of terrorism, the council made it clear that not all of them could threaten international peace and security: it is the international character of the acts, which bestow upon them the qualification of being a threat[185].

The continuing use of a territory for the sheltering and training of terrorists and the planning of terrorist acts may be deeply disturbing and failure to respond to demands to stop providing sanctuary and training for international terrorists and their organizations and to turn over Osama bin Laden that constituted a were deemed to constitute threat to the peace.[186]

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[184]Resolutions 883, 1044, 1054, 1189, 1214, 1269)
[185]Resolution 1269 and 1368
[186][186]Resolution 1333

Extremist violence, including terrorist activities taking place on the territory of a particular state with support from extremists outside the areas concerned, constitutes a threat to the security and stability of the wider region.[187]

Further acts of international terrorism led to the adoption in November 2001 of a declaration on the global effort to combat terrorism. The council declared those acts to be not only 'one of the most serious threats to international peace and security in the twenty-first century' but also as contrary to the purposes and principles of the Charter of the United Nations [188] thus confirming the existence of a charter-based and customary legal obligation *erga omnes* for Member States not to commit, acquiesce in or support, directly or indirectly acts or courses of conduct which may constitute or result in a threat to international peace and security[189]

b. Violation of Human Rights

In its 1992 the Security Council noted that human rights verification had been an 'integral parts of the Security Council's efforts to maintain international peace and security', but violations of human rights were not listed as threats, although lack of improvement in respect for human rights, including the rights of persons

[187]Resolution 1345 and PRST/2001/7
[188]Resolution 1377, Annex
[189]Karel Wetlens, THE UN SECURITY COUNCIL AND NEW THREATS TO THE PEACE: BACK TO THE FUTURE, OXFORD UNIVERSITY PRESS, 2003.

belonging to minorities, may be considered by the council as one of the factors contributing to the qualification.[190]

Systematic, flagrant and widespread violations of human rights law were identified as a potential threat to international peace and security in the general.[191]

Dealing with the situation of the Kurds in Iraq, the council was gravely concerned by the repression of the Iraqi civilian population, which led to a massive flow of refugees across international frontiers and cross border incursions, which it considered a threat to international peace and security in the region.[192] The repression thus was, according to the preamble, an indirect cause of the threat; and this was also reflected in the operative paragraphs when the council condemned the repression, 'the consequences of which threaten international peace and security in the region' and demanded Iraq to put an end to it 'as a contribution to removing the threat'.[193].

In another situation similarly involving flows of refugees across international frontiers, increasing violations of human rights deeply concerned the council and contributed to the deterioration of the situation in Kosovo, constituting a threat to peace and security in the region (Resolution 1199). In all relevant cases

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[190] ibid

[191] declaratory Resolution 1314 adopted in August 2000.

[192] Karel Wetlens, THE UN SECURITY COUNCIL AND NEW THREATS TO THE PEACE: BACK TO THE FUTURE, op cit.

[193] Resolution 688.

violations of human rights were among the factors contributing to the determination that a conflict constitutes a threat to peace, security and stability in the region (Resolutions 1234 and 1264). No situations have arisen where such violations of human rights provided the exclusive underpinning of a pronouncement or determination of a threat.

c. Violations of International Humanitarian Law

A noteworthy development in the period under review is the fact that a number of issues of international humanitarian law have, because of their inherent and general importance, been placed as separate items on the council's agenda (protection for humanitarian assistance to refugees and others in conflict situations; children and armed conflict; protection of civilians in armed conflict; protection of UN personnel, associated personnel and humanitarian personnel in conflict zones).[194]

As a result of its double-track approach the council had multiple opportunities to express its views on the link between international humanitarian law issues with threats to the peace. The council has also recalled the obligations of states 'to respect and to ensure respect for international humanitarian law, including the four Geneva Conventions' and it has emphasized 'their responsibility to end impunity and to prosecute those responsible for genocide, crimes against humanity and serious violations of humanitarian law'[195] Given the nature of situations before the council, it is not surprising that in the process of pronouncements or determinations violations of international humanitarian law are often combined with violations of human rights. Grave and serious violations of international humanitarian law may occur in situations already

[194] Karel Wellens, op cit.
[195] PRST/2002/41

declared to constitute a threat, but this does not necessarily lead to a reaffirmation of this determination or to a separate, additional qualification.[196].

In most cases where violations of international humanitarian law have been listed among other contributory factors, the Security Council has identified the precise nature of those violations. In the case of Iraq the Security Council maintained its prior determination inter alia because of hostage taking of third state nationals, destruction of demographic records, forced departure and relocation of the civilian population of the occupied territory, and unlawful destruction of hospital supplies and equipment.[197]

The deliberate targeting in armed conflict of civilian populations or other protected persons including children had already led to strong condemnations[198]before it was identified as a potential threat to international peace and security.[199] In its resolutions establishing the ICTY the council determined that the situation of widespread and flagrant violations of international humanitarian law, including mass killings, massive, organized and systematic detention and rape of women, and the continuance of the practice of ethnic cleansing constituted a threat to international peace and security.[200]

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[196]Karel Wetlens, op cit
[197]Resolution 674
[198] Resolutions 1261 and 1265
[199]Resolutions1296 and 1314
[200]Resolutions 808 and 827

It was the first time that crimes against humanity were considered to constitute such a threat. When the genocide in Rwanda was unfolding, the council's deep concern was about the safety and security of UNAMIR until in a PRST of 30 April 1994 the Security Council, using the description of the Genocide Convention but not the actual notion of genocide, recalled that it was a crime punishable under international law (PRST/1994/21).[201]

The systematic, widespread and flagrant violations of international humanitarian law were reason for alarm, the numerous killings were condemned, but it was ultimately the 'magnitude of the human suffering caused by the conflict' which was first closely linked to the qualification that the continuation of the situation in Rwanda constituted a threat to the peace and security in the region1 before becoming itself the threat to peace.[202]

In some particular circumstances the relationship between acute needs for humanitarian assistance and threats to international peace and security' may be so close that the Security Council apparently identifies it as a separate, new ground for such a determination.[203]

The deliberate denial, in violation of international law, of immediate, safe and unimpeded access of humanitarian personnel to civilians in armed conflict may constitute or become a threat, certainly if combined with deliberate attacks

[201] Karel Wetlens, op cit
[202] Ibid.
[203] Ibid.

against such personnel, also because delivery of food and medical supplies is an important element in the council's efforts to restore international peace and security (UNPROFOR resolutions).[204]

d. The Overthrow of a Freely Elected Government

The council's understanding of a country's commitment 'to make progress towards fully meeting the standards of a modem democracy as a multiethnic, multicultural and united society', does not prevent the situation in the region from continuing to constitute a threat [205] neither does it mean that the absence of such a democracy constitutes a (potential) threat.[206]

The total absence of a government may be included in exceptional circumstances giving rise to a situation, which for a number of other reasons continues to constitute a threat[207]. A peaceful solution to a problem, which has been determined to constitute a threat, could include an enhanced status for a particular province, 'a substantially greater degree of autonomy, and meaningful self-administration'.[208]

Assisting and monitoring free and fair elections has been an integral part of the council's post-conflict peace-building efforts. The failure of a political party,

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[204]PRST/1997/34, Resolutions 771 and 1296 see Karel Wetlens, op cit.
[205]Resolution 1423
[206]Karel Wetlens,
[207]Resolutions 897, 923 and 954
[208]Karel Wetlens

having accepted the results of elections[209], to take part in the political institutions thus established[210], or the refusal by a military junta to take steps 'to allow the restoration of the democratically-elected Government and a return to constitutional order', may not in itself amount to a threat, but it may be one of the contributory factors to such determination in combination with the persistent violations of the major provisions of the Peace Accords,[211] which in turn later constituted a separate, additional threat.[212]

In other cases, the active support by a neighboring country extended to armed rebels who continue their resistance to the authority of the reinstated legitimate government of one its neighbors,[213] and who continue to destabilize the region, in itself constitutes a threat to international peace and security in the region.[214]

In both the cases of Sierra Leone and Haiti, the consequences for neighboring countries were among the considerations the council took into account when making its determination. During the 1992 Kiel Symposium Tom Farer rightly pointed to the fact that 'when a democratic government in a region where such governments are the norm is overthrown, the other regional governments may reasonably find a threat to peace and security.[215]

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[209] Resolution 793
[210]Resolution 804
[211]Resolution 864,
[212]Resolution 873
[213]Resolution 1171
[214]Resolution 1408
[215]Karel Wetlens op .cit.

c. Legal and/or Illegal Exploitation of Natural Resources to Finance a Conflict

In general, declaratory pronouncements, the council has recognized that the illegal exploitation of, and trade in, high-value commodities, particularly diamonds, can contribute to the escalation or continuation of conflict[216]; in the case of the DRC this was one of the considerations leading to a determination that the situation in the country constituted a threat to international peace and security.[217]

Individuals, governments and armed groups may undertake the exploitation. The illicit trade in diamonds may not only fuel a conflict , or potentially have a negative impact on a fragile situation in a country but it may also be linked to trade in arms and related material in violation of an arms embargo.[218] In cases where illicit transit trade in diamonds cannot be 'conducted without the permission and involvement' of a third country's government officials at the highest level, such support for armed rebel forces in neighboring countries constitutes a separate threat to international peace and security in the region.[219]

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[216]Resolution 1308 and PRST/2000/25
[217]Resolution 1291
[218]Resolutions 1306 and 1171
[219]Resolutions 1343 and 1408

Illegal drug trafficking constitutes a threat to international peace and security when it is connected with other international phenomena such as acts of international terrorism, as was the case in Afghanistan's de facto authority.[220]

While the illegal traffic of arms does constitute a threat to international peace and security in connection with other phenomena such as international terrorism,[221] drug trafficking, and the illicit exploitation of natural and other resources, it also has negative consequences for international peace and security without any such connection.[222]

As there is a close relationship between the problem of illicit arms flows and international peace and security, it became a separate item on the council's agenda.[223] Although the council considered the 'destabilizing accumulation and uncontrolled spread of small arms and light weapons' to compromise its own effectiveness 'in discharging its primary responsibility' for the maintenance of international peace and security , it was 'the proliferation, excessive and destabilizing accumulation and circulation of small arms and light weapons in many parts of the world which have contributed to the intensity and duration of armed conflicts' that led to the expression of the council's concern that there is threat to peace and security , both at the regional and international level.[224]

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[220]Resolution 1333
[221]Resolutions 1373 and 1379
[222]PRST/1995/9
[223]Karel Wetlens op .cit
[224] Ibid see also Resolution 1209

The illicit delivery of weapons and military equipment in violation of an arms embargo may give rise to deep concern but it could also endanger the peace and security of a whole region or an entire sub-region.[225]

The fact that the illegality of the trade follows from a pre-existing arms embargo carries with it, of course, an earlier pronouncement or determination of the existence of a threat. It has to be noted that on occasion the council referred to both the uncontrolled and illegal nature of the flows of arms to justify its concern that it would pose a threat to peace and stability in a particular sub-region.[226]

f. Proliferation of Weapons of Mass Destruction

A stronger role for the Security Council in arms proliferation and disarmament issues has long been advocated, be it by authorizing intrusive inspections of nuclear facilities or by declaring the acquisition of all weapons of mass destruction a threat to international peace and security'.[227]

After the council had become conscious that all weapons of mass destruction pose a threat to peace in the Gulf area, it made it explicitly clear that the proliferation of weapons of mass destruction constitutes a threat to international peace and security in its PRST of 31 January 1992.130 In 1995 the council considered 'that, in accordance with the provisions of the Charter of the United

[225] Ibid see also PRST/2002/8 and Resolution 1011
[226] ibid
[227] ibid

Nations, any aggression with the use of nuclear weapons would endanger international peace and security'.[228]

Immediately after the conduct of nuclear tests by India and Pakistan in May 1998 the Security Council, while reiterating its 1992 PRST (Statement by the President of the Security Council) only with regard to the first test, merely expressed its concern at 'the effects of this development on peace and stability in the region' (PRST/1998/12 and PRST/1998/17). In its Resolution 1172 of 6 June 1998 the council only added its condemnation of both tests, without reaffirming that the tests were 'contrary to the de facto moratorium on the testing of nuclear weapons or other nuclear explosive devices'.

The illegal movement of nuclear, biological and other potentially deadly materials may constitute a threat to international peace and security, especially when such movement is connected with other causes such as acts of international terrorism.[229]

Some of the acts deemed to constitute threats to the peace or breaches of the peace have been demonstrated and reflected in the armed conflict between Nigerian state and the insurgents Boko Haram. What is more the provision of the Chapter VII under consideration did not limits its application to only states

[228]Resolution 984
[229]Resolution 1373

but all organs, states, groups, individuals and institutions whose conduct may constitutes a threat to global peace.

This mechanism is an effective tool for combating asymmetric conflict both international and non-international if utilized properly without recourse to some political constrain and considerations which have always proved to be the clog in the application of the Chapter.

It is noted that this mechanism is the most adopted by the United Nations in dealing with situations of armed conflict of non-international character. Though widely utilized by the United Nations its effect has been most affected by political considerations and restrictions by the veto powers of the Permanent members of the Security Council who will not hesitate to veto any determination that is not politically in their favor. Classic example is the asymmetric conflict in Eastern Ukraine where Russia has veto any decisions of the Security Council against the insurgents seeking to break away from Ukraine.

Although the Security Council in recent years has been active in its use and authorization of the use of force, it activities bear little relation to the original scheme of the charter. Very rarely did it succeed in taking binding decisions under chapter VII in response to threat to the peace, breach of the peace and an act aggression,[230] When it did act under chapter VII its approached was

[230] International Law and Use of Force. Pg 254 (Supra)

generally flexible rather than formalistic, it did not usually specify the exact article of the charter under which it was acting.[231]

4.2.3 Effectiveness of Chapter VIII in Combating Asymmetric Armed Conflict.

Chapter VIII provides a good framework for deepening co-operation in conflict prevention. Regional organizations can take the lead and the UN can assist their efforts, as in the example in Ukraine, where the UN Mediation Support Unit assisted the OSCE's Special Monitoring Mission.

The role of regional organizations in mediation and conflict resolution has been recognized by UN General Assembly[232], and it is the subject of a subsequent resolution on mediation, which is expected to be adopted in the coming months.

The United Nations faced explosive growth in the peacekeeping responsibilities assigned to it, as mandated by the Security Council, from 1992-1995. However, the resources provided to implement those mandates were not always commensurate, as evidenced in Somalia, Bosnia and Rwanda. The ensuing retrenchment in United Nations peacekeeping operations was accompanied by a rise in the role of regional and sub-regional organizations in the peace-making, peacekeeping and enforcement action capacities. Many of the regional and sub-regional organizations faced the same resource constraints in the conduct of

[231] Sarooshi, The United Nations and the Development of Collective Security (1999)
[232] Resolution 65/283

their peacekeeping activities, thus highlighting the importance of matching resources to mandates, irrespective of which organization has been assigned to implement those mandates. The situations in Liberia, Sierra Leone, Haiti, Croatia and its Eastern Slavonia region, Georgia, Tajikistan, Bosnia and Herzegovina, Cambodia and Papua New Guinea have all focused attention upon potential partnerships with regional, sub-regional organizations and/or arrangements in resolving complex emergencies, as envisaged in Chapter VIII of the UN Charter.[233]

The *Supplement to An Agenda for Peace*, issued on 3 January 1995, outlined the forms that cooperation between the UN and regional organizations was taking at the time in the context of maintaining peace:[234]

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a) Consultation: The purpose of this form of cooperation is to exchange views on conflicts that both the UN and the regional organizations may be trying to solve. In some cases, consultation is formal, with periodic reports made to the General Assembly; in other cases, it is less formal, with the Secretary-General calling consultative meetings with the heads of all regional organizations and arrangements cooperating with the UN. On specific conflicts, the UN has

[233]Department of Peacekeeping Operations United Nations, UNITED NATIONS AND REGIONAL ORGANIZATIONS/ARRANGEMENTS IN A PEACEKEEPING ENVIRONMENT Suggested Principles and Mechanisms March 1999

[234] Ibid.

maintained close consultations with the relevant regional or sub-regional organizations.[235]

b) Diplomatic Support: Regional organizations have participated in the peacemaking activities of the UN that have led to the establishment of peacekeeping operations and supported them by diplomatic initiatives. The OAU, the League of Arab States (LAS) and the Organization of the Islamic Conference (OIC) played this role in supporting the UN efforts in Somalia. The OSCE has been playing this role, for instance, on constitutional issues in Georgia and Tajikistan, and the UN has been supporting the OSCE on the issue of Nagorny Karabakh.[236]

c) Operational Support: This cooperation varies according to requirements on the ground. One example was the provision by NATO of air power to support the United Nations Protection Force (UNPROFOR) in the former Yugoslavia. (Although NATO does not consider itself a regional arrangement under Chapter VIII). Another, was the support provided by the NATO-led multinational Implementation Force/Stabilization Force (IFOR/SFOR) to the United Nations Transitional Administration in Eastern Slavonia, Baranja and Western Sirmium (UNTAES) in establishing a safe and secure environment in that region of Croatia and the operational support provided by the CIS forces to the UN observer mission in Tajikistan. The European Union has provided support in

[235] ibid
[236] ibid

Eastern Slavonia, Bosnia and Liberia while the Western of the UN peacekeeping forces in Iraq/Kuwait.[237]

d) Co-deployment: UN field missions have been deployed in conjunction with the peacekeeping forces of ECOWAS in Liberia and Sierra Leone, and of the CIS in Georgia and Tajikistan. This model has again been followed in Bosnia and Herzegovina where the UN and regional organizations and arrangements are co-deployed with different mandates, but for the common purpose of bringing peace and stability to the country:[238]

The United Nations Mission in Bosnia and Herzegovina (UNMIBH) includes the International Police Task Force (IPTF), which among other things monitors the local police; the NATO-led multinational peacekeeping force (IFOR/SFOR) helps maintain a safe and secure environment; OSCE assists in the organization of elections; the Office of the United Nations High Commissioner for Refugees (UNHCR) provides care for refugees; while the European Union provides development assistance; and the Office of the High Representative is responsible for overall coordination. Each organization is also responsible for monitoring protection of human rights.[239]

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e) Joint Operations: In Haiti, the UN and the OAS jointly launched the International Civilian Mission in Haiti (MICIVIH) for which the staffing,

[237] ibid
[238] ibid
[239] ibid

direction and financing were to be shared between the UN and the OAS. This arrangement has worked and it, too, is a possible model for the future that will need careful assessment.[240]

Within the context of the United Nations primary responsibility for matters of international peace and security, providing support for regional and sub-regional initiatives in Africa is both necessary and desirable. Such support is necessary because the United Nations lacks the capacity, resources and expertise to address all problems that may arise in Africa.[241]

However, the Secretary-General warns that delegation of responsibility for the maintenance of international peace and security to regional or sub-regional organizations does not represent a panacea for the difficult problems facing peacekeeping. "Regional organizations can face political, structural, financial, or planning limitations. At times the impartiality and neutrality of their Member States may be questioned, for historical reasons or for political or economic reasons. Judgement and caution must be exercised in associating the United Nations with regional, sub-regional or multinational efforts, but the potential for positive cooperation should continue to be explored.[242]

Some of the advantages highlighted by implementation of Chapter VIII of the Charter be highlighted as follows;

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[240] ibid
[241] ibid
[242] Ibid.

i. Provision of Legitimacy to Actions by Regional Bodies

While Security Council action can be inhibited by the use of vetoes by one or more permanent members of the Council, action in regional, sub-regional organizations and arrangements can be inhibited, as well, by the lack of consensus, which is the basis of decision making in many of these organizations and arrangements. UN support provides legitimacy to operations established by a regional or sub-regional organization/arrangement, while support for a UN operation by a regional or sub-regional body provides a stronger political base for the operation. Cooperation between the UN and regional organizations also enables the UN to be kept informed of activities undertaken or being contemplated by regional and sub-regional organizations/arrangements.[243]

ii. Provision of Effective Diplomatic Platform for Dispute Settlement

Further, cooperation between the UN and regional and sub-regional organizations/arrangements may allow the regional organizations/arrangements to assist in the diplomatic efforts that create peace mechanisms and that lead to the establishment of peacekeeping operations. In certain situations, some parties to a conflict may prefer UN involvement, while others prefer that of a regional organization. Thus, cooperation between the UN and regional organizations/arrangements provides mechanisms for compromise that can

[243] Ibid.

break a stalemate and that can also serve as an incentive for the conflicting parties to cooperate.[244]

iii. Provision of Useful Information in The Management of Conflict

Regional, sub-regional organizations and arrangements may know more than the UN about the root causes of a conflict in their respective regions and may have a better knowledge of the parties and personalities involved in the conflict. Therefore, these organizations and arrangements can be sources of extremely useful information which would enhance the effectiveness of UN efforts in the management of those conflicts. Some regional organizations may have greater flexibility than the UN in the allocation of resources and, therefore, are able to deploy assets, including troops, faster than the UN within their own regions. Further, resource rich regional organizations/arrangements are able to provide adequate resources to support their own operations.[245]

iv. Provide Flexibility in Conflict Resolution

While UN involvement in a crisis country provides a focal point for international support and resources, regional and sub-regional organizations/arrangements can be very useful in launching peace-building activities in support of UN peacekeeping operations and cooperation between the UN and such organizations/arrangements can facilitate post-conflict

[244] ibid
[245] ibid

reconstruction. Cooperation between the UN and regional, sub-regional organizations and arrangements can also provide both entities with an exit strategy allowing either to put in place and manage successor arrangements that can continue the work begun by the peacekeeping operation.[246]

It is noted that with respect to conflict management in Africa, Chapter VIII of the United Nations Charter has not been utilised effectively. This is due to lack of established framework for cooperation between the United Nations and the Member states of the African Union and other regional bodies in Africa.

This was evident by the decision of the ECOWAS, then to established ECOMOG as intervention force in the crisis rocking Liberia in the mid-90s without the authorisation nor the approval of the Security Council neither was there any report send to the Council afterwards as required and mandated under Chapter VIII.

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CONCLUSION

The mechanism available to the United Nations for combating asymmetric conflicts exists under the United Nations Charter 1945. However, their effective application and implementation are largely determined by political considerations. There is a general inclination towards activating those mechanisms to international asymmetric armed conflict than towards non-international asymmetric armed conflict which as has been the major source

[246] ibid

armed conflict in this contemporary age. Thus, the impact of these are minimally felt in most armed conflict and where they are being utilised to combat an armed conflict, their implementation is shrouded by political considerations as well as interests thereby rendering them for the most part ineffective as shield as against asymmetric armed conflict.

CHAPTER FIVE

5.1 SUMMARY OF FINDINGS,

The findings made in the course of this study, are as follows.

a. There is an ongoing debate on what constitute asymmetric armed conflict.
b. Asymmetric armed conflict is categorised into types such as technological, doctrinal, moral, normative and participatory
c. There is an ongoing armed conflict between the Nigerian state and the Boko Haram sect.
d. The Boko Haram sect started as non-violent religious organisation
e. Boko Haram sect has international affiliations with other like minded
f. The ideology of Boko Haram is based on extreme religious fanaticism.
g. Boko Haram employ different asymmetric strategy in their armed campaign against the Nigerian state.
h. There exists legal mechanism in the United Nations for combating asymmetric armed conflict.
i. The prohibition on the use of force is only applicable to states only
j. The United Nations mechanism is largely ineffective in combating non-international armed conflict.
k. Armed conflict under international law is grouped into two categories. i.e international and non-international armed conflict.

l. The cooperation between the United Nations and other African regional bodies is not effective in combating non-international asymmetric armed conflict.

m. The ongoing armed conflict between the Nigerian state and the Boko Haram insurgents has some devastating economic and social implication on the Nigerian state.

n. Boko Haram still remained a security challenge to the Nigerian state.

5.2 OBSERVATIONS

It is observed on the finding so made that the debate on the nature of asymmetric armed conflict is influenced largely by political and security exigencies rather than the legal constituents of the term. Most writers and scholars in an attempt to define the term concentrate their effort on viewing it from a segment instead of taking it as a whole thereby falling into error of conception.

It is equally observed that ongoing conflict between the Nigerian state and Boko -Haram is perpetuate in part by the state of our militarily facilities. The Nigerian military lack modern sophisticated weaponry to be able to effectively combat the tactics deploy by the Boko Haram sect. The conflict has exposed the inadequacies of the security institutions in Nigeria.

This research also observed that the failure of security intelligence and professionalism were the harbinger of the violent escalation of the crisis between the Nigerian state and the Boko Haram Sect. The crisis would not have gotten to the present devastating form if it was professionally handled and control by the security apparatus.

It is further observed that security institutions have failed to developed a mechanism of halting local and foreign sponsorship of the Boko Haram sect. The move to affiliate with other like-minded organisations by the Boko Haram sect is largely informed by economic as well as military and logistics reasons.

It's the observation of this research work that the infectiveness of the United Nations mechanism against asymmetric armed conflict is due largely to political interference.

It is observed that the classification of asymmetric armed conflict as international and non-international armed conflict has contributed to application of different rules to them and contributed to the lack of effective international agreement and policies on how to deal with non-international armed conflicts leaving to them whims of politics on the guise of state sovereignty.

This research observed that lack of effective cooperation between the United Nations and some regional bodies in Africa has been one of the reasons there seems to be a continuation of a sea of endless asymmetric armed conflict in Africa. Where such minimal cooperation exist its objective is not clearly define leading to failure of policies implementation with a view to finding a lasting solution to the conflict.

It is further observed, that it may take some long years to recover from the economic and social devastation resulting from the ongoing asymmetric armed conflict between the state of Nigeria and the Boko Haram insurgents.

5.3 RECOMMENDATIONS.

It is recommended that Article 2 (4) of the United Nations Charter amended and its application extended to cover asymmetric armed conflict. In this way parties to asymmetric armed conflict whether signatories to the Charter or not may be bear responsibilities for breached or violation of the article.

It is recommended that there should be a clear and define contextual policies in the exercise of the power of the Security Council under Chapter VII. The exercise of veto by a single member of the Council as a counter against any determination under Chapter VII should be abolished. Decisions of the Council should be determined by majority of member states of the Council and should be subject to the approval of the General Assembly by simple majority.

It is recommended that the security council be reform in line with Article 23 of the Charter, increase the involvement in decision making of those who contributed most to the United Nations financially, military and diplomatically, specifically in terms of contributions to United Nations assessed budget, participation in mandated peace operation, contributions to voluntary activities of the United Nations in the areas of security and development and diplomatic activities in support of United Nations objectives and mandates. Africa and Asia countries should be considered for new permanent member seats having been adversely affected by the effect of arm conflict. These regions has large number of muslim population, high level of poverty, high level of illiteracy, high level of dependency on aid etc. adversely affected and is not part of critical decision making at the Security Council.

For principles of effective cooperation to be usefully implemented on the ground, peacekeeping operations need to identify mechanisms that would be in accordance with their mandates and in keeping with the nature of cooperation desired between the UN and the relevant regional, sub-regional organization and arrangement. Again, the cases studied by the Lessons Learned Unit have suggested certain general mechanisms that would be useful to most operations in enhancing cooperation. Cooperation can be enhanced by establishing channels for regular communication between the UN Secretariat and the secretariats of regional, sub-regional organizations and arrangements. These channels should be reviewed periodically for efficiency and reliability. The

international community should also seek ways to strengthen the secretariats of regional, sub-regional organizations and arrangements, for example by assisting with the training of their personnel in the management of peacekeeping operations.

The UN and regional or sub-regional organizations and arrangements operating in a common mission area should have a mechanism for cooperation, preferably headed by senior officials at the same rank, to facilitate consultations, communication and coordination. These senior-level meetings should be regular. Quick decision-making will be facilitated if the head of each operation is authorized to take as much of the operational decisions without necessarily referring to his or her respective headquarters. Delegation of authority to the field will enable a quick response to the situation on the ground.

Other mechanisms for cooperation may include the signing of memoranda of understanding and the exchange of liaison officers between the mission headquarters of the UN operation and the regional, sub-regional organization and arrangement operating in the same mission area. The negotiation of memoranda of understanding itself forces a communication between the involved organizations at all levels, which can have a beneficial effect. The usefulness of liaison officers can be limited if either entity finds their functions to be unduly intrusive or extraneous. Further, there could be some exceptions to the need for maintaining close ties. One such case would be if an entity has a

mandate to organize elections and the other to monitor them, then some distance between the two would be prudent, to avoid any perception of undue influence.

In order for Nigeria to continue to grow economically, Boko Haram must be physically defeated; their existence and activities are a threat to Nigeria's economic and political future. The researcher recommends that the United Nation should send military advisors to train the Nigerian army to combat the terrorists' threat. However, it is critical that the values of peace and the rule of law remain central principles of the training process.

The Nigerian government should establish mass public enlightenment campaign against the dangers of religious intolerance and association with the Boko Haram sect.

Captured Boko Haram members in the conflict should be put through the process of social re-orientation in order to re-integrate them back into the society. This will encourage others to follow in the same line.

5.6 CONCLUSION. 124

It is without doubt that the Boko Haram insurgency has poised on the Nigerian state and the world a great state of insecurity. So many lives and properties were lost in the course Boko Haram insurgency. The domestic and regional

efforts of the Multi-National Joint Task Force have not been totally effective in dealing with the crisis. The international mechanism available to the deal with situation have not been utilised to maximum effect by both the international communities and the regional government affected by the crisis. As the world react slowly to the crisis many lives and properties are being destroyed in geometric proportion and the aftermath of the crisis will be felt from generation. Unless the international community through the instrumentality of the United Nations extend its conflict prevention mechanism, the crisis may grow beyond control and the devastation may be beyond measure.