

**BOKO HARAM INSURGENCY, ARMED BANDITRY AND SUSTAINABLE DEVELOPMENT GOALS:
ASSESSING NIGERIA'S LEGAL POSITION ON ORGANIZED CRIME***

Abstract

Boko Haram insurgency and armed banditry has evolved in pattern and trends in the last half decade in Nigeria. It is a major threat to the Nation's unity and sovereignty. Obviously, progress and development cannot be achieved in a nation bedevilled by armed bandits. While Nigeria has laws aimed at curtailing organized crimes like banditry, it would seem that the multi-dimensional challenges posed are not fully anticipated by the law. The paper examines insurgency and banditry in Nigeria viz-à-viz Nigeria's goal towards the attainment of sustainable development. It adopts a desktop approach to evaluate existing legal provisions on organized crimes such as the Terrorism (Prevention) Act and other criminal Statutes. The paper posits that the given the recent trends of armed banditry, Nigeria may require a more holistic approach which wields the influence of the law and other sociological factors that incorporates corrective and preventive solutions to insurgency and armed banditry.

Keywords: Criminal law, Insurgency, Armed Banditry, Peace, Security, Trend

1. Introduction

One fundamental duty of government is to guarantee peace and protection of the citizens, when this cannot be done, it can be said that the government has failed in her responsibility. However, armed conflicts have wreaked havoc in most developing countries and indeed the developed countries world over. Insurgency, terror attacks and armed banditry have occurred more in recent times with its attendant socio-economic and psychological effect on the civilian population. Nigeria is not an exception; the country has been bedevilled with the twin problem of boko haram insurgency and armed banditry for some years now. Nigeria like most societies especially in the developing countries is experiencing varying degrees of insecurity and domestic uprisings ranging from the Boko Haram insurgency, kidnappings, suicide bombing, ethno-religious conflicts and other social ills.¹ These conflict disorders have led to the insecurity of lives and properties of both Nigerian nationals and foreigners within the country. The challenge by national governments and in particular, Nigeria, is how to ensure the protection of lives and properties of the citizens as well as the foreigners, while ensuring that the fundamental human rights of even the violators are respected as enshrined in the Universal Declaration of Human Rights.² Since 2009, the violent activities of the jihadi group popularly known as Boko Haram have caused major upheaval and insecurity in Nigeria and the neighbouring Lake Chad Basin (LCB) countries.³ Boko Haram attacks have had a negative impact on trading, business activities, entrepreneurship, investment, employment and income levels, relocation or mobility of the population, the rate of meetings between people in social places, attendance of religious functions and psychological trauma of individuals.⁴ The impact of the attacks caused social, religious and economic disruption in human lives in communities in the north-east.⁵ Boko haram, with its more than ten years insurgency against the Nigerian state, remains the biggest modern threat to the country's security.⁶ In the course of its ten-year insurgency at undermining the sovereignty of the Nigerian State, Boko Haram has specifically targeted women and girls, with these grave abuses earning it infamy across the globe.⁷

This paper examines the problem of insurgency and armed banditry in the recent times in Nigeria within the context of Sustainable Development Goals (SDGs). The first section provides a brief background to boko haram insurgency and the subsequent increase in armed banditry in Nigeria. The second section discusses in details the historical background to Boko Haram insurgency and the seeming metamorphosis to armed banditry and their impacts on sustainable development in Nigeria. The third section examines the legal framework on insurgency and armed banditry in Nigeria with specific focus on criminal legislation. The fourth section analyses Nigeria's legal position in relation to criminalisation and prosecution of the two distinct forms of organised crimes in the light of current realities. The final section makes concluding remarks and provides recommendations based on the comments provided in the fourth section.

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¹ Sam Olatunji Ajiye, 'Domestic Conflicts and Human Rights in Africa: Implications for Nigerian Foreign Policy', *Journal of Law, Policy and Globalization*, 33 (2015), 86-92.

² *Ibid.*

³ Jacob Zenn and Zacharias Pieri, 'How much Takfir is too much Takfir?: The Evolution of Boko Haram's Factionalization', *Journal for Deradicalization*, 11 (2017), 282.

⁴ S.O. Illufoye, *Domestic Security Threat in the Niger-Delta Region of Nigeria*, (2009, Sampeters Publishers) at 25

⁵ *Ibid.*

⁶ Olusola Babatunde Adegbite, Oreoluwa Omotayo Oduniyi and Ayobami Oluwaseun Aluko, 'International Human Rights Law and The Victimization of Women by The Boko Haram Sect', *Nnamdi Azikiwe University Journal of International Law and Jurisprudence*, 11.2 (2020).

⁷ M. Bloom and H. Matfess, 'Women as Symbols and Swords in Boko Haram's Terror,' *PRISM A Journal of the Centre for Complex Operations*, 6.1 (2016), 104 – 121.

2. Boko Haram Insurgency and Armed Banditry in Nigeria

Boko Haram insurgency was the greatest threat to security before 2015 and it was the only terrorist act that accounted for the decimation of the greatest number of people that died between 2009 and 2015.⁸ However, since 2015 there have been various incidence of herdsmen killing and bandit attacks on local communities, villages and towns in mostly the northern part of Nigeria.⁹ Insurgency has resulted in the aggravated loss of human lives, displacement of people and destruction of properties.¹⁰ The expectation of the society from every elected government is the security of lives and properties. The government is equally expected to do justice which is the virtue of social institutions. However, this cannot be said of the present-day Nigeria. In Nigeria, every person has a right to life and no one is to be deprived intentionally of his life, save in execution of the sentence of a court in respect of a criminal offence of which he has been found guilty in Nigeria.¹¹ Insecurity has adversely affected the realisation of the right to life in Nigeria and has also put a question mark on the quality of life of the average Nigerian.¹²

3. History, Dimensions and Trends of Boko Haram Insurgency and Banditry in Nigeria

Boko Haram Insurgency has its root in the North Eastern States of Nigeria and it is the greatest source of terror and horror to the people of Nigeria and other neighbouring West African countries such as Cameroon, Chad and Niger. It is the greatest security challenge facing Nigeria as a sovereign nation.¹³ From 2009 when the operation of the sect assumed a violent dimension, Nigeria has suffered untold hardship by the destruction of lives and properties of people. Boko haram operation in the three north eastern states of Borno, Yobe and Adamawa has forced over one million people to become homeless and are now living as refugees in Internally Displaced Camps (IDP) in the region.¹⁴ However, unfortunately in recent times, Boko Haram attacks have gone beyond the three states and has become a threat to the entire northern region of Nigeria. Predominantly, the Boko Haram Islamist group is a terrorist organization, ideologically created to fight western education, modern science and western culture.¹⁵ The conflict between Nigerian security forces and the Boko Haram group has deepened the current state of underdevelopment and regional inequalities especially in the area of education between the North and South. The most vulnerable demographic population includes children, women and youths. The mechanism used by the Boko Haram to achieve their lethal operations includes abduction, suicide bombings, sexual violence against womenfolk and recruitment of young men.¹⁶ The Boko Haram operations transcends religious or political sentiments as they were against the erstwhile philosophical explanation, acquiesced by some political scholars and analysts, having a religious identity.¹⁷ Others have considered its recent dimensions as the compass of terrorism, a universal credence that no one is secure within the global space.¹⁸

Armed banditry is another threat to the security of lives and properties in Nigeria. It is a specie of terrorist act. It is not a clash between two opposing religious groups, ethnic groups or farmers and herdsmen. It is an act perpetrated by some criminally minded people suspected to be a splinter group of Boko Haram. They engage in cattle rustling, kidnapping and armed robbery. The stronghold of armed banditry in Nigeria is Zamfara State, which was the first state in the northern region to implement the Sharia law. Other States experiencing armed banditry are Katsina, Kebbi and Sokoto States. The Nigerian Minister of Defence, Brigadier-General Mansur Dan-Alli (rtd) alleged that the bandits had links with the Boko Haram. The bandits are usually heavily armed and they move in large numbers attacking both during the day and in the night. Armed banditry is another burden to the weight of insecurity in Nigeria in view of the number of lives lost daily. On 26 March, 2019, Dr. Jang Sunail, a Korean expatriate doctor was abducted by bandits in Tsafe town, Zamfara State.¹⁹

⁸ Williams Adewumi Adebayo and Adebola Olumide Adeniyi, 'Utilitarianism and the Challenges of Insecurity in Nigeria from 2015 to 2019' *Journal of Law Policy and Globalization*, 86 (2019), 68

⁹ *Ibid.*

¹⁰ *Ibid.*

¹¹ Section 33.1 of the 1999 Constitution of the Federal Republic of Nigeria (As Amended).

¹² Security as used in this study refers to the protection of lives and properties from any violence that can lead to death or destruction of property. It is the existence of the conditions within which people in a society run their normal daily activities without any threat to their lives and properties. The acts that threaten the security of Nigeria include but not limited to the Boko Haram terrorism; the Fulani herdsmen/farmers clashes; kidnapping; ritual killing; cultist activities; armed banditry and armed robbery.

¹³ Adeyemo, Deborah Damilola, 'Transitioning from Boko Haram Insurgency: The Imperative Need for Transitional Justice in Nigeria'. *IJOCLLEP*, 5.3 (2023), 21–28.

¹⁴ *Ibid.*

¹⁵ See Daily Sun, N. Dunia, 'Abuja Bomb Blast: Senate takes Decision Today', Daily Sun Newspaper, October 6, 2010, p. 6.

¹⁶ Since 2018, insecurity in the North has gone beyond a national narrative with an increasing level of kidnapping of women, foreigners and humanitarian workers by the Boko Haram and the Islamic State in West Africa (ISWA). The kidnapping has often taken place in the North East Yobe, Adamawa, Gombe and Borno states and North Central Kaduna, Bauchi, Niger and Kano as well as around the borderlands such as Chad and Niger borders. See also John Sunday Ojo, 'Governing "Ungoverned Spaces" in the Foliage of Conspiracy: Toward (Re)ordering Terrorism, from Boko Haram Insurgency, Fulani Militancy to Banditry in Northern Nigeria', *African Security*, 13.1 (2020), 77–110.

¹⁷ V. Comolli, *Boko Haram: Nigeria's Islamist insurgency* (2015, Oxford University Press, London, United Kingdom).

¹⁸ O. Adagba, S. C. Ugwu, and O. I. Eme, 'Activities of Boko Haram and insecurity question in Nigeria', *Arabian Journal of Business and Management Review*, 1.9 (2012), 77–99.

¹⁹ Between 2011 and 2018, about 1321 people were alleged to have been killed in banditry operation alone in Zamfara State with 1881 people injured, 185 cars and motorcycles lost. In the same period, ten thousand herds of cattle were lost to rustling; 2,688 hectares of farmlands and 10,000 houses destroyed. The Governor of the State Abdulaziz Yari in 2018 expressed his helplessness by calling on the Federal Government to declare a State of Emergency in the State. See 'Special Report: No Security Strategy Despite Mass Killings in Zamfara', <saharareporters.com/2019> (last accessed 11 November 2024).

Derailment of values, societal and religious values, insincerity within ourselves; from the community, the individual, and government are some of the root causes of Banditry in Nigeria.²⁰ It is a phenomenon that has undergone a process of transformation over time from acts of minor crimes to full blown outright criminality which is characterised by armed robbery on highways, brutality, cattle rustling, village raiding, and kidnapping for ransom and hostage taking with damning implication on citizens.²¹ The activities of the Boko Haram insurgents and bandits have been centred on murder, taking of hostages, kidnapping and acts of terrorism which is in violation of the Common Article 3 to the Geneva Convention.²² However, the activities of bandits in recent weeks have been alarming with loss of lives and properties. Bandits now attack trains with bombs and other weapons openly without any restraints.²³ The recent attack by bandits was carried out on the 28th of March, 2022 when the Abuja bound train was attacked on the Abuja-Kaduna train line, which led to the killing and kidnaping some of the passengers and blowing up a portion of the train.²⁴ It has been reported that 9 of the passengers were killed and about 25 injured.²⁵ The attack on the Kaduna-bound train led to the abduction of several passengers while others were killed.²⁶ The terrorist group recently released 11 of the hostages, a deal facilitated by controversial Kaduna-based Islamic cleric, Ahmad Gumi.²⁷ However, almost six months after the attack, it has been reported that the remaining 23 abducted passengers have been released and re-united with their families.²⁸

4. The Impact of Insurgency and Armed Banditry in Nigeria

As stated earlier, the twin evil of insurgency and banditry has been ravaging in Nigeria for a while now, with lives lost and properties destroyed. It is however, expedient to critically examine the impact of the duo on specific areas of our national life. Nigeria, a sovereign nation has been negatively affected by this twin evil which is still affecting the entire country.

Displacement of Children

Internal displacement by the insurgency in Nigeria today houses one of the largest IDP populations in the world, following widespread violence and terror caused by more than ten years of the Boko Haram insurgency. In leading research of the seven causes of forced displacement in the Lake Chad region conducted by the UNHCR and the World Bank, the Boko Haram insurgency and banditry has been identified as the most significant of all. It was found to be responsible for about 70% of the displaced population in the four countries affected by the insurgency namely Cameroon, Chad Republic, Niger, Republic and Nigeria.²⁹ Of the 3.5 million persons displaced in these four countries, 2.5 million were displaced by the Boko Haram insurgency, with 92% of this number internally displaced within the national borders of each of these countries.³⁰ That however does not mean that the problem of IDPs is unique to Nigeria alone. For instance, over 5 million people are reported to be displaced annually due to insurgencies, political instability and activities of terrorist groups operating in the Middle East region, as well as sub-Saharan Africa.³¹ By 2015, the estimate of IDPs globally was at 40.8 million, with about 12 million displaced by conflict in sub-Saharan Africa.³² The Boko Haram insurgency group, which has been at war with Nigeria since 2009, has wreaked massive havoc majorly in the three north-eastern states of Adamawa, Borno and Yobe. As the Military recover territories from the group, it also rescues persons who have been trapped, mainly women and girls, who are then taken to IDP camps.³³ In March 2016

²⁰ Daily Trust, Dr Mukhtar, 'The Root Causes of Banditry in Nigeria' May 24, 2021 <<https://dailytrust.com/the-root-causes-of-banditry-in-nigeria-dr-mukhtar>> (last accessed 4 November, 2024).

²¹ While others have argued that banditry is remotely caused by proliferation of arms, poverty, unemployment, drug abuse, unregulated and illegal gold mining and the vast forests that have served as a safe haven for criminals. Thus, banditry is a complex, multi-layered and hydra headed phenomenon that requires a multi-dimensional approach to resolve. See Daily Trust, Maryam Hamza, Ph.D, 'Remote Causes of Banditry' July 30, 2021 <<https://dailytrust.com/remote-causes-of-banditry>> (last accessed 4 November, 2024).

²² The Common Article 3 to the Geneva Convention prohibits murder, mutilation, collective punishment, torture, the taking of hostages, acts of terrorism, unfair trial, slavery, and "outrages on the personal dignity, in particular cruel, humiliating and degrading treatment, rape, enforced prostitution and any form of indecent assault.

²³ Aljazeera, 'Suspected bandits attack passenger train in northern Nigeria', Al Jazeera, 29 October, 2022, <<https://www.aljazeera.com/news/2022/3/29/suspected-bandits-attack-passenger-train-in-northern-nigeria>> (last accessed 4 November, 2024).

²⁴ BBC News, 'Abuja-Kaduna train attack: Passengers killed after Nigeria gang hits rail link', BBC News March 31, 2022 <<https://www.bbc.com/news/world-africa-60914481>> (last accessed 4 November, 2024).

²⁵ Daily Trust, 'Abuja-Kaduna Train Bombing: 9 Killed, Dozens Missing; Survivors Recount Ordeal', March 30, 2022 <<https://dailytrust.com/abuja-kaduna-train-bombing-9-killed-dozens-missing-survivors-recount-ordeal>> (last accessed 4 November, 2024).

²⁶ Kaduna Train Attack: 'Kidnapped victims' relatives protest in Abuja' <<https://www.premiumtimesng.com/news/top-news/544833-kaduna-train-attack-kidnapped-victims-relatives-protest-in-abuja.html>> (last accessed 20 November, 2024).

²⁷ *Ibid*.

²⁸ Vanguard Newspaper, 'Terrorists release 23 remaining Abuja-Kaduna train attack victims' <<https://www.vanguardngr.com/2022/10/terrorists-release-23-remaining-abuja-kaduna-train-attack-victims/>> (last accessed 23 November, 2024).

²⁹ UNHCR and World Bank, 'Forced Displacement by the Boko Haram Conflict in the Lake Chad Region', (2016), UNHCR – The UN Refugee Agency & The World Bank 33.

³⁰ *Ibid*; In another report, the UNHCR says the insurgency has displaced about 2.4 million people in the Lake Chad basin. See UNHCR, 'Nigeria Emergency', UNHCR – UN Refugee Agency, < <https://www.unhcr.org/nigeria-emergency.html> > (last accessed 27 November, 2024).

³¹ Owoaje, et al, 'A Review of the Health Problems of the Internally Displaced Persons in Africa', *Nigerian Postgraduate Medical Journal*, 23 (2016), 161.

³² *Ibid*.

³³ Francisca Vigaud-Walsh, 'Nigeria's Displaced Women and Girls: Humanitarian Community at Odds, Boko Haram's Survivors Forsaken', *Refugees International*, 6, (2016).

alone, about 11, 595 hostages were rescued from the group by the military.³⁴ Specifically, 1.9million IDPs out of the 2.5 million mentioned above are displaced within Nigeria, which makes it the country with the highest IDP population in the world.³⁵ Maiduguri, the capital of Borno state and the epicentre of the insurgency holds about 825, 000 of these IDPs, representing about 36% of the total number of persons displaced by Boko Haram in the region.³⁶ In northeast Nigeria, where these 1.9 million persons were displaced, about 60% are children, with 1 in 4 being under the age of five.³⁷ According to the IDMC, in the first part of 2019 about 142,000 new cases of internal displacement was recorded in the country, with 140,000 of this number from conflicts. In these episodes of displacement, women and children are often the most affected.³⁸ According to the UN Office for the Co-ordination of Humanitarian Affairs, the insecurity in the country has created humanitarian crisis with over 8 million people in need of urgent humanitarian assistance, 80% of which are women and children.³⁹

Peace and Security in Nigeria

Peace and security are both germane to national development of any country, they are indicators that development is not only possible but attainable in such a country. Crime and Violence robs a nation of its true potential by deflating its productivity and growth, limiting access to its brightest minds, and re-channelling critical resources away from development targets.⁴⁰ It is almost impossible for growth and development to occur in territories bedevilled with insecurity and unrest. The Sustainable Development Goal 16 is primary aimed at achieving development through sustained peace and security. Boko haram insurgency and banditry has adversely affected peace and security not only of the north eastern region of Nigeria, but the entire nation. The violent activities of kidnapping, killings and village and settlement invasion has hampered development in the country.⁴¹ Violence has had a far-reaching humanitarian and economic impact on the region and created a domino effect of security problems. Over the last decade, more than 8,000 people have been killed mainly in Zamfara state with over 200,000 internally displaced and about 60,000 fleeing into Niger Republic.⁴² Livestock and crops have been decimated, further depressing human livelihood indices that were already the country's lowest. The violence is aggravating other security challenges: it has forced more herders southward into the country's Middle Belt, thus increasing herder-farmer tension in that region and beyond.⁴³ Progress on the SDGs proved slowest in fragile and conflict-affected countries. Where violence is rife, and trust in people and institutions is lacking, development that fails to address the structural and behavioural causes of violence often falls short of preventing a relapse into crisis.⁴⁴ Nigeria has had her fair share of military rule and instability in the past, with the return to democratic rule in 1999; hopes were high that it would bring about rapid development to the country. However, over the last decade, insurgency and banditry has adversely affected the nascent democracy. It has undoubtedly become a major stumbling block to the attainment of peace and security in the country. Furthermore, banditry and insurgency has equally affected education as a tool for development in Nigeria. Attacks by Boko Haram and Bandits in the north eastern Nigeria has been majorly on schools and children with attendant killings, kidnappings and or hostage taking.⁴⁵ These

³⁴ *Ibid.*

³⁵ Report of UNHCR Africa, The UN Refugee Agency, <<https://www.unhcr.org/nigeria-emergency.html>> (last accessed 23 November, 2024).

³⁶ UNICEF, '19 million Children Internally Displaced by Conflict and Violence in 2019 is Highest Number ever, says UNICEF', UNICEF (5 May 2020) < <https://www.unicef.org/nigeria/press-releases/19-million-children-internally-displaced-conflict-and-violence-2019-highest-number> > (last accessed 27 November 2024).

³⁷ *Ibid.*

³⁸ Bethel O. Adedeji, Tosin Adebayo and Emem M. Udo, 'Malnutrition Amongst Internally Displaced Children: A Consequence of Armed Conflicts in Nigeria', *Journal of Global Peace and Conflict*, 7.2 (2019), 32.

³⁹ Report of the UN Office for the Coordination of Humanitarian Affairs, <<https://www.unocha.org/nigeria>> (last accessed 23 November, 2024).

⁴⁰ Report of UNDP Multi Country Office in Jamaica, 'Why peace and security are vital preconditions for sustainable development' December 30, 2019 < https://www.undp.org/jamaica/blog/why-peace-and-security-are-vital-preconditions-sustainable-development?utm_source=EN&utm_medium=GSR&utm_content=US_UNDP_PaidSearch_Brand_English&utm_campaign=CENTRAL&c_src=CENTRAL&c_src2=GSR&gclid=Cj0KCQiAj4ecBhD3ARISAM4Q_jEfASy0Jy8i-lsf7f77ysukM43b2YFy3KN3kDMraJJN9sRjCR0rZVlaApE1EALw_wcB> (last accessed 25 November, 2024).

⁴¹ Report of the International Crisis Group REPORT 288 / AFRICA, 18 May 2020 'Violence in Nigeria's North West: Rolling Back the Mayhem', < <https://www.crisisgroup.org/africa/west-africa/nigeria/288-violence-nigerias-north-west-rolling-back-mayhem>> (last accessed 25 November, 2024).

⁴² *Ibid.*

⁴³ *Ibid.*

⁴⁴ United Nations Trust Fund on Human Security, Human Security and Agenda 2030, < <https://www.un.org/humansecurity/wp-content/uploads/2017/10/Human-Security-and-the-SDGs.pdf>> (last accessed 25 November, 2024).

⁴⁵ At least 611 teachers have been deliberately killed and a further 19,000 have been forced to flee since 2009. More than 2,000 people, many of them female, have been abducted by the group, many from their schools from the beginning of the conflict. Thousands more students and teachers have been injured, some in deadly suicide bombs in the same period. Between 2009 and 2015, attacks in north eastern Nigeria destroyed more than 910 schools and forced at least 1,500 to close. By early 2016, an estimated 952,029 school-age children had fled the violence. They have little or no access to education, likely blighting their future for years to come. See Reports of Human Rights Watch, April 11, 2016 'They Set the Classrooms on Fire Attacks on Education in Northeast Nigeria' <<https://www.hrw.org/report/2016/04/11/they-set-classrooms-fire/attacks-education-northeast-nigeria>> (last accessed 20 August 2024). From the 2014 incident of the Chibok girls to the mass abduction in Dapchi (Yobe State), terrorists and bandits have specifically targeted vulnerable school children. Since December 2020, when suspected gunmen attacked the Government Boys Science Secondary School in Kankara, Katsina State and abducted over 300 students, kidnapping school children for ransom has become rampant. Two months after the Kankara incident, specifically on February 17, it was the turn of Government Science School, Kagara in Niger State, as suspected bandits abducted 27 students and 15 others. Less than ten days later, bandits kidnapped 317 female students at Government Girls Secondary School Jangebe, Zamfara State, in an early morning raid. Then, in late May, heavily armed

nefarious activities has not only affected attendance of pupils in schools, but has also led to desertion of duty by Teachers. Ultimately, these activities have also created fear in minds of parents and distrust in the government and security agencies in guaranteeing safety of pupils in schools. These attacks are not limited to primary and secondary schools, but also to tertiary institutions in the north eastern region.⁴⁶ It is well settled, that good and quality education can only thrive in an atmosphere of peace and security, which ultimately will lead to development of the nation. The current Nigerian situation is rather unfortunate and calls for urgent national intervention if the sustainable growth and development is to be achieved in the country.

5. Legal Framework on Armed Banditry and Insurgency in Nigeria

Under international legal instruments, Nigeria has a responsibility to protect. This responsibility places an obligation on Nigeria to guarantee the security of persons and property within its territory. This responsibility may be described as largely preventive in nature. In addition, Nigeria has the duty to criminalise and prosecute all forms of armed extremism. Besides the obligations under international humanitarian law, Nigeria has obligations under specific international conventions. The United Nations Convention Against Transnational Organised Crime and Protocols to the Convention (UNTOC) is the only international legal instrument which provides for organised crimes generally.⁴⁷ Although UNTOC and its three Protocols capture various forms of organised, there is no specific provision for insurgency or armed banditry as forms of organised crimes.⁴⁸ First, it is arguable that the UNTOC is largely concerned with organised crimes which have transnational dimensions and are very grave hence, its specific provisions.⁴⁹ Notwithstanding, there is a presumption that the provision for criminalisation of participation in organised group capture some of the essence of armed banditry or insurgency as organised crimes. Second, there are 19 international Conventions which capture provisions on various forms of terrorism and provides for the criminalisation by member states.⁵⁰ There are also a number of regional legal instruments which make broad provisions on terrorism. The Convention on the Prevention and Combatting Terrorism⁵¹ and additional Protocol⁵² are principal legal instruments amongst them. Nigeria is state party to the afore discussed international and regional legal instruments and owes obligation therefrom.

In line with Nigeria's obligations under international and regional laws, there are a few legal provisions on armed banditry and on insurgency in Nigeria. First, there are constitutional guarantees for the safety and security of persons and property through various provisions of the Constitution of the Federal Republic of Nigeria 1999 (As amended).⁵³ The constitutional provisions protect the sanctity of human lives;⁵⁴ privacy⁵⁵ and; the right to property.⁵⁶ These constitutional provisions are non-derogable except in circumstances which are clearly highlighted in the constitution. Thus, the violent use of force or other means to deprive anyone of the foregoing rights by state or non-state actors is clearly prohibited. Second, there are statutory provisions which incorporate provisions on insurgency and armed banditry in Nigeria. There are specific criminal statutes which provide for criminalisation and prosecution of terrorism. The principal legislation against insurgency is the Terrorism (Prevention and Prohibition) Act 2022.⁵⁷ The Terrorism Act clearly prohibits and criminalises acts of terrorism, terrorist groups/organisation and financing of terrorism.⁵⁸ The provisions suffice to proscribe and prosecute the forms of insurgency which have evolved over the years in Nigeria. Although under the previous Acts, there were fewer successful prosecution of terrorism in comparison to the spate of its manifestation over years. At best, much of the purported prosecution can be best described as sham while others have been plagued with procedural or technical delays which stall or render them unsuccessful. It is clear that the failure with prosecution has less to do with the provisions of the law rather more to do with the sheer will by requisite authorities to implement the provisions of the law. Institutional redundancy in the apprehension and prosecution of insurgents and offering of amnesty to apprehended insurgents are non-aligned with Nigeria's obligation under domestic or international

men on motorcycles attacked the town of Regina in the Rafi local government area of Niger State, shot indiscriminately, and abducted about 150 children of Salihu Tanko Islamic School. See Dakuku Peterside, 'School kidnappings and its implications for posterity' Premium times, June 21, 2021 <<https://www.premiumtimesng.com/opinion/469027-school-kidnappings-and-its-implications-for-posterity-by-dakuku-peterside.html>> (last accessed 20 August, 2024).

⁴⁶ For example, in Kaduna State, the bandits seemed to step up to higher institutions as they kidnapped 39 students of Federal College of Forestry Mechanisation in early February and 20 students, alongside three non-academic staff of Greenfield University in April, 2021. In the latter incident, the bandits killed some of the students to pressure their parents and the government to acquiesce to their enormous ransom demands. According to press reports, armed groups have repeatedly attacked schools and universities in North-West Nigeria in the last few months, abducting more than 700 students for ransom since December 2020.

⁴⁷ Adopted by the UN General Assembly resolution 55/25 of 15 November 2000.

⁴⁸ The UNTOC specifically provides for organised crimes such as money laundering and corruption. The three protocols to UNTOC also capture specific crimes such as human trafficking, drug trafficking and firearms trafficking.

⁴⁹ Deliberations on the use of UNTOC in combating emerging crimes at various COP-UNTOC Sessions seem to suggest that emerging crimes with some forms of organisation may be subsumed under general provisions of UNTOC.

⁵⁰ These conventions include all the international convention prohibiting various forms of terrorist acts and unlawful acts relating to maritime, aviation etc.

⁵¹ adopted by the 35th ordinary session of the OAU Summit in July 1999.

⁵² adopted by the 3rd ordinary session of the session of the African Union in July, 2004.

⁵³ Otherwise, referred to as the CFRN 1999 (As amended) in this paper.

⁵⁴ Section 33 of the CFRN 1999 (As amended).

⁵⁵ *Ibid*, Section 37.

⁵⁶ *Ibid*, Section 43.

⁵⁷ This Act repeals and replaces the Terrorism Prevention Act 2011 and Terrorism Prevention (Amendment) Act 2013. The Economic and Financial Crimes (Establishment) Act 2004 makes broad and ambiguous provisions with respect to terrorism but it is clearly criminalised under the Act.

⁵⁸ Sections 2 and 11-47 of the Terrorism (Prevention and Prohibition) Act 2022.

laws. The Terrorism Act 2022 makes more comprehensive provisions with respect to institutional framework. It defines roles of the different authorities from the attorney general to the law enforcement and security agencies.⁵⁹ The Act established the National Counter Terrorism Centre under the office of the National Security Office and a Sanctions Committee.⁶⁰ From a reactive perspective, Nigeria has struggled with responding to insurgency and armed banditry within the criminal justice system. From the point of apprehending perpetrators to investigation and prosecution, there has not been much progress. For instance, the present structure of the Nigerian Police has not helped the counter-insurgency fight of the government. A situation where there exists just one Federal Police Force, whose officers are only responsible to the Inspector-General of Police is not good enough. Considering a population of over 200 hundred million, there is need for a more robust, staff strengthened Police organised and controlled by the three arms of government. Also, the existing structure on inter-state transfer of Police officers has grossly affected the effectiveness of investigation, detection and prosecution of crime. Often times, Police investigating Officers would have been transferred from the State where the crime occurred to another by the time the matter is in Court, therefore affecting the prosecution of the alleged crime.

On the other hand, there is no dedicated law on armed banditry however, there are legal provisions regarding banditry scattered in various provisions of the criminal statutes. Specifically, the provisions relating to the Criminal Code Act⁶¹ and Penal Code Act,⁶² Robbery and Firearms Act.⁶³ The provisions of the existing criminal statutes relating to component criminal acts perpetrated by armed bandit groups such as kidnapping, murder, armed robbery etc. provides alternative proscription for armed banditry in Nigeria. The pertinent question however is whether the extant provisions suffice in the light of the current trend of armed banditry in Nigeria.

6. The Legal Position on Armed Banditry in Nigeria

The Global Organised Crime Index 2021 ranks Nigeria as the 5th most criminal country of the world with a criminality score of 7.15.⁶⁴ Armed banditry ranks as one of the highest indices of criminality. While insurgency and armed banditry are clearly distinct forms of organized crimes, it would seem that the lines of difference are increasingly blurred by the trends and patterns in the recent times in Nigeria. The nature and characteristics of both forms of organised crimes remain distinct and do not in any way imply that the legal provisions on insurgency can be explored in order to address armed banditry. Certainly, the elements of both crimes are different and marked by distinct aims. Insurgency is marked by underlying ends which may be religious, political or ideological, armed banditry on the other hand involves concerted effort towards criminal enterprise for selfish gain or aggrandisement which is usually driven by greed. The targets and operational tactics in both cases are different.

Although both crimes require physical and mental elements, insurgency is characterised as a form of terrorism while armed banditry may not necessarily be so regarded. The legal provisions on terrorism generally characterise what is regarded as acts of terrorism and they are applicable in the case of insurgency.⁶⁵ Terrorism incorporate components crimes which are clearly listed in Parts V and VI of the Terrorism (Prevention and Prohibition) Act 2022. The component crimes of terrorism are varied and individually characterised with their own elements.⁶⁶ It is however difficult to typify the dimensions of armed banditry in Nigeria as a component crime of terrorism because it falls short of the description of ‘acts of terrorism’ as provided in the Terrorism (Prevention and Prohibition) Act 2022. While some of the component crimes of the Armed banditry bear similarities with those listed in the Act the underlying mental element are significantly different. The provisions of the Terrorism Act underscore ‘intention to further an ideology which may be religious, political racial or ethnic. Thus, while the physical element in the case of insurgency and armed banditry may in fact, be the same or share close similarities, the overarching requisite mental requirements are distinct.

Armed banditry consists of components crimes which are prohibited under various criminal statutes such as abduction, murder, robbery, pillaging etc. These crimes are marked by their own requirements under the law however, they need not be marked by the ‘intention to further an ideology’ Undoubtedly, armed banditry and insurgency may bear similarities in character and physical components, they are two distinct forms of organised crimes in Nigeria. in spite of the shared components in physical characterisation, armed banditry in the Nigerian context, need to be characterised as it is and should not be subsumed as a form of terrorism crime. There is no statutory provision which clearly defines armed banditry in the context Nigeria has witnessed it in the last decade. The dimensions of armed banditry have gone beyond mere cattle rustling and abduction. The dimensions of armed banditry have taken a complex chain of organised criminality which regular individual may not apprehend. Thus, an appropriate criminal justice response to armed banditry in Nigeria should stem from the recognition of the menace that armed banditry has become and appropriate criminalisation which matches the gravity of the offence.

⁵⁹ *Ibid*, Sections 3-5.

⁶⁰ *Ibid*, Sections 6 and 9 respectively.

⁶¹ Cap C 38, LFN 2004.

⁶² Cap P 3, LFN 2004.

⁶³ Cap R 11, LFN 2004.

⁶⁴ Global Organised Crime Index: Nigeria <<https://ocindex.net/country/nigeria>> (last accessed 22 November, 2024).

⁶⁵ Section 2.3 of the Terrorism (Prevention and Prohibition) Act 2022 prohibits ‘acts of terrorism’ and describes what are regarded as acts of terrorism.

⁶⁶ *Ibid*, Sections 11-47.

While armed banditry is not a new phenomenon, it has evolved in character and dimension to raise concerns and misnomer by the public as a new form of terrorism. The move by the federal government to label some bandits groups as terrorist groups in January 2022 may have been aimed at assuaging the public but insufficient to effectively curb the menace imposed by these groups.⁶⁷ Labelling bandit groups as terrorists may not necessarily capture the essence of the emerging form of banditry. Indeed, bandit groups are non-state actors which are loosely structured yet organised and engaged in criminal enterprise which range from cattle rustling to kidnapping, armed robbery, pillaging etc. Allegations of possible collaboration and connections between armed bandits and insurgents further blur the clear difference between the two. However, armed bandits may not necessarily be terrorist groups although they are equally dreadful and perpetuate grossly shocking and atrocious criminal activities. The designation and subsequent of the bandit groups as terrorist group may not have followed the provisions of the Terrorism Act.⁶⁸ Earlier in June 2022, Zamfara State enacted the Prohibition and Punishment for Banditry, Cattle Rustling, Cultism, Kidnapping and Other Incidental Offences Law, 2022.⁶⁹ The Law specifically criminalises kidnapping, banditry etc. and prescribes death penalty as punishment for banditry, kidnapping and bandits' informants. Zamfara may be the first state to specifically make provisions for criminal prosecution of armed banditry in Nigeria. While it is arguable that the enactment of such law in Zamfara may have been necessitated by the state's notoriety and the recent happenings in the state with respect to insurgency and armed banditry, there is a strong imperative for such law in the whole federation. It would seem clear that Zamfara has learnt that amnesty/peace deals for bandit groups may not be effective against banditry.⁷⁰ The increase in the perpetration of armed banditry and its emerging transnational dimension requires particularised effort.⁷¹ This does not in any way suggest that new laws must be made for every variant of crime which emerges or trends. However, given the trend of armed banditry in Nigeria, existing provisions in criminal statutes may not sufficiently apprehend the nature of armed banditry in Nigeria.

The gross apathy towards the rising increase in armed banditry across various regions of the country is more disturbing. While there are clear reports of armed banditry and public acknowledgment for some of episodes by the certain groups, the government seems to be more disposed to negotiations and peace bargains than it is to explore legal response to the menace. Thus, without prejudice to the constitutional provisions of the power of prerogative of mercy, Nigeria's disposition of granting amnesty to apprehended bandits and insurgents is antithetical to its legal obligations under both domestic and international legal instruments. Apart from encouraging impunity, it is likely to encourage the perpetuation the cyclical operation of the crimes. In spite of the avalanche of media reports on armed banditry across the country, there have been very few reports on apprehension of armed bandits and subsequent prosecutions.

7. Conclusion and Recommendations

Insurgency and armed banditry constitute grave security threats to Nigeria and are the topmost security concerns of Nigeria. The impacts of these forms of organised crimes are far-reaching and intense. In reality, armed banditry has overshadowed Boko Haram insurgency in the last half a decade. The humanitarian impacts of both Boko Haram insurgency and armed banditry in Nigeria have been devastating with women and children being the worst hit. Armed banditry has widespread effect across the country with staggering statistics on death, displacement, hunger and insecurity. While the legal framework on insurgency is relatively comprehensive and specific, armed banditry has received less particularised focus in extant statutory provisions with the exception of states like Zamfara which has specific legislation on armed banditry. While the availability of statutory provisions does not necessarily guarantee breakthrough, it is the first step in the right direction. The spate of armed banditry in Nigeria demands more dedicated and concerted attention that is not merely responsive but preventive in nature. It has been advocated that state Policing system should be established to enhance and improve security in States,⁷² particularly in the north eastern region. This would require constitutional amendment, though cumbersome but possible.⁷³ It is also suggested that government should ensure that adequate protection and security personnel are deployed to schools and more personnel employed into the Nigerian Police. Improved funding for security has also been suggested, to enhance performance and productivity. Finally, if Nigeria is to attain the targets for the Sustainable Development Goals (SDGs), particularly relating to peace, justice, strong institutions and quality education; it is important that the menace or insurgency and armed banditry is urgently tackled and resolved holistically.

⁶⁷ Premium Times Ameh Ejekwonyilo 'Updated: Nigeria govt gazettes declaration of bandits group as terrorists', 5 January, 2022. <<https://www.premiumtimesng.com/news/headlines/504177-just-in-nigerian-govt-gazettes-declaration-of-bandit-groups-as-terrorists.html>> (last accessed 25 November, 2024).

⁶⁸ Section 48 and 49 of the terrorism Act 2022.

⁶⁹ Vanguard Newspaper. 'Zamfara approves death penalty for informants and bandits and others' 16 August, 2022. <<https://www.vanguardngr.com/2022/08/zamfara-approves-death-penalty-for-informants-bandits-others/>> (last accessed 25 November, 2023).

⁷⁰ Earlier in 2016, Zamfara had purportedly granted bandits amnesty and peace deals in return for surrender of weapons.

⁷¹ Goodluck Jonathan Foundation, 'Terrorism and Banditry in Nigeria: The Nexus', 2021. p. 29, <<https://www.gejfoundation.org/terrorism-and-banditry/>> (last accessed 25 November, 2023).

⁷² Odeh Adiza Mercy and Nanji Umoh, 'State Policing and National Security in Nigeria' *Mediterranean Journal of Social Sciences*, 6.1 (2015). <https://www.researchgate.net/publication/273309261_State_Policing_and_National_Security_in_Nigeria> (last accessed 23 November, 2023).

⁷³ Ngozi Nwogwugwu and Adebisola Morenikeji Odedina, 'Policy Framework for Community and State Policing in Combating Rising Security Challenges in Nigeria' *International Relations and Diplomacy*, 6.6 (2018), 334-345, <https://www.researchgate.net/publication/328690165_Policy_Framework_for_Community_and_State_Policinzzg_in_Combating_Rising_Security_Challenges_i_n_Nigeria> (last accessed 22 November, 2023).