**LEGAL AND REGULATORY ISSUES IN INVESTIGATIVE JOURNALISM IN NIGERIA**

**(Being the Paper delivered by Femi Falana SAN at the Daily Trust Summit at Abuja on April 8, 2019)**

**Introduction**

Since the restoration of democratic rule in May 1999 scores of journalists have been arrested, detained or charged with the contravention of the Official Secrets Act and Cybercrime Act. Others were charged for sedition, forgery, false information under the penal codes. In addition to such official intimidation copies of newspapers and magazines were seized on the streets while a few media houses were invaded by armed troops. Interestingly, majority of the journalists who were victimized by the State have not been accused of shoddy investigation or publishing false or fake news. They have been harassed for writing stories or publishing reports which were alleged to have embarrassed the government or ridiculed certain public officers.

During the last two decades several courts have recorded many libels suits against many media houses which refused to retract and apologise for publications that are said to be libellous. At the same time a number of frivolous libel suits were also dismissed in favour of some media houses. In examining the legal regulatory issues in investigative journalism in Nigeria we shall review the Code of Ethics for journalists and the provisions of the Constitution on freedom of expression, media laws, penal statutes and Freedom of Information Act which has guaranteed access to information and records of governments in Nigeria.

**The concept of investigative journalism**

According to Wikipaedia, “investigative journalism is a form of [journalism](https://en.wikipedia.org/wiki/Journalism) in which reporters deeply investigate a single topic of interest, such as serious crimes, [political corruption](https://en.wikipedia.org/wiki/Political_corruption), or corporate wrongdoing.” In Nigeria, two online media, Saharareporters and Premium Times have embarked on investigative journalism which has led the government to account to the people by removing some officers and prosecuting others. For example, the report of the Premium times on alleged forgery of NYSC certificate by Mrs Kemi Adeosun, former Minister of Finance was a product of investigative journalism designed to promote public integrity. The investigation embarrassed the Buhari administration as it questioned its anti corruption crusade.

Owing to the possible damage to the image of the regime Mrs. Adeosun was forced her to resign from her appointment. However the publication by the Premium Times of the letter of former Inspector-General of Police, Mr. Idris Ibrahim to Vice President Yemi Osinbajo on the detention of the dismissed boss of a security agency embarrassed the federal government. In order to prove that he did not leak the letter to the media the police boss caused Mr. Samuel Ogundipe who reported the story charged with stealing a copy of the letter. Since the publication was accurate and true the Police had to stop further embarrassment by withdrawing the frivolous charge.

In another development, saharareporters had carried out extensive investigation and published several reports on budget padding, illegal payment of jumbo allowances to legislators and other allegations of massive corruption in the national assembly. Disturbed by the publications the Senate President, Dr. Bukola Saraki filed a libel suit at the high court in Ilorin, Kwara state, asked for damages and an order of perpetual injunction to stop further libelous publication on him by saharareporters. Without affording saharareporters any opportunity to defend the publication the judge trial court awarded damages of N4 billion to Dr. Saraki for the alleged libelous publications and granted an order of perpetual injunction to restrain further publication of libelous stories concerning the plaintiff. But the Court of Appeal has since set aside on the ground that the court processes were not served on the publisher of saharareporters, Mr. Omoyele Sowore.

The recent exposure of judicial corruption in Ghana by an undercover journalist, Mr. Anas Arameyaw Anas, was a product of thorough investigative journalism. Following the publication of the story in the electronic and print media, the Ghana Judicial Service Commission which had always denied allegations of corruption in the judiciary, was compelled to probe the veracity of the allegations. At the end of the inquiry, 22 judges and magistrates who were indicted in the probe were removed from the bench. A couple of months ago, one of the journalist who conducted the investigation was killed in Accra by yet to be identified gang of gunmen.

Here in Nigeria, investigative journalism is not without risks to reporters and media houses. Under the Ibrahim Babangida and Sani Abacha military dictatorship, two journalists namely, Messrs Dele Giwa and Bagauda Kaltho of the Newswatch and News magazines respectively were killed by parcel bombs. In August 2013, the Abuja office of THISDAY newspaper was bombed and destroyed by terrorists while armed soldiers recently invaded the Abuja and Lagos offices of Daily Trust newspaper, arrested its editor and carted away computers. The Presidency had to intervene before the editor regained his liberty from the military custody. While not denying the veracity of the story published by the newspaper the military authorities claimed that the publication had contravened the provisions of the Official Secret Act.

Happily, the courts in Nigeria have always supported investigative journalism. In ***Tarka V Sketch Publishing Company Limited*** [[1]](#footnote-2) the trial judge, Ademola Johnson J. (as he then was) commended the reporters who exposed the corrupt practices of the late Mr. J. S. Tarka, a powerful former Minister under the Yakubu Gowon regime when he said:

***“The issue of corruption by a public office holder is a matter of public concern and interest and any publication by a newspaper exposing such corrupt public officer is a service to the public and as long as the facts on which comments are based are correctly stated substantially by the newspaper there is a complete defence of fair comment to a libel by such public office holder.***

***The journalistic slogan is ‘Publish and be damned’, but how many practicing journalists have the courage to take up the challenge of the slogan? Where therefore one finds practicing members of the profession like the Editor of the Defendant and his team mates who have the courage to publish and comment on such grave issues of public concern and interest as shown on the relevant page of Ex. 2, they deserve an accolade.”***

In **His Excellency, Peter Ayodele Fayose v Independent Communications Nigeria Limited** [[2]](#footnote-3) the trial count found that the investigation conducted by the respondents into the conduct of the appellant as the Ekiti state governor was thorough. Having failed woefully to prove that he has any reputation worthy of protection by a competent court of law. Hence, the learned trial judge dismissed the suit in the following words:

***“I should say here again that the impression which the Plaintiff conveyed when he testified before me was that of one who was palpably averse to the truth. He denied the very obvious and invented fictitious stories which were plainly laughable. ...***

***In conclusion, having considered the evidence and the law, I have come to the conclusion that this action was ill-conceived, all advised, and should not have been filed in the first place. All the Plaintiff’s claims against the Defendants fail. The suit must be, and is accordingly dismissed in its entirety.”***

**Code of Ethics for Nigerian Journalists.**

Journalists in Nigeria are mandatorily required to operate under legal and ethical regulations and standards. In 1998, the Code of Ethics for Nigerian journalist, otherwise known as “The Ilorin Declaration”, was formulated by the Nigerian Union of Journalists, Nigerian Guild of Editors and Newspapers Proprietors Association of Nigeria. The Code was conceived as a vital pillar of journalism and the necessity for the application of ethics to enhance standards. In recognition of the fact that journalism entails a high degree of public interests the Code insists on editorial independence of professional journalists. The duties of journalists include the accuracy of report, respect for the privacy of people, confidentiality of sources of information, prohibition of editorial autonomy for professional journalists. As purveyors of information in the society journalists are duty bound to base their reports on accuracy and fairness, respect the privacy of people, protect the confidentiality of sources of information and refrain from subjecting any person to discriminatory treatment in any report.

Apart from prohibiting journalists from soliciting or accepting bribes, gratifications or patronage to suppress or public news, journalists are enjoined not to present or report acts of violence, such as armed robberies, terrorist activities, vulgar display of wealth in a manner that glorifies such acts in the eyes of public. Under no circumstances should the identity of children under 16 be disclosed in publications. As part of the social responsibility, journalists should promote human rights, democracy, justice, equity, peace and intentional understanding, enhance press freedom and responsibility. Journalists are also required to shun plagiarism and abide by all rules of copyright established by domestic laws and international conventions.

In practice, these lofty objectives have been largely discarded as a result of the privatisation of the media. Since he who pays the piper dictates the tune, editorial policies of media houses are dictated by the publishers or the owners. This explains why majority of media houses reflect the narrow interests of their private proprietors or owners while public media have become the mouth piece of the government of the day. It is public knowledge that many journalists who are not paid their salaries as and when due by media owners usually engage in the criminal practice of soliciting or accepting bribes, gratifications or patronage while stories and news are deliberately suppressed in order not to embarrass media owners, their family members and business associates.

No doubt, the Nigerian Press Council has been charged with the responsibility to monitor the activities of the press with a view to ensuring compliance with the Code of Conduct and ensuring the protection of the rights and privileges of journalists in the lawful performance of their professional duties[[3]](#footnote-4) it has not lived up to expectation. The Council shall also failed to enquire into complaints about the conduct of the press and impose sanctions in line with the provisions of the Act [[4]](#footnote-5). In fact, the constitutional validity of the Nigerian Press Council Act been challenged by the Newspapers Proprietors Association of Nigeria for restricting the right to freedom of expression guaranteed by Section 39 of the Constitution. See **Mallam Ismaila Isa & Ors v. President of the Federal Republic of Nigeria & Ors.**[[5]](#footnote-6).

In a landmark judgment the Federal High Court struck down many sections of the Act for constituting a bulwark against freedom of expression of opinion, ideas and views whether by individual journalists or by the press contrary to the provisions of Section 39 of the Constitution. Even though the Court of Appeal set aside the judgment on the ground that the Act is either censorial nor restrictive of press freedom the Nigerian Proprietors Association of Nigeria has appealed to the Supreme Court. Meanwhile, the plan by the national assembly to further gag the press through the proposed Nigerian Press Council (Amendment) Bill 2018 has been shelved due to the popular rejection of the move.

**Transparency, accountability and corruption**

Related to the concept of ethical code are the concepts of transparency and accountability. For democracy to work, citizens must have access to information about what their government is doing and how decisions have been reached. Transparency in government means responding to the citizens’ “right to know” through facilitating the access to information and also their understanding of decision-making mechanisms. This can be achieved through accurate, reliable and relevant financial reporting based on published accounts and regular audit reports; freedom of information act which allows access to records of and rationale for decision-making; televised parliamentary debates; etc. Government accountability is facilitated by approaches, mechanisms, and practices to ensure that its activities and outputs meet the intended goals and standards.

The two concepts of transparency and accountability go hand-in-hand since without adequate information on performance, outputs, and justifications it is difficult to hold governments accountable for their actions. Giving account of public resources and policy decisions is an integral part of democracy. Transparency and accountability serve as a check against mismanagement and corruption on the part of public officials. Thus they are pillars of sound governance which is so crucial to winning and maintaining the confidence of citizens, investors, and the international community. The Code of Ethics has imposed duty on Nigerian journalists to promote accountability and transparency.

Under the 1999 Constitution the mass media is required to uphold the fundamental objectives of the State and uphold the responsibility and accountability of the government to the people. But the duty could not be discharged due to denial of access to information on public affairs. In addition to the duty imposed on mass media to promote accountability and transparency the fundamental right of the Nigerian people to freedom of expression has been guaranteed by section 39 of the Constitution and Article 9 of the African Charter on Human and Peoples Rights (Ratification and Enforcement) Act.

Furthermore, under the Electoral Act 2010 the Independent National Electoral Commission is under a legal obligation to publish by displaying at the relevant office or on its website a statement of the full names and addresses of all candidates nominated by political parties [[6]](#footnote-7) and cause to be posted on its notice board and website a notice showing candidates declared or returned at the election and their scores[[7]](#footnote-8). Access to election materials shall be made available within 7 days upon application by any of the parties to an election petition. Any resident electoral commissioner who withholds election documents commit an offence and is liable on conviction to a maximum fine of Two Million Naira or imprisonment for a term not exceeding 12 months or both.

Under sections 100 and 101 of the Act, provisions are made regarding media time and coverage to be allocated among the political parties and candidates, the use of public media, and prohibition of broadcast at certain hours preceding the election and on election day. In utter breach of the law the media gave undue prominence to the All Progressive Congress and Peoples Democratic Party and discriminated against the so called small parties during the campaign for the recently concluded 2019 general elections.

In investigating stories and compiling reports for publication journalists and media establishments are required to take cognizance of the other legislations which have restricted freedom of expression including press freedom in Nigeria. Such legislations include the following:

**Official Secrets Act**

The Act protects public safety and prevents the disclosure of public information without authorization by appropriate public officers. Under the law, the publication of official secrets which are usually marked “secret” attracts a penalty of 14 years imprisonment without any option of fine.

**Cybercrimes (Prohibition, Prevention etc) Act, 2015**

The Act provides an effective, unified and comprehensive legal, regulatory and institutional framework for the prohibition, prevention, detection, prosecution and punishment of cybercrimes in Nigeria. This act also ensures the protection of critical national information infrastructure, and promotes cybersecurity and the protection of computer systems and networks, electronic communications, data and computer programs, intellectual property and privacy rights.

With respect to cyberstalking , section 24 (1) of the Act provides that “Any person who knowingly or intentionally sends a message or other matter by means of computer systems or network that- (a) is grossly offensive, pornographic or of an indecent, obscene or menacing character or causes any such message or matter to be so sent.” Under the Act it is an offence for any person to use any computer to commit the offences relating to child pornography and publication of obscene information by means of computer systems or network.

**Defamation Laws**

Every person has a right to the protection of their good name, reputation and the estimation which they stand in the society of fellow citizens. Thus, whoever publishes anything injurious to that good name, or reputation commits a tort of libel, if written and slander, if oral. It must be noted that the test in determining whether the words complained of are defamatory is always that of a reasonable person. That is to say, given the environment and the circumstances in which the statements were made and published what would be the interpretation and understanding of a person of ordinary understanding. See **Ekong v. Otup** [[8]](#footnote-9) **Sketch Publishing Company Ltd. & Anor v. Alhaji Azeez Ajagbemokeferi** [[9]](#footnote-10)

No matter how defamatory a publication is justification is a complete defence. Other defences include fair comment and qualified privilege. But falsehood and express malice may destroy the defence of qualified privilege. If there is no defence to a defamatory statement, a trial court may award general, punitive or exemplary damages. On account of the class character of the law of tort, a court will consider the injury done to the feelings of the person defamed, the grief and distress caused by the publication, the position of the person defamed in life and the natural indignation of the court to the injury inflicted by the statement in the assessment of damages.

**Penal and Criminal Codes**

The Criminal Code and Penal Code which are applicable in the southern and northern zones of the country have criminalized sedition and the importation of seditious or undesirable publications, publication of libel concerning public officers, publication of false news and incitement. Since the Court of Appeal held in **Nwankwo v The State** that public officers have no power to use the machinery of the State to harass or intimidate their political opponents it is submitted that criminal libel, like sedition, has become illegal under the current political dispensation. I agree with the Court of Appeal that public officers who feel offended by any defamatory statement are at liberty to sue for libel where they are required to defend their reputation.

**Child’s Rights Act**

The right of every child to privacy and family life is guaranteed by section 8 of the Act. To protect children from immoral influence section 35 of the Act has prohibited the importation and publication of obscene and harmful materials. Accordingly, any who‐ (a) prints, publishes, sells or lets on hire any harmful publication; or (b) has in his possession for the purpose of selling, or letting on hire any harmful publication, commits an offence and is liable on conviction to a fine of fifty thousand naira or imprisonment for a term of five years or to both such fine and imprisonment.

**National Broadcasting Commission Act**

The Act has established the National Broadcasting Commission with the responsibilities of, amongst other things, regulating and controlling the broadcasting Industry in Nigeria and advising the federal government, on the implementation of the National Mass Communication Policy, with particular reference to broadcasting, as well as licensing Cable, DTH, and all terrestrial radio and television services.

The Commission is also responsible for undertaking research and development in the broadcast industry, upholding the principles of equity and fairness in broadcasting and establishing and disseminating a national broadcasting code while also setting standards with regards to the contents and quality of materials broadcast. Of recent, the Commission has closed down some radio stations, imposed fines and banned other from playing records on the grounds that they contain vulgar messages.

**The Nigerian Copyright Act**

The Act provides protection for literary, artistic, and musical works, cinematography, sound recording and broadcasting in Nigeria against unauthorized use by any person or organization. The provisions of the Act are enforced by the Nigerian Copyright Commission, a parastatal of the federal government.

**National Film and Video Censors Board Act**

The Act has established the National Film Video Censors Board to regulate the censorship and public exhibition of films and video works and matters connected therewith. It shall be the duty of the Board- (a) to licence- (i) a person to exhibit films and video works; (ii) a premises for the purposes of exhibiting films and video works; (b) to censor films and video works; (c) to regulate and prescribe safety precautions to be observed in licensed premises; (d) to regulate and control cinematographic exhibitions; and (e) to perform such other functions as are necessary or expedient for the full discharge of all or any of the functions conferred on it by this Act.

It is indisputable that majority of the films and video works shown by television stations in the country obscene and harmful contents. Having regards to the duty imposed on the government to promote public morality it is doubtful if the Board appreciates the enormity of the responsibility imposed on it by the law and the Constitution.

**Right of citizens to acees information on public affairs**

The colonial regime did not recognize the fundamental right of the Nigerian people to freedom of expression. In particular, divulging of information about the government was a serious criminal offence under the ***Official Secrets Ordinance****.* It attracted 14 years imprisonment without an option of fine. The making of seditious statement or publication was also a crime under the Criminal Code Ordinance. Indeed, truth was not a defence or justification to the charge of sedition. Both repressive laws were regularly applied to deny Nigerians access to vital information on the ruthless exploitation of the resources of the country by the colonial plunderers and their allies. The leading cadres of the Zikist Movement were convicted in the 1940s for sedition for calling for a socialist revolution in Nigeria. The patriots were put away to prevent them from sharing information with Nigerians on the need to shake off the yoke of imperialism.

The situation did not change when the country gained political independence from the British colonial regime in 1960. Even though a bill of rights was contained in the Constitution the right of Nigerians to access information was not recognized. In **Dr Chike Obi v Director of Public Prosecutions**[[10]](#footnote-11) the appellant who was then a leader of a minority party in the House of Representatives had issued a pamphlet wherein he had condemned “the enemies of the people, the exploiters of the weak and the oppressors of the poor”. He was charged with sedition and convicted. He appealed against the judgment. In dismissing the appeal the federal supreme court upheld the conviction. According to Chief Justice Adetokunbo Ademola:

**“A person has a right to discuss any grievance or criticize, canvass and censure the acts of Government and their public policy. He may even do this with a view to affecting a change in the party in power or to call attention to the weakness of a Government, so long as he keeps within the limits of fair criticism. It is clearly constitutional by means of fair argument to criticize the Government of the day. What is not permitted is to criticize the Government in a malignant manner as described above, for such attacks by their nature, tend to affect the public peace.”**

Incidentally, the military adventurers who seized pwer in January 1966 promised to fight corruption. But they turned round to put fundamental rights including freedom of expression in abeyance and enacted obnoxious decrees to deny Nigerians access to information. Newspaper houses were shut down at will while journalists and public commentators were detained under preventive detention decrees. In the second republic the Court of Appeal had an opportunity to review the reactionary judgment of **Chike Obi v DPP** in the celebrated case of ***Arthur Nwankwo v. The State*** [[11]](#footnote-12). While quashing the conviction and one year sentence imposed on the appellant for sedition for publishing unauthorized public documents the Court of Appeal declared the provisions of the Criminal Code on sedition illegal and unconstitutional as they violated section 36 of the 1979 Constitution which had guaranteed the freedom of expression. On the authority of **Nwankwo v The State** it is submitted that all the provisions relating to sedition and criminal libel in both Criminal and Penal Codes are inconsistent with sections 39 of the 1099 Constitution. To the extent of such inconsistency the said provisions are illegal and they ought to be repealed without any further delay.

**Basic provisions of the Freedom of Information Act, 2011**

The Freedom of Information Bill was submitted to the National Assembly in July 1999. It was passed by both Chambers of the National Assembly in 2007 but vetoed by President Olusegun Obasanjo. However, when it was again passed in 2011, President Goodluck Jonathan signed it into law. The essence of the law is to open up the government to the people, promote transparency and accountability in public life. Thus, the law has recognized the right of every citizen to access to any record under the control of the government or public institution. The law is also applicable to private institutions which utilize public funds, perform public functions or provide basic services. Private organizations like telecommunication companies and other public quoted companies fall into this category. Religions bodies and media houses may also be asked to disclose information with respect to funds collected from men and women of questionable character in the society.

The law requires public officers to keep the records of the government which shall be made available upon demand by interested members of the public including the media. Gone are the days when civil servants could refuse to disclose information to the public. The reason for demand for information is immaterial. The Official Secrets Act and other anti media legislations cannot be invoked to prevent the disclosure of official information. This is the purport of section 2(b) of the FOIA which has guaranteed access to official information notwithstanding anything contained in other law or regulation.

Upon the receipt of a written request the information shall be provided within seven days. Where information is withheld it shall be communicated to the applicant within 7 days and he shall be informed that he has a right to challenge the refusal in court. An application for mandamus to compel disclosure shall be heard summarily to prevent delay. An applicant who has been denied access to requested information is at liberty to apply to the Court for a review of the matter within 30 days after the denial. There are adequate provisions for the information needs of illiterate and physically challenged people to access information. It is also important to note that the law has made provisions for the protection for whistle blowers.

**Penalties for violation**

If it is proved that information has been altered or destroyed by a public officer or any person he shall be liable to be tried and if convicted he shall be sentenced to 1 year imprisonment. However, sections 29 and 30 have provided immunity for public officers from civil or criminal prosecution for disclosing information without authorization.

**Exceptions:**

The exception to the FOIA includes information that could compromise national security, the conduct of international affairs, records that could expose trade secrets, test questions, architectural engineering designs, research materials under preparation, legal practitioner – client relationship, health worker – patient relationship and journalists’ confidential source of information. The disclosure of personal information is also exempted except where the person involved agrees to its disclosure or where the information is already publicly available, or where the disclosure is in the public interest. For instance members of the public are empowered by the Electoral Act 2010 to seek information with respect to nomination forms submitted by candidates who are contesting elections in Nigeria.

**Media parade and trial of criminal suspects**

The practice of subjecting criminal suspects to media parade and trial before arraignment in court is an infringement of the fundamental rights of such suspects to fair hearing and dignity. Although the courts have repeatedly cautioned all law enforcement agencies in Nigeria to desist from parading criminal suspects before the media the practice has continued in a manner which smacks of official impunity. Perhaps out of ignorance, the members of the media attend such illegal parade and media trial of criminal suspects. In fact, journalists participate in the mock trial by subjecting the suspects to cross examination. In the process, the process makes incriminating statements which are recklessly published in the electronic and print media. In reviewing the impact of media trial and parade of criminal suspects we shall examine the relevant provisions of the law and decided cases on the matter.

Notwithstanding that such media parade is prejudicial to the fundamental right of criminal suspects to fair hearing the police and other law enforcement agencies have not stopped it because it is part of the humiliation of lowly placed citizens. Hence, while it is not unusual to parade poor criminal suspects who are accused of stealing handsets whose value is less than N10,000 it is **infra dignitate** to parade rich and powerful criminal suspects who loot the treasury to the tune of several billions of Naira. Since ours is a class society the humiliating treatment of criminal suspects is limited to the flotsam and the jetsam. Hence, ex-governors, ministers, permanent secretaries, military and other Very Important Personalities who are arrested and briefly detained by the police and the anti-graft agencies are not exposed to media parade or any form of humiliation.

It is sad to note that the Police and the media have continued to disregard Section 8(1) (a) & (b) of Administration of Criminal Justice Act, 2015 which provides that every accused person shall be accorded humane treatment, having regard to his right to the dignity of his person; and not be subjected to any form of torture, cruel, inhuman or degrading treatment. Happily, section 2 (xi) of the Anti Torture Act, 2017 has made the media parade of criminal suspects a criminal offence in any part of Nigeria.

**Conclusion**

From the foregoing, the professional bodies in the media have a duty to ensure compliance with the Code of Ethics for Nigerian journalist. Even though the online and social media have successfully

**THE RULE OF LAW AND NATIONAL SECURITY IN NIGERIA**

**(Being the text of the lecture delivered by Femi Falana SAN at the National Defence College, Abuja on Tuesday, February 5, 2019)**

**Introduction**

Throughout the era of military rule which lasted for almost three decades I was considered a **persona non grata** in all military formations in the country. If this event had held at that period of national emergency and uncertainty, the organizers of this programme could not have invited me to deliver this lecture. Otherwise, they would have been rounded up and accused of threatening national security and charged before a special or general court-martial for inviting me to deliver a lecture in this respected military institution. Even though I was not a military officer I would have been charged with conspiracy for accepting the invitation to deliver the lecture for the purpose of inciting members of this academic community against constituted authority. But since the nation is operating under a Constitution which guarantees freedom of expression, I accepted the invitation to cross fertilize ideas with this distinguished audience on the avoidable clash between the rule of law and national security.

No doubt, military dictatorship ended in Nigeria about 20 years ago. But successive elected governments have continued to place national security over the rule of law. This is essentially due to the failure of the civilian wing of the political class to demilitarize the polity. As majority of political office holders in the country are not committed to the observance of the rule of law the political system has enthroned the rule of might or rule of rulers. In striking a balance between the rule of law and national security in a democratic setting I intend to review the concept of the rule of law, physical security, subversion of national security by the government, human rights and social security. I shall conclude my presentation by making a case for the enforcement of the socioeconomic rights of the Nigerian people as the country cannot have national security without social security.

**Conceptual clarifications**

For several years after independence the central pillar of Nigerian national security was the safeguarding of the “sovereign, independence and territorial integrity of the State”. A former Inspector-General of Police once stated that “national security entails the measures, facilities and systems put in place by a nation to secure its citizens and resources from danger and the risk of infiltration, sabotage, subversion or theft etc.” [[12]](#footnote-13)  The Constitution has however imposed a duty on the State to ensure that “the security and welfare of the people shall be the primary purpose of government; and the participation by the people in their government shall be ensured in accordance with the provisions of this Constitution.” [[13]](#footnote-14) With respect to the economic security and well being of the people the Constitution has also a duty on the State to promote “the maximum welfare, freedom and happiness of every citizen on the basis of social justice, and equality of status and opportunity”[[14]](#footnote-15).

To achieve the objective, the State shall direct its policies towards ensuring that “the material resources of the nation are harnessed and distributed as best as possible to serve the common good” [[15]](#footnote-16) and that “the economic system is not operated in such manner as to permit the concentration of wealth or the means of production and exchange in the hands of few individuals or of a group” [[16]](#footnote-17). In order to ensure good governance and public accountability the State is under an obligation to abolish “all corrupt practices and abuse of power”.[[17]](#footnote-18) Apart from the duty imposed on all citizens to “render assistance to appropriate and lawful agencies in the maintenance of law and order” [[18]](#footnote-19) it is the obligation of the mass media to “uphold the responsibility and accountability of the Government to the people” [[19]](#footnote-20). To eradicate illiteracy and ignorance Government shall, as and when practicable provide “(a) free compulsory and universal primary education; (b) free secondary education; (c) free university education and (d) free adult literacy programme” [[20]](#footnote-21) . It is also the duty of the State to protect children, young persons and – the aged against any form of exploitation whatsoever and against moral or material neglect [[21]](#footnote-22).

Although it shall be the duty of every organ of the Government to conform to, observe and apply the Fundamental Objectives and Directive Principles of State Policy their violations by the government and its officials cannot be challenged in any court of law. But the Appropriation Laws which require the government to create jobs, reduce poverty and provide infrastructural facilities for the society are violated as budgets are partially implemented while public funds are diverted and cornered by many unpatriotic public officers. Those who engage in such crimes against the people are treated like sacred cows by law enforcement agencies. Radical political parties and progressive civil society groups which pressurize government to meet its binding obligations to the people are classified as “security risks” by security agencies and targeted for harassment.

It is our submission that a government which engages in grand corruption or egregious human rights infringements such as genocidal acts or massacre of political opponents constitutes a threat to national security or state security. In the same vein, subversion of national security is carried out by governments whose policies cause mass poverty or promote religious riots and civil disturbances. But since the security of the government in power is always equated with national security by the police and security agencies, public officers who are responsible for the subversion of national security are paraded as defenders of law and order. And under the pretext of defending national security the police and other law enforcement agencies subject labour leaders, human rights activists and opposition figures to harassment. Hence, it is not unusual for security agencies to unleash violence on citizens who demonstrate against injustice or corrupt practices. Indeed, the conveners of such public protests are charged with sedition or incitement in criminal courts.

Through such abuse of power by the government it is hardly realized by security agencies that many frustrated young people have been forced to engage in kidnapping, banditry, terrorism, armed robbery and allied offences due to poverty and unemployment. Even though these grave offences attract the death penalty they are on the ascendancy. In a bid to combat such crimes which threaten national security, from time to time, the State has deployed the armed forces to maintain law and order in all the states of the federation. But since the State has failed to tackle the root causes of violent crimes and provide funds for proving adequate weapons for the Police the militarization of internal security has not restored law and order in any part of the country.

**Clash between human rights and national security**

Human rights are indeed the basic building blocks that governments must cultivate in order to have an effective relationship with the general population. The extent that the protection of these rights is guaranteed signifies the democratic strength of a country. Indeed, human rights and the rule of law are crucial to the well being of any truly democratic society. These rights include not only civil and political rights but also economic, social and cultural rights. They are articulated and entrenched in national constitutions and the Charter of the United Nations, the Universal Declaration of Human Rights and other human rights treaties to which Nigeria has subscribed. Human rights, the rule of law and democracy are interlinked and mutually reinforcing: they are part of the universal values and principles espoused by the international community. Nevertheless, it must be noted that since the birth of the human rights movement in the mid-twentieth century, the promotion of human rights and the rule of law has been seen as competing with or even compromising core issues of national security. Promoting human rights is now frequently viewed as a luxury, to be pursued when the government has spare diplomatic capacity and national security is not being jeopardized.

In Nigeria, there is a continuing tension between national security and respect for human rights and the rule of law. While human rights and the rule of law are concerned with limitations on state power, national security, by contrast, is intertwined with assertion of state power. The result of this has often been the marginalization of human rights in the name of national security by successive governments. The subordination of human rights to national security has been a permanent feature of Nigeria’s political history. But the government has failed to realize that more than anything else, high level official corruption poses a major threat to national security, human security and individual human rights in Nigeria. As recent experience has shown, it is problematic to place the security of the state entirely above the interests of individual citizens. Placing security concerns in direct opposition to human rights creates a false dichotomy. Each is essential for ensuring that a society is both “free” and “secure.” Privileging one over the other can have unintended negative consequences.

It is therefore important for Nigeria to strive to nurture the synergies between the two, and to incorporate human rights into national security strategies. I recognize that it can be difficult to find a balance between ensuring national security on the one hand, and preserving human rights and the rule of law on the other. Nevertheless, I firmly believe that both security and human rights can fully coexist and are absolutely necessary to prevent breakdown of law and order. The interdependence between national security, human security, individual freedoms and democracy cannot be over-stressed. In democratic societies human rights are at the core of national security itself. I posit that the purpose of national security should be to protect democracy and enhance democratic principles. A conception of national security, which sees the threat as not merely encompassing the personal security of citizens but also the good order of political institutions, necessarily leads to a view of the democratic state as both protector against, and contributor to, the threat.

In the latter regard, the cry of 'security' often functions politically "as a sort of intellectual curare," permitting the executive to stifle criticism, maintain political orthodoxy, and prevent debate by claiming knowledge — which cannot be revealed — to support what are essentially arbitrary political initiatives. It has been argued that “men and institutions remain free only when freedom is founded upon respect for moral and spiritual values and the rule of law” [[22]](#footnote-23).  According to this assumption, the basis for any national security policy must be grounded in a deep respect and consideration of human rights and the rule of law. These values and principles are well entrenched in the Constitution, and articulated in international human rights treaties to which Nigeria is a state party. Therefore, the government has a legal responsibility and obligation to preserve and promote all human rights as well as the rule of law. Undermining these fundamental values would go in the direction wished by those whose aim is to destroy democracy through the use of violence in its most inhuman form.

It must however be pointed out that international human rights treaties such as the International Covenant on Civil and Political Rights to which Nigeria is a state party provides for exceptional circumstances in which certain rights such as freedom of movement guaranteed by article 12 may be restricted. This provision authorizes the State to restrict these rights only to protect national security, public order *(ordre public)*, public health or morals and the rights and freedoms of others. However, to be permissible, restrictions must be provided by law, must be necessary in a democratic society for the protection of these purposes and must be consistent with all other rights recognized in the Covenant. In General Comment 27, (adopted in 1999) the Human Rights Committee, a body established pursuant to the International Covenant on Civil and Political Rights, stated that the law itself has to establish the conditions under which the rights may be limited. Restrictions which are not provided for in the law or are not in conformity with the requirements of the Covenant would violate human rights. According to the Committee:

***“In adopting laws providing for restrictions permitted by the Covenant, States should always be guided by the principle that the restrictions must not impair the essence of the right ;  the relation between right and restriction, between norm and exception, must not be reversed. The laws authorizing the application of restrictions should use precise criteria and may not confer unfettered discretion on those charged with their execution. It is not sufficient that the restrictions serve the permissible purposes; they must also be necessary to protect them”.***

As suggested above, advancing human rights must be a central pillar of Nigeria’s national security policy. Rather than being competing goals, human rights and national security are in fact complementary. National security could be enhanced by a greater emphasis on the promotion of human rights. Since human rights provide the basis for social interaction in democratic societies, they must be protected. The cost of living in a society that human rights are not protected could not be justified by anything. The cost would be too high. I must make this additional point: Nigeria’s democracy must strive to meet three objectives of ensuring the rule of law; striking a balance between the short term and the long term, and between the individual and the community; and protecting the rights of minority groups. I will explain very briefly each of these objectives. First, good governance requires the rule of law. Having good laws in the statue books is not enough. Laws must reflect the interests of the majority of the people. Laws must be implemented and enforced fairly and consistently in a transparent way or they risk becoming dead letters or, worse, instruments of oppression. There must therefore be some separation of powers and an independent judiciary. Furthermore, corruption is a long standing problem that has to be combated.

Second, a balance must be struck between the short term and the long term, and between the interest of the individual and the interest of the community. Electoral politics put pressure on governments to respond quickly to the needs of voters. Nobel laureate Dr. Amartya Sen pointed out that famines in India have become a phenomenon of the colonial past because Indian politicians today know they would be thrown out of office if they did not respond quickly to food shortage. All this is good but the problem with electoral politics is that the time horizon of political leaders shortens and pandering to the demands of special interest groups may be unavoidable. Larger and longer term considerations are often set aside as politicians concentrate on winning the next elections. A democratic system which creates a good balance between the short term and the long term, and between the individual and the community, will be better able to achieve respect for human rights and security. Third, we must protect the rights of minority groups. No country on earth is homogeneous. Nigeria must be very sensitive to the protection of minority rights.

Democracy is therefore a means to achieve good governance, never an end in itself. The word ‘demos’ referring to people has as its specific context of people living in community. There should be special protection for women, children, physically challenged persons and other vulnerable groups that have been subjected to discrimination and exclusion by the democratic system. We associate counting votes with democracy but there are so many ways to structure a voting system which can lead to very different outcomes. Democracy should always be structured to facilitate good governance, never to make it harder. However, as the global environment changes, as technology changes, our system has to evolve in tandem. For example, with the growing number of Nigerians living overseas, we must find ways to enfranchise them. Maintaining a sense of belonging to a larger Nigerian community is essential. Without voters feeling a sense of commitment to one another, a democratic system cannot work well.

In summary, the Nigerian government must comply fully with its national and international legal obligations to uphold human rights in all its actions so as to ensure security through the crucial protection of human rights and the rule of law. The government must demonstrate the commitment in deed and not merely in words to respect the rights and freedoms of citizens and to promote human rights. It is absolutely important that any measures limiting human rights are in compliance with international law. To facilitate the enjoyment of human rights by majority of the Nigerian people the government must implement the socioeconomic rights enshrined in chapter two of the Nigerian Constitution and the African Charter on Human and Peoples Rights (Enforcement and Ratification) Act.

**The concept of rule of law**

The concept of rule of law arose in Europe in the middle ages to challenges the absolutism of feudal lords. Lord Coke was dismissed from the bench for insisting on the supremacy of the law above the King. Karl Marx exposed the hypocrisy of the supremacy of law by describing the law as the will of the ruling class whose essential character and direction are determined by the economic conditions of bourgeoisie [[23]](#footnote-24). The State which administers the law has been described by Lenin as “an organ of class domination, an organ of oppression of one class by another; its aim is the creation of order which legalizes and perpetuates by moderating the classes.”[[24]](#footnote-25). As far as Marxist jurists are concerned, the idea of individual citizens enforcing their fundamental rights against the State does not exist to protect the interests of the people.

But the concept of rule of law under liberal democracy is said to mean “any ordered structure of norms set and enforced by an authority in a given community. In this sense, it is free from any particular ideological content and encompasses tyrannous as well as liberal humanitarian order.” [[25]](#footnote-26)The Secretary General of the United Nations has described rule of law as “a principle of governance in which all persons, institutions and entities, public and private, including the State itself, are accountable to laws that are publicly promulgated, equally enforced and independently adjudicated, and which are consistent with international human rights norms and standards. It requires, as well, measures to ensure adherence to the principles of supremacy of law, equality before the law, accountability to the law, fairness in the application of the law, separation of powers, participation in decision-making, legal certainty, avoidance of arbitrariness and procedural and legal transparency.”[[26]](#footnote-27)

Like other bourgeois constitutions, the Nigerian Constitution provides that country shall be governed in line with the tenets of the rule of law. Thus, in furtherance of the social order of Nigeria, “the independence, impartiality and integrity of courts of law, and easy accessibility thereto shall be secured and maintained” while a court or tribunal established by law shall be constituted “in such manner as to secure its independence and impartiality.”[[27]](#footnote-28) Notwithstanding the suspension of the Constitution and the supremacy of martial law under the defunct military dictatorship in Nigeria the Supreme Court believed that the country was governed in line with the tenets of the rule of law. Hence in **The Military Governor of Lagos State v. Chief Emeka Ojukwu** [[28]](#footnote-29) Obaseki JSC (as he then was) held:

***“In the area where the rule of law operates, the rule of self help by force is abandoned. Nigeria being one of the countries in the world even in the third world which proclaim loudly to follow the rule of law, there is no room for the rule of self-help by force to operate. Once a dispute has arisen between a person and the government or authority and the dispute has been brought before the court, thereby invoking the judicial powers of the state, it is the duty of the government to allow the law to take its course or allow the legal and judicial process to run its full course. The action the Lagos State Government took can have no other interpretation than the show of the intention to pre-empt the decision of the court. The Courts expect the utmost respect of the law from the government itself which rules by the law.”***

A modern state is extensively governed by rules and regulations, by complex guidelines and instructions, by a web of regulations, restrictive, prohibitive and penal procedures. The rule of law requires that “official decisions be justified in law, and therefore be reasoned and non-arbitrary with respect to general legal standards. This will include: assuring procedural regularity of the legal process, uniform application of laws and regulations. Perhaps no other issue raises greater passion in political and legal discussions about Nigeria than the question of respect for basic human rights under the rule of law. In Nigeria, working toward establishing the rule of law should include a discussion about how the legal and judicial system should act—or should be made to act—to recognize and protect the rights of the people.

It is pertinent to point out that national security has to operate under the rule of law in line with the provisions of the Constitution. Hence section 45 of the Constitution specifically stipulates that nothing in some sections on fundamental rights shall invalidate any law that is reasonably justified in a democratic society- in the interest of defence, public safety, public order, public morality or public health or for the purpose of protecting the rights and freedom of other persons. However, under any national emergency the fundamental rights of citizens cannot be abridged without complying with the procedure permitted by the Constitution. In other words, the rights of citizens cannot be abrogated or infringed upon under the pretext of defending national security.

**Subversion of national security by security agencies**

Realizing that the Nigeria Police Force is ill-equipped to fight certain criminal activities in the society a number of specialized agencies have been established by the State. Although each of the specialized agencies may be conferred with additional responsibilities affecting national security as the President may deem necessary the Nigeria Police Force is primarily in charge of the maintenance and securing of public safety and internal security. However, the armed forces are charged with the responsibility to defend Nigeria from external aggression, maintain its territorial integrity and securing its borders from violation on land, sea or air, suppressing insurrection and acting in aid of civil authorities to restore law and order when called upon to do so by the President[[29]](#footnote-30).

For proper coordination of national security three national security agencies have been established i.e the State Security Service, the Defence Intelligence Agency and the National Intelligence Agency pursuant to the National Security Agencies Act. Section 2 thereof provides that the Defence Intelligence Agency shall be charged with the responsibility for the prevention and detection of crime of military nature against the security of Nigeria while the National Intelligence Agency is concerned with the general maintenance of the security of Nigeria outside Nigeria concerning matters that are not related to military issues. The duty of the State Security Service is the prevention and detection within Nigeria of any crime against the internal security of Nigeria.

From time to time, the illegal directives of the chief executives of the federal and state governments are religiously enforced by the Police and other security agencies to the detriment of national security. Under the pretext of defending national security the human rights of citizens are routinely abused. Recently, the head of one of the security agencies engaged in the reckless subversion of national security by detaining hundreds of people without any legal justification. In fact, at the height of his uncontrolled impunity, the officer dispatched masked security operatives to take over the national assembly. Just three months ago, our law firm secured the liberty of a Nigerian journalist, Mr Jones Abiri who was held **incommunicado** for two years in an underground cell in the headquarters of the state security service. [[30]](#footnote-31) Our request for the release of about 294 other citizens who have been kept in the same underground cell for over three years without trial has not been granted. [[31]](#footnote-32)

On its own part, the Nigerian Army has declared an illegal war on the Shiites and the young people in eastern Nigeria who are agitating for the State of Biafra. Under the pretext of defending national security and the corporate existence of the country, scores of members of the two groups have been extra judicially killed or brutalized by armed troops in the last four years. The request recently made to the National Human Rights Commission to inquire into the massacre of 492 Shiites in Zaria and Abuja by the Nigerian Army has been turned down due to alleged lack of funding.[[32]](#footnote-33) Ironically, hundreds of the ill-equipped and ill-motivated members of the armed forces involved in the counter insurgency operations have been killed by terrorists due to the failure of the federal government to provide adequate weapons to prosecute the war on terror. Having defended a number of the military personnel charged with mutiny and other war related crimes before courts-martial I can say without any fear of contradiction that the war on terror has been prolonged due to the failure of the federal government to provide adequate equipment for members of the armed forces.

But in a bid to divert attention and cover up such criminal negligence of the military authorities, 86 soldiers were charged with munity in 2014 before courts-martial for demanding adequate weapons to confront terrorists who were armed with modern and sophisticated weapons. 70 of the accused soldiers were convicted and sentenced to death. Although based on the representation made by our law firm the death sentences imposed on the condemned soldiers have been commuted to 10 years imprisonment they ought to be pardoned in view of the fact that the few military officers who engaged in the criminal diversion of the huge fund earmarked for the purchase of military hardware for the counter insurgency operations have been indicted by the Presidential Panel on arms procurement. In fact, some of the indicted officers are currently standing trial for money laundering at the federal high court.

Since the federal government has failed to train and equip the Nigeria Police Force the Nigerian people have continued to witness, with dismay and frustration, the unabated killing of thousands of innocent citizens including children and the wanton destruction of properties by terrorists, herders, militants, kidnappers, armed robbers and bandits. Having taken over the monopoly of violence the armed gangs have continued to unleash mayhem in various communities despite official assurance that the Federal Government is committed to the protection of the life and property of every person living in Nigeria. Apart from the savagery of the armed gangs the Nigeria Police Force parades thousands of armed and kidnap suspects publicly before the media even though they are presumed to be innocent At the end of the parade, the suspects are illegally executed by police death squads. Many innocent citizens including school children are also killed by police and military personnel through the so called accidental discharge of AK 47 rifles. To cover up such violations of the human rights of citizens to life by the State the monetary damages awarded by courts to victims of police brutality are never paid by the government.

In view of the worsening security situation in the country, state governors ought to requisition an urgent meeting of the Nigeria Police Council with a view to designing strategies for the effective policing of each state of the federation and the federal capital territory. And if the federal government is not prepared to allow state governments to establish state police service to protect the people in their respective areas of jurisdiction the governors are advised to ensure that the Nigeria Police Council is allowed to be in charge of the organization, administration and general supervision of the Nigeria Police Force in line with the provisions of the Constitution. Regrettably, the 36 state governors who constitute the majority of the 39-member Council have failed to take advantage of their numerical strength to insist that the NPC be allowed to discharge its constitutional duties. For reasons best known to the state governors, the President has been allowed to exercise the powers of the NPC with respect to the appointment and removal of the IGP and the general supervision of the NPF. The Council has not adduced any reason to justify its failure to hold regular meetings and take decisions in line with the provisions of Section 159 of the Constitution.

In contravention of section 214 of the Constitution which has prohibited the establishment of any other police force the federal government has created the Nigeria Security and Civil Defence Corps. The force was given statutory backing by the national assembly with the enactment of the Nigeria Security and Defence Corps Act, 2003. The Act which was amended in 2007 has enhanced the capacity of the Corps to provide protection, crisis resolution and security in public institutions. Other agencies whose officials have been authorized to bear arms and perform police functions include the Nigeria Customs Service, Nigeria Prisons, Service and the anti graft agencies. Since every person living in Nigeria is entitled to the protection of their life and property, state governments which are not secured under the present political dispensation may wish to set up special police protection agencies. In a nation where responsible individual citizens are authorized to bear arms by the Inspector-General of Police and the President it is discriminatory and illegal to prevent a state governor from setting up a law enforcement agency to provide security for millions of unarmed citizens.

In recent time, the maintenance of internal security in the country has been taken over by the Nigerian Army. The anti-robbery squad in each state of the federation is constituted by members of the armed forces and police personnel. In spite of the declaration of the federal high court that it is illegal to involve the armed forces in election duties, [[33]](#footnote-34) some state governors have continued to invite the federal government to deploy armed soldiers to maintain law and order during elections. In fact, it is not uncommon to see military personnel mounting road blocks and controlling rallies and public meetings. Such usurpation of police duties by the army has led to reckless killing of unarmed citizens in several parts of the country. It has also had negative effect on the professionalism of the armed forces. The illegal deployment of armed troops for maintenance of law and order in all the states of the federation ought to stop forthwith while adequate fund is earmarked for the Nigeria Police Force to maintain law and order and secure the life and property of every person in the country.

**National security and killing spree**

In spite of the avowed commitment of the Buhari administration to end the entrenched culture of impunity in the country there have been reported cases of killings and other incidents of gross abuse of human rights of the Nigerian people. In particular, the extra-judicial execution of criminal suspects by the police and the unlawful killing of unarmed civilians including women and children by the armed forces, terrorists and armed gangs have continued unabated due to the failure of the government to bring the perpetrators to book. Some of the well reported cases of the killing spree which have serious implications for national security but which the government has failed to investigate include the following:

1. Not less than 100 people were killed during the 2015 general election recorded. According to the National Human Rights Commission 58 people were killed in Rivers state alone.\*\*\* Other elections conducted in the state since then have also witnessed wanton killings and destruction of properties. Apart from thugs and militants who have continued to unleash mayhem on innocent people the Joint Task Force has been indicted in the unlawful killing of members of the public. On February 22, 2016, a platoon of soldiers invaded Ogoniland in Rivers state and killed 3 unarmed youths. The demand of the Movement for the Survival of Ogoni People that the culprits be prosecuted was ignored by the authorities.

2. While the federal government deserves commendation for the success recorded so far in prosecuting the war on terror the failure to sanction the army officers and soldiers who engage in the unlawful killing of innocent people in the north east region has been condemned by local and international human rights organizations. Having confirmed that the federal government and the military authorities are unwilling to investigate the complaints of such unlawful killings the office of the Special Prosecutor of the International Criminal Court has commenced investigations into the allegations of crimes against humanity allegedly committed by the indicted military personnel.

3. From time to time, the heads of the police commands in the 36 states of the federation and the federal capital territory convene press conferences where hundreds of detained armed robbery and kidnap suspects are paraded before the media. Upon the conclusion of such media briefing majority of the suspects are extra-judicially executed by the anti-robbery squads of the Police. Thereafter, the dead bodies of the suspects are taken out at night and secretly buried in unmarked graves by the illegal executioners.  Even though the courts have awarded damages running to hundreds of millions of Naira to relatives of criminal suspects killed in police custody the Nigeria Police Force has not stopped the dastardly practice.

4. Sometime in 2016, the State Security Service announced that it had found 55 shallow graves in Umuahia, Abia State. Curiously, the SSS claimed that some of the graves contained the bodies of 5 Fulani herdsmen who were resident in the state. Although the security agency pointedly accused the Indigenous Peoples of Biafra  of *"gradually showing its true colour"* by attempting to ignite terrorism and mistrust it turned round to assure the public that it would investigate the incident and *"ensure that the sponsors and perpetrators of this action are apprehended and persecuted for their crime".* [[34]](#footnote-35) It is clear from its own press statement that the SSS reached the hasty conclusion of holding the agitators for the Republic of Biafra responsible for the killings when it had not carried out any investigation into the shallow graves.

5. Violent clashes between herdsmen and farmers have resulted in mass killings in all the states of the federation in the past 7 years. Apart from press statements issued by the Presidency condemning some of the killings the culprits have not been prosecuted by the governments of the states where the killings occurred. The violent clashes are likely to continue due the failure of the authorities to establish ranches and abattoirs.

6. Many nihilist groups have taken advantage of the growing culture of official impunity to engage in savage killings, abductions and other primitive brutalization of unarmed people. Some of the victims of kidnapping are brutishly killed while the hapless families of others pay huge ransom to secure their release. In 2013, a group of bandits abducted and killed over 150 policemen and SSS operatives in Nasarawa State. Even though the government probed the incident it has not prosecuted the indicted murder suspects.

7. The Ahmed Lemu Presidential Panel which investigated the post election violence which occurred in 12 northern states and Akwa Ibom state in April 2011 found that 856 people were killed by armed thugs. In the White Paper issued on the report the Federal Government directed that the culprits be prosecuted. But the directive was not carried out by the governments of the states where the killings took place.

8. On December 12, 2015 the Nigerian Army claimed that the religious convention held in Zaria, Kaduna by the Islamic Movement in Nigeria constituted a nuisance on the highway and that some personalities including the Chief of Army, General Yussuf Buratai were prevented from moving freely. Instead of requesting the Police to remove the nuisance from the highway the army chief decided to resort to self help. The Justice Mohammed Lawal Garba Commission of Inquiry which inquired into the violent attack found that 347 Shiites were killed by the army. In the white paper issued on the report of the commission the Kaduna state government directed that the suspects be prosecuted. But the military authorities have refused to prosecute the murder suspects.

9. In December 2016, the National Management Emergency Agency confirmed the killing of 204 people in Southern Kaduna. Scores of other people have been killed by gun men. The killings have continued because the murder suspects who were arrested by the Police and the Army have not been prosecuted by the Kaduna state government.

10. Notwithstanding the deployment of the army to aid the police in Zamfara state, the brutal killing of innocent people by bandits has continued. The criminals have also have also continued to engage in abduct children and rape women. The governor, Mr. Abdulaziz Yari appears to have left the people in the lurch by his purported resignation as the chief security of the state.

It is pertinent to state that the unlawful killing of unarmed citizens did not start under the current administration. But unlike two former rulers who authorised the invasion of Odi in Bayelsa state (1999), Zaki Biam in Benue State (2001) and Gbaramotu in Delta state (2009) President Buhari has not been associated with deploying armed troops to attack any community in the country. But having undertaken to end impunity and the wanton violations of human rights the Buhari administration owes it a duty to ensure that the life of every person living in Nigeria is respected at all times. At the same time, the government is under a legal obligation to inquire into the reckless killing of people with a view to prosecuting the culprits. In **Dorcas Afolalu v Federal Republic of Nigeria** [[35]](#footnote-36)  the ECOWAS Court held that the Government is under a legal obligation to protect the life of every citizen. In **Babankura Fugu v. President, Federal Republic of Nigeria** [[36]](#footnote-37) the Borno State High Court awarded N100 million damages to the applicant to atone for the extra judicial murder of his father in detention.

**Subversion of national security by Government.**

In order to outlaw coup d’état or unconstitutional change of governments in Nigeria, Section 1(2) of the Constitution provides that Nigeria shall not be governed by any person or group of persons “except in accordance with the provisions of this Constitution”. But in utter violation of the constitutional injunction, successive governments used the army, police and other security agencies as well as armed thugs to ensure the violent imposition of unelected persons on the Nigerian people. In **Buhari v. Obasanjo**[[37]](#footnote-38)  Pats-Acholonu JSC of blessed memory condemned the “horrendous acts of security forces when he said:

*“****That in this day and age in this country which has been independent for 45 years we can still witness horrendous acts by security officers who ought to dutifully ensure peace and tranquillity in the election process, suddenly turning themselves into agents of destruction, and introduced mayhem to what ordinarily would have been a civilized way of exercising franchise by the people who are sovereign, is regrettable. …It is scary to send police men to election places when they have not been properly tutored that in the exercise of their duty to maintain law and order in election areas, their allegiance is to the Constitution”.***

In spite of the serious indictment of security agencies over their iniquitous role in the 2003 General Election, President Obasanjo declared that the 2007 General Election was “do or die” affair for the PDP. In his capacity as the Commander-in-Chief of the Armed Forces the President, once again, deployed the police, the army and other law enforcement agencies in several parts of the country to manipulate the elections in favour of the ruling party. In carrying out the illegal directive of the President the police and security agencies colluded with the Independent National Electoral Commission (INEC) and the leaders of the PDP to subvert the electoral process. There was stuffing and snatching of ballot boxes. Many citizens who opposed the rigging of election were either killed or maimed. In order to cover up the state-sponsored electoral malpractice, the Presidency directed the police and security agencies not to release the reports of the elections compiled by them to the Election Petition Tribunals.

It is pertinent at this juncture, to recall the harassment meted to some petitioners and their lawyers for tendering the reports compiled by the police and the state security service on the manipulation of the election. In one of the states, a petitioner had pleaded the report of the State Security Service submitted to the authorities on the governorship election. The Director-General of State Security Service was served with *subpoena duces tecum* to produce the report. He ignored the summons. The report was tendered but the tribunal rejected it on the ground that it had not come from proper custody! Notwithstanding the rejection of the report the SSS invited the petitioner to disclose who gave it to him. He did not hesitate to tell the interrogators that I had given him the report. When I was invited by the SSS to disclose the source of the report I made it clear to the interrogators that “my sources are protected”.

The Police report on the governorship election tendered by the petitioner in another state was certified by the Police. Before the commencement of hearing in the petition the petitioner had requested the Inspector-General of Police to prosecute those who were indicted in the report. The demand was ignored. At the governorship election petition tribunal the Police report was tendered but rejected for not coming from proper custody. The Court of Appeal ordered that the report be admitted by a new tribunal to be set up to hear the case *de novo*. At that juncture the Inspector-General of Police claimed that the report was forged and decided to charge the petitioner with forgery before a Magistrate’s Court at Abuja. As the defence counsel I challenged the competence of the charge in view of the order of the Court of Appeal on the admissibility of the document. The criminal case was struck out when the petitioner was his case and was declared the governor by the Court of Appeal.

In the third state, both petitioner and respondent pleaded the report of the SSS on the governorship election. At the trial of the petition in the Election Petition Tribunal the counsel to both parties tendered the report by consent. The SSS denied the existence of the report but the tribunal rightly admitted it. In affirming the position of the Tribunal the Court of Appeal said that ***“***The witness sent by the agency denied the existence of the document…The fact that the document, which was alleged not to be in existence, was produced and tendered in evidence belied the testimony of the witness denying its existence. It demonstrated that the witness could not be telling the truth. He knowingly perjured”.[[38]](#footnote-39) At the end of the case the SSS dismissed an officer who was suspected to have given the report to the petitioner. We challenged the dismissal at the federal high court. The case was however amicably settled as the SSS agreed to convert the dismissal of the officer to retirement.

**The threat to national security by terrorist groups**

In a desperate bid to remain in power against the wishes of the Nigerian people the Ibrahim Babangida and Sani Abacha juntas unleashed terrorist attacks on political opponents through state-sponsored bombing, assassination and arson. On October 19, 1986, Dele Giwa, editor-in-chief of the Newswatch magazine was gruesomely killed by a parcel bomb in his residence at Ikeja, Lagos state. His lawyer, Chief Gani Fawehinmi SAN (of blessed memory) was almost killed for demanding for the prosecution of the terrorists in government. Serving and retired military officers who were critical of both bonapartist regimes were implicated in phantom coups and subjected to mock trial and execution or sentenced to long prison terms. Cultist groups were funded on the campuses to deal with radical lecturers and students. Upon the restoration of civil rule in 1999 the terrorists and cultists were neither prosecuted nor disarmed!

As if that was not enough the civilian wing of the political class decided to manipulate religion to win votes in the Muslim dominated northern Nigeria. Thus, in January 2000, Governor Sani Yerima introduced Sharia Law in Zamfara state. Not less than 15 other governors in the North followed suit. Although the action breached section 10 of the Constitution the Olusegun Obasanjo Administration decided not to challenge the constitutional validity of the policy in the Supreme Court for political reasons. In Zamfara State, a man who was convicted by a Sharia court for stealing a cow valued at N15,000 (Fifteen Thousand Naira only) had his right hand amputated. In Katsina State, another Sharia court convicted a single mother for adultery and sentenced her to death by stoning. But for the intervention of the local and international human rights community the penalty would have been carried out.

While the impoverished masses of northern Nigeria were subjected to harsh sentences prescribed by the Sharia Law, many governors and other political office holders engaged in large scale looting of the treasury and other heinous crimes. One of the governors involved in the politicization of the Sharia has since been charged by the Economic and Financial Crimes Commission with the alleged theft of the sum of N30 billion. It was against this background that the Boko Haram sect and other youth organisations emerged to purify the Islamic religion being politicised by the state governments. Owing to ignorance and poverty thousands of young people joined the Boko Haram group. Former Governor Modu Sheriff of Borno state was alleged to have funded the group which supported his campaign during the 2003 general election. Following a clash with the Nigerian Army sometime in September 2009, the leaders of the group were arrested and handed over to the police for investigation and prosecution. But the police killed the leaders of the group in custody. It was at that stage that the group declared a war on the country.

In 2011, the Goodluck Jonathan Administration set up a Panel of Inquiry headed by Ambassador Usman Galtimari to investigate insurgency in the north east region. In a detailed report the Panel traced the genesis of Boko Haram and other private militias to politicians who set them up in the run-up to the 2003 general elections. According to the Committee, "The report traced the origin of private militias in Borno State in particular, of which Boko Haram is an offshoot, to politicians who set them up in the run-up to the 2003 general elections. The militias were allegedly armed and used extensively as political thugs. After the elections and having achieved their primary purpose, the politicians left the militias to their fate since they could not continue funding and keeping them employed. With no visible means of sustenance, some of the militias gravitated toward religious extremism, the type offered by Mohammed Yussuf."[[39]](#footnote-40) The Committee recommended that the prosecution of the politicians who “sponsored, funded and used the militia groups that later metamorphosed into Boko Haram". Although the recommendation was accepted in May 2012 by the Federal Government the suspects have been treated like sacred cows as they are highly connected to the powers that be. Recently, a former Borno State governor, Alhaji Modu Ali Sheriff was named as one of the sponsors of the Boko Haram sect by a Reverend Stephen Davies, the negotiator recruited by the Federal Government to dialogue with the terrorists. In his reaction to the disclosure the ex-governor threatened to sue Rev. Davies for defamation of character.

Unlike the negotiator whose indictment was not substantiated I issued a press statement wherein I provided detailed evidence of Alhaji Sheriff's links with the dreaded Boko Haram sect. In particular, I stated that the ex-governor appointed Alhaji Buji Foi, a leading Boko Haram member, as the Borno State Commissioner for Religious Affairs to compensate the sect for supporting his re-election in 2003. My press statement was corroborated by the Maiduguri branch of the Nigerian Bar Association which threatened to drag the ex-governor to the Special Prosecutor of the International Criminal Court. As the Federal Government was disturbed by the revelations of Rev. Davies the State Security Service quickly announced that the ex-governor was under investigation for his alleged links with the Boko Haram sect. But a few days later, the suspect was a member of the delegation of the Federal Government to Chad when President Jonathan met with his Chadian counterpart, Mr. Idris Derby to review the war on terror in the north east region!

On sources of weapons used in the political unrest which occurred in Kaduna, Kano, Bauchi, Gombe and Akwa Ibom States the Panel found that pistols and local manufactured rifles, axes, daggers and cutlasses were freely used in the Northern States while the sophisticated weapons employed in the violence in Akwa Ibom State included “pistols, pump action guns, machine guns, RPGs, grenades, SMGs, AK 47s”. The Committee therefore recommended that ***“Government should conduct an in-depth investigation into the allegations of large scale arms-running in Akwa Ibom State to stem the tide of illegal arms flow into the country and ensure proper monitoring and licensing of local manufacturers of firearms and dealers.”*** Disturbed by the above finding the Federal Government accepted the recommendation of the Committee and directed the security agencies to implement it without any delay.

Sadly, since a White Paper was issued on the Report in May 2012 no action has been taken by the Federal Government on the clear roadmap to peace and durable solution to the security challenges in the North East zone drawn up by the Ambassador Galtimari Committee. In other words, the directives of the Federal Government on the 116 findings and recommendations of the Committee have been treated with disdain to the detriment of the nation. Furthermore, the directives of the Federal Government on the recommendations of the Sheik Ahmed Lemu Committee on the 2011 Election Violence and Civil Disturbances have equally been ignored without any justification. The said directives are specific on the provision of assistance to the families of the 943 people who lost their lives in the violence, the prosecution of the 626 suspects apprehended by the police, the establishment of an Electoral Offences Tribunal, job creation for the youths, reduction in the cost of running governments, abuse of security votes, illegal appointments of caretaker committees to administer local governments, usurpation by the National Assembly of the powers of the Revenue, Mobilization Allocation and Fiscal Commission to fix the salaries and allowances of legislators etc. [[40]](#footnote-41)

It is pertinent to note that the members of both Usman Galtimari and Ahmed Lemu Presidential Committees were *ad idem* on the inescapable fact that the rising wave of youth unemployment, poverty, official corruption and impunity have accentuated terrorism and political violence in the country. But the decision of the Federal Government to “review all relevant reports of which Government views were not published as well as those which Government published its views but not implemented” has not been carried out. The directives handed down to many officials and agencies of the Federal Government to carry out specific assignments to forestall future occurrence of political violence in the country have been ignored. Therefore, if the Federal Government is genuinely determined to end civil disturbances and the general culture of impunity in the country it should implement the directives contained in the White Papers issued on the Reports of the Ambassador Galtimari Committee and the Sheikh Ahmed Lemu Panel without any further delay.

Notwithstanding the judicial indictment the reckless killing of innocent persons by the Joint Task Force has continued unabated.

Instead of implementing the recommendations that can guarantee political stability and protect national security the State has offered amnesty to members of militia groups and terrorist sects who have taken over the monopoly of violence in the country. It is submitted that a state of predators, bandits and rent collectors unleashing violence on a people by indirectly killing them on bad roads, in ill-equipped hospitals and through extra-judicial killings by security forces lacks the moral right to deny amnesty to fellow killers in nihilist organizations! While the fear that amnesty for criminality may be institutionalized is justified we have to take cognizance of the complexity of the crisis of restoring law and order in the country. However, the nation’s bankrupt ruling class must not be allowed to engage in escapism by resorting to temporary solutions to resolve fundamental crises.

**Social Security and national security**

Although it shall be the duty of every organ of the Government to conform to, observe and apply the Fundamental Objectives and Directive Principles of State Policy their violations by the government and its officials. But the Appropriation Laws which require the government to create jobs, reduce poverty and provide infrastructural facilities for the society are violated as budgets are partially implemented while public funds are diverted and cornered by many unpatriotic public officers. Those who engage in such crimes against the people are treated like sacred cows by law enforcement agencies. A few of them who are charged with the criminal diversion of public funds are shielded from prosecution by some senior lawyers. Meanwhile, a number of jobless people who commit armed robbery and kidnapping are convicted and sentenced to long years of imprisonment or executed by the state. As I had cause to observe at a public forum last year:

***”On account of the failure of the government to fund welfare programmes Nigeria is said to have the largest number of poor people in the world. The economic paradox has been compounded by large scale looting of public funds by the ruling class. Most of the problems at the root of insecurity in Nigeria are caused by the abject poverty of the people in the midst of plenty. Over 25 million young people including university graduates are in the unemployment market. In addition to that figure, there are about 10.5 million children of school age who are roaming the streets which according to UNICEF is the highest figure in the world. Not unexpectedly, such street kids are easily recruited by terrorists and other criminal gangs to the detriment of national security.*** [[41]](#footnote-42)”

Mr. Bill Gates, the co-chair of Bill and Melinda Gates Foundation was a guest of the federal government at the expanded meeting of the National Economic Council which held at Abuja on March 22, 2018[[42]](#footnote-43). In his well-publicised address at the forum Mr. Gates criticised the neo-liberal foundation of the economic programme of the Government of Nigeria. While reeling out facts and figures on the state of underdevelopment of the nation the special guest made a strong case for increased investment in the welfare of the Nigerian people by all the chief executives of the federal and state governments. In particular, he urged the governments to make the people the corner stone of its economic programme by investing in education, health and other social services.  Not a few people including some former public officers have commended Mr. Gates for speaking truth to power! But far from it, the speech was a friendly admonition to the members of the ruling class in Nigeria.

Having invested $1.6 billion in promoting the health of the most vulnerable segment of the population since 2006 the locus standi of Mr. Gates to challenge the economic programme of the Government cannot be questioned. Gates has put his money where his mouth is, as they say. His solidarity message was a critical commentary on the economic programmes of the previous and current governments which have abandoned the welfare policies enshrined in the Fundamental Objectives and Directive Principles of State Policy embodied   in the Chapter II of the Constitution of the Republic. Therefore, Mr. Gates' criticism of the economic programme of the Buhari administration is valid for all the economic programmes of the previous governments, which have handed over the national economy to market forces at least in the last 35 years. It is, therefore, the lack of proper appreciation of the ideological thrust of the message that has led some commentators to conclude that Mr. Gates has merely criticised the EPRG of the current administration.

But contrary to such reductionist distortion, Mr. Gates' speech is a summary of the struggle, which has been relentlessly waged by progressive forces against the anti-people’s policies of successive governments in Nigeria since the Structural Adjustment Programme (SAP) was imposed on the nation by the Ibrahim Babangida military junta. Even the World Bank and the International Monetary Fund (IMF) who didn’t emphasise the social costs of adjustment in the 1980s are now subtly drawing the attention of government burgeoning poverty, which is a consequence of their socially ruinous policies. It is unfortunate that some of those involved in economic management are still enamoured with neo-liberalism, which callously discounts human welfare policy mix. But when IMF and World Bank caution against poverty, our market forces fundamentalists in policy chambers should at least be worried their policies which do make education and healthcare as priorities.

It was on account of the struggle of the Nigerian people that the federal government has been compelled to enact some welfare laws for the actualisation of the socio-economic rights of the Nigerian people.  Some of the laws include the People's Bank Act, Nigerian Education Bank Act, Pension Reform Act, Free, Compulsory Universal Basic Education Act, Child's Rights Act, National Health insurance Act, National Health Act, and Immunisation Act etc. But, sadly, the federal government has consistently breached the provisions of these welfare laws[[43]](#footnote-44). As if that is not enough, the several court judgments delivered in cases filed by human rights activists which have directed the federal government to implement the provisions of such laws have been treated with disdain. Indeed, the crisis of underdevelopment of the country has been compounded by the anti-welfarist policies of majority of the state governments. For instance, the Child's Rights Act, which provides for compulsory and free education for every child from primary to junior secondary school, has been adopted by all the 17 states in the South and only eight out of the 19 states in the North.

It is not surprising that terrorists and other armed bandits have continued to recruit from the large army of children who have been denied access to basic education in several states in the country. Instead of providing fund for public schools the governments have continued to encourage the establishment of private schools for the education of the children of the elite. Whereas 2% of the consolidated revenue fund of the federal government is contributed to the Universal Basic Education (UBE) Fund annually in line with Section 2 of the Free, Compulsory Basic Education Act, majority of the state governments   have refused to contribute counterpart fund to enable them to assess the UBE Fund. Hence, billions of Naira is laying waste in the UBE account in the Central Bank while millions of children are roaming the streets.  According to the UNICEF report of 2012, Nigeria had 10.5 million children who were out of school. That was the highest figure in the world at the material time. The figure has since increased geometrically.

Yet, all the governments have refused to comply with the judgments of the ECOWAS court and the federal high court, which have mandated them to provide every child with basic education. Our appeal to the Police Authorities to arrest and prosecute parents and guardians, who refuse to allow their children and wards to acquire basic education, has fallen on deaf ears. The story is the same with respect to the provision of basic healthcare for the people. As public officers and their family members are flown abroad for medical treatment in foreign medical centres the people are left to die in ill-equipped hospitals in the country. The federal government has failed to implement the provisions of the National Health Insurance Scheme Act and the National Health Act. Some highly public officers indicted for looting the account of the National Health Insurance Scheme have been given a clean bill of health. Even though the National Health Insurance Scheme Act was enacted in 1999, only four out of the 36 state governments have adopted it.

Following the failure of the federal and state governments to implement the Immunisation Act, the Bill Gates Foundation and Dangote Foundation have taken over the duty of ensuring that our children are immunised.  Preventable diseases like polio, meningitis, Lassa fever and others are ravaging the populace without any meaningful intervention from the governments. It is common knowledge that the scourge of HIV/AIDS persists in the country due to the failure of the governments to provide anti -retroviral drugs for the victims. In 2014, the sum of $30 million donated to the federal government by some development partners to fight the scourge was stolen by a handful of officials in the federal ministry of health. Since the federal government has refused to recover the fund and prosecute the indicted criminal elements the development agencies have suspended the provision of more fund to acquire drugs to fight the menace of HIV/AIDS in Nigeria.

In its reaction to Mr. Gates' speech the federal government assured him of the commitment to invest in human capital development. Beyond such assurance the federal government should review the EPRG with a view to providing sufficient fund for education, health and economic empowerment of the people. The authorities of all state and local governments should be involved in the review of the national economic programme. Meanwhile, we are compelled to urge the state governments to adopt and implement all the welfare laws that have been enacted by the federal government. Since the federal government has undertaken to operate under the Rule of Law we call for immediate compliance with the judgments of the ECOWAS court and the federal high court on the welfare of the Nigerian people. Accordingly, we have, once again, served the certified true copies of the said judgments on the Attorney General of the Federation.

The government should re-commit itself to the achievement of the Sustainable Development Goals as a means of addressing underdevelopment and preventing the marginalization of majority of citizens in the country. There is also the need for a strong and effective mechanism whether within the National Assembly or civil society to oversee executive action, including when they vote on the budget and monitor its implementation, to ensure that a balance is struck between national security, human security and individual freedoms, and to avert any threat to democracy. National security must be reduced to its absolute minimum — what I call a *democratic conception of national security.* The use of extraordinary measures in the name of national security *for any other purpose should* therefore be discouraged. Nigeria’s national security institutions must be effectively regulated and made accountable. The government must adopt broad-ranging measures geared to develop an effective institution with an appropriate organizational culture for a democratic society as well as the direct and mandatory involvement of the National Assembly in after-the-fact review. In the final analysis, it is essential to place further legal limitations on government's use of special national security measures.

**Conclusion**

From the foregoing, it is undoubtedly clear that no serious effort has been made to address the root causes of terrorism, ethno-religious riots, political violence and other civil disturbances. Hence, the orgy of violence witnessed regularly has continued to threaten national security and the corporate existence of the country. It has been demonstrated that lack of political will on the part of the governments to prosecute criminal suspects has compounded the high rate of violent crimes. Let me caution that if the perpetrators of the brutal killings are not prosecuted the federal government is likely to continue to pay damages running to billions of Naira which will be awarded by the courts to the victims of violence. In view of the fact that Nigeria has ratified the Rome Statute some highly placed officials of the government may be tried before the International Criminal Court for crimes against humanity.

Finally, it is submitted that the security of the nation cannot be guaranteed without the security of the people. Therefore, the federal, state and local governments must embark on the actualisation of the socioeconomic rights of the Nigerian people. However, I am not unaware of the diversionary tactics of some governors and legislators who have prescribed the death penalty as a panacea to the rising wave of violent crimes in the country. Such highly placed admirers of the death penalty ought to be reminded that the late jurist, Dr. Akinola Aguda once warned the nation to desist from prescribing the death penalty for armed robbery when he said:

“*Severe and brutal punishments have never been known anywhere in the world to be a panacea to incidents of serious crimes and at the same time an instrument of contentment among the general public expected to benefit from such measures. Brutal punishments escalate brutal crimes, and brutal crimes escalate brutal punishments thus creating a never-ending spiral of brutalization of the whole society. Countries with the least incidents of brutal crimes which at the same time provide greater peace and stability in government, satisfaction and contentment to their common citizenry are those with the minimum level of unemployment, and with good social welfare programme. In this country such inconsequential social welfare programmes that existed, for example, highly subsidized education and health-care delivery have recently been almost totally abrogated, and the very high level of unemployment has risen astronomically.”* [[44]](#footnote-45)

The Obasanjo military dictatorship accepted the majority report of the Constitution Drafting committee and ………………

In preparing the 1979 Constitution which gave birth to the 1999 Constitution the Olusegun Obasanjo military junta submitted the majority report of the Constitution Drafting Committee to the Constituent Assembly and deliberately suppressed the minority report prepared by Dr. Segun Osoba and Dr. Bala Usman (of blessed memory) which recommended the justiciability of the socioeconomic rights of the Nigerian people.

From the above analysis we have demonstrated that the secular status of the country has been compromised by the Constitution which has failed to separate religion from the state. The ambiguity of such official policy has been exploited by the political class to engage in *divide et impera* tactics. Those who are genuinely looking for solutions to the menace of insurgency and political violence in the country are advised to study the reports of Ambassador Galtimari and Sheik Ahmed Lemu. Both have traced the root causes of the crises and suggested solutions which include the prosecution of terror suspects and dialogue with moderate ones. Judges are to be sensitized to appreciate the danger of granting bail to terror suspects.

But the Federal Government is not prepared to implement the above recommendations and several others so as not to maintain the status quo. Hence the diversionary embrace of blanket amnesty for terrorists. Nigerians must not allow the state to pool wool over their eyes. Accordingly, the Amnesty Committee for the members of the boko haram sect should be disbanded as it is totally uncalled for.

More importantly, the State should withdraw from religion and direct all public officers to make religion a private affair.

\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*I -was considered a dangerous dissident under the defunct military dictatorship in Nigeria. Hence, I was subjected to constant harassment by the security and intelligence community from 1984-1999. Even since 1999, I have been on the ‘watch list’ of the State Security Service. Not for posing any threat to national security or for contributing to the economic adversity of the country. But for teaming up with other patriotic forces to challenge unbridled corruption, unabashed executive lawlessness, gross human rights abuse and other illegal activities which have continued to subvert national security and endanger the welfare of the people of Nigeria.

1. Nigerian Law of Libel and the Press by Chief Gani Fawehinmi, Nigerian Law Publications Limited, 1987, 448 [↑](#footnote-ref-2)
2. Unreported Suit No: HAD/116/2008 [↑](#footnote-ref-3)
3. Section 3 [↑](#footnote-ref-4)
4. Ibid, section 20 [↑](#footnote-ref-5)
5. 2009-2010) CHR 166 [↑](#footnote-ref-6)
6. Section 34 [↑](#footnote-ref-7)
7. Section 71 [↑](#footnote-ref-8)
8. (2015) 20 WRN 1 [↑](#footnote-ref-9)
9. (1989) 1 NWLR (PT 100) 678. [↑](#footnote-ref-10)
10. (1961) ANLR 186. [↑](#footnote-ref-11)
11. (1985) 6 NCLR 228 AT 252 [↑](#footnote-ref-12)
12. (Hafiz Ringim : Election Violence and National Security, August 6, 2003. [↑](#footnote-ref-13)
13. Section 14 (2) (b) of the 1999 Constitution [↑](#footnote-ref-14)
14. Section 16(1)(b) of the Constitution. [↑](#footnote-ref-15)
15. Ibid, Section 16(2)(b ) [↑](#footnote-ref-16)
16. Ibid, Section 16(2) (c) [↑](#footnote-ref-17)
17. Ibid, Section 15 (5) [↑](#footnote-ref-18)
18. Ibid, Section 24(e) [↑](#footnote-ref-19)
19. Section 22 of the Constitution [↑](#footnote-ref-20)
20. Ibid, Section 18 [↑](#footnote-ref-21)
21. Ibid, section 17(3)(f) [↑](#footnote-ref-22)
22. Lyon, J.N. (1972) Constitutional Validity of Sections 3 and 4 of the Public Order Regulations, 1970 in the McGill Law Journal 18 pp. 136-144. p. 136]. [↑](#footnote-ref-23)
23. Marx and Engels, Collected Works, 6:501 [↑](#footnote-ref-24)
24. V. I. Lenin, The State and Revolution (New York, NY International Publishers, (1932) 9. [↑](#footnote-ref-25)
25. See Fredman, The State and the Rule of Law in a Mixed Economy, 1971, P. 94 [↑](#footnote-ref-26)
26. Report of the Secretary-General: The Rule of Law and Transitional Justice in Conflict and Post-Conflict societies (S/2004/616). [↑](#footnote-ref-27)
27. Sections 17(2) and 36(1) of the Constitution [↑](#footnote-ref-28)
28. (1985) 3 NWLR (PT 18) 621 at 627

    [↑](#footnote-ref-29)
29. Section 217 of the Constitution [↑](#footnote-ref-30)
30. Hhtps.//[www.premiumtimesng.com/news/headlines/280350-after-two-years=detained-nigerian-journalist-jones-abiri-freed.html](http://www.premiumtimesng.com/news/headlines/280350-after-two-years=detained-nigerian-journalist-jones-abiri-freed.html) [↑](#footnote-ref-31)
31. <https://www.punchng.com/falana-demands-names-of-294-citizens-in-dss-detention> [↑](#footnote-ref-32)
32. <https://www.pmnewsnigeria.com/2018/11/05/falana-issues-rights.commission-7-day-ultimatum-to-begin-probe-into-killing-of-492-shiites-by-army> [↑](#footnote-ref-33)
33. https://www.thecable.ng/citizens-can -curb-excesses-sars [↑](#footnote-ref-34)
34. https://www.punch.com/dss-takes-over-abia-forest-with-55-shallow-graves [↑](#footnote-ref-35)
35. (Unreported Suit No: ECW/CCJ/APP/04/2012) [↑](#footnote-ref-36)
36. (2009-2010) CHR 1 at 10 [↑](#footnote-ref-37)
37. (2005) 50 WRN 1 at 311 [↑](#footnote-ref-38)
38. 7 NWLR (PT 1140) 342, 403-404) [↑](#footnote-ref-39)
39. White Paper on the Report of the Presidential Committee on the Security Challenges in the North-East Zone of Nigeria, May 2012, Printed by the Federal Government, Printer, Lagos. [↑](#footnote-ref-40)
40. White Paper on the Report of the Federal Government Investigation Panel on the 2011 Election Violence and Civil Disturbances, August 2012, Printed by the Federal Government, Printer, Lagos. [↑](#footnote-ref-41)
41. Femi Falana: “Ensuring the sovereignty of Nigeria: violent clashes between herders and farmers as a case study” in the 2018 Ondo State Judiciary Annual Chief Judge’s Seminar held on October 31, 2018 at Akure, Ondo State) [↑](#footnote-ref-42)
42. https://dailynigeria.com/bill-gates-faults-buhari-economic-policy [↑](#footnote-ref-43)
43. Femi Falana: Nigerian Law on Socio-Economic Rights, Legaltext Publishing Company Limited, 2017 Page 7. [↑](#footnote-ref-44)
44. T. Akinola Aguda: The Crisis of Justice, Akure, Eresu Hills Publishers, 1986. Page 11. [↑](#footnote-ref-45)