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In this Issue

Emergency Rule: A Panacea for Peace and Conflict Resolution in Nigeria

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Abstract

A state of emergency is traditionally invoked in order to justify a departure from or stretching of the rule of law, here the existence of an emergency is a prerequisite to invoking the rule of law at all. This paper examines the potency of a 'state of emergency' in peace and conflict resolution in Nigeria. Thus, the main concern of the paper was to interrogate how far a state of exception can be explored in times of emergency situations to engender peace in the polity. From a theoretical viewpoint, the paper argues that a state of emergency is located within the fiduciary function of a state. Fundamentally, the nature and the function of the state of emergency or 'state of exception' is to guarantee peace, security and equal freedom for everybody. The paper concludes by stating clearly that the conflict scenario portends negatively for the sustenance of national security in Nigeria. The paper recommends that emergency rule should be managed by the authorities in manners that will facilitate the realization of the goals of peace building and conflict resolution. Also, it suggests a strategic paradigm shift from anti-terrorism to counter-terrorism as a strategy for containing the crisis.

Key words: Emergency rule, Conflict, Conflict Resolution, Peace, Crises.

Introduction

The Global Peace Index (GPI) for 2013 shows how world peace has changed over time and how the world has become a less peaceful place. In their annual report, the Global Peace Index, ranked 162 countries by measuring security, the extent of conflict and the degree of militarization in society. The report analyses the state of peace around the world, identifying trends in violence and conflict, as well as the key drivers of peace. Recently with sharp rise in the number of homicides world-wide, the world has become 5 percent less peaceful since 2008 (GPI, 2013).

According to literature, Europe is the most peaceful region, within which 13 of the top 20 most peaceful countries fall. The top three (3) most peaceful countries are Iceland, Denmark and New Zealand. While Nigeria ranked the 15th of 20 most violent countries in the world. Though the violent conflict in Syria and Egypt uprising have had a big impact on this report, the war ravaged Afghanistan returns to the bottom of the index (GPI, 2013). Also, according to the Global Terrorism Index (GTI, 2013), Nigeria currently ranks the 7th most terrorized country in the world. This ranking makes Nigeria the most terrorism stricken country in African alongside Somalia.

Feldman (2005) asserted that any nation faced with a war, an invasion a domestic insurrection or other type of emergency must first determine how it will respond. How much power will the executive be given? What will be the role of other branches of government? How long will the response last? How will the government administer justice during such a period? What if any fundamental rights will be sacrificed in order to protect the nation? The way in which a nation responds to such questions will undoubtedly determine how successful it will be in responding to situation with which it is faced.

The causes of domestic insurrection, conflict and violence in Nigeria are multifaceted which have differently led to the declaration of "state of emergency" in the country. The principal among these causes are political crisis, ethnic and religious conflict and large organised crime and terrorism. There have been several indications that Nigeria is one of the countries where ease of access to small arms and light weapons is very simple. Several times, securities have intercepted the illegal importation of major conventional weapons, explosive materials and machine guns. All these are just few of many evils and unknown secret plans to declare and unleash terror on Nigerian citizens. Ethnic conflict and religious crisis are on a very high level, where several lives and properties worth millions of naira are lost.

Therefore the assertion that Nigeria belongs to 20 most violent countries in the world can be corroborated by a statement credited to the current civilian president of the Federal Republic of Nigeria Goodluck Jonathan. According to him:

> They have attacked government buildings and facilities. They have murdered innocent citizens and state officials. They have set houses ablaze, and taken women and children as hostages. These actions amount to a declaration of war and a deliberate attempt to undermine the authority of the Nigerian state and threaten her territorial integrity. As a responsible government, we will not tolerate this. (Jonathan, 2013)

All these, coupled with violent demonstration and protest that are usually beyond the control of the police and other security personnel have made the Nigerian government to declare "Emergency Rule" in old Nigerian Western Region, Plateau, Ekiti, Adamawa, Borno, and Yobe states in order to return peace and stability in the polity.

At this juncture, however, it is very pertinent for us to ask the common question, whether the declaration of emergency rule by the government at the centre is a panacea for peace and conflict resolution in Nigeria. This question is very germane to this study as the study seeks to unravel the mystery about the "emergency rule". Thus, general purpose of this study is to determine whether the emergency rule declaration in Nigeria is a panacea for peace and conflict resolution. We also intend to know whether the emergency rule has not violated the fundamental human rights of the citizens. Lastly, we want to measure its achievement and point out its major weaknesses.

The study is an ex post facto research depending on the data readily documented overtime. The study area, of course, is the entire Nigeria as a country; hence the terror activities of some tribal groups and religious sects and its concomitant mayhem that have led to declaration of "State of Emergency" with its attendant cross country effects. Therefore, this paper employs the secondary source of data as its method of data gathering and also uses the content approach to effect the analysis of the data generated via other documentations on the effects of domestic insurrection and the resultant effect of emergency rule declaration.

Conceptual and Theoretical Framework

The Concept of Emergency Rule

The concept of "state of emergency" or 'emergency rule' as it is usually referred to, has its historical origin from Rome when a dictator who was a temporary officer was appointed to provide ad hoc leadership in a national emergency (*tumultus*) by repulsing attacks from abroad or quelling internal rebellion. Over the past centuries, governments throughout the world have declared states of emergency in response to a variety of real and perceived crises, including not only the paradigmatic threats of foreign military intervention and insurrection, but also political unrest, general civil unrest, criminal or terrorist violence, labour strikes, economic emergencies, the collapse of public institutions, the spread of infectious diseases, and natural disasters (Criddle and Fox-Decent, 2012).

Thus, 'Emergency Rule' is an extreme measure normally resorted to in periods of national emergency when the security of the State or a part of it is threatened. Being antithetical to constitutional democracy, the power of the President to make a proclamation declaring emergency rule is highly restricted and need Parliamentary approval as the exercise of the power affects in a fundamental way the enjoyment of the fundamental rights of the citizens and invariably abridges their rights (Alemika, 2013).

Emergency rule or a state of emergency is also defined as a governmental declaration which usually suspends a few normal functions of the executive, legislative and judicial powers, alert citizens to change their normal behaviours, or order government agencies to implement emergency preparedness plans. Some scholars have argued that "Emergency rule" is sometimes referred to as "Martial law" which is defined as the law of the military necessity in the actual presence of law. It is administered by the General of the Army, and is in fact his will. Of necessity it is arbitrary, but it must be obeyed." Thus, the essence of emergency rule is based on the concept of necessity, and provides little limitation on the use of military power when circumstances require its imposition (Feldman, 2005).

The above definitions of a state of emergency have the following features:

a.   It must be a governmental declaration.

b. It may suspend function performed by the executive, legislative and judicial arm of government of the affected region.

c. It orders a particular governmental agency to implement emergency plans.

d. It alerts citizens.

e. It may also suspend some rights and freedom even when guaranteed under constitution

Also, it is glaring that emergency rule is not necessarily declared only during the period of civil unrest, internal armed conflict or war but also useful during the period of natural disaster. It is used severally to ease the tension as a result of very severe flooding that sub-merged many houses and killed several lives. In developed countries, the state of emergency and its effects on human rights and freedoms and governmental procedure are regulated by the constitution or a law that limits the powers that may be invoked. Though, some rights and freedoms may be suspended during an emergency rule, for instance, freedom of movement, but not non-derogable rights (Premont, Stenersen, Bruglant and Brussels, 1996).

State of emergency is not very common in democracies but dictatorial regimes for as long as the regime stays in power or for a much extended periods of time, that derogations can be used to override human rights of their citizens. Though, Article 4 to the International Covenant on Civil and Political Rights (ICCPR) permits states to derogate from certain rights guaranteed by the ICCPR in "time of public emergency", any measures derogating from obligations under the covenant, however, must only be to the extent required by the exigencies of the situations, and must be announced by the state party to the secretary General of the United Nations (Judson, 2012).

Conceptualizing Conflict and Conflict Resolution

The term 'conflict' is difficult to define or rather it is difficult to come to a consensus concerning its definition. In the view of Mayer (2010) conflict is natural, inevitable, necessary, and normal, and the problem is not the existence of conflict but how we handle it. Parents assure their children that the ferocious argument they are having is not a conflict, but just a "discussion." Organizations hire facilitators to guide them in strategic planning, goal setting, quality circles, team building, and all manner of training, but they shy away from asking for help with internal conflicts. Somehow, to say that we are in conflict is to admit a failure and to acknowledge the existence of a situation we consider hopeless.

Conflict is a social factual situation in which at least two parties (individuals, groups and states) are involved and strive for goals which can only be reached by one party, and or want to employ incompatible means to achieve a certain goal. It thus implies struggle over values or claims to status, power and scarce resources in which the aims of the groups or individuals involved are not only to obtain the desired values but to neutralize, injure or eliminate rivals (Kesterner and Ray, 2002; Coser, 1967).

Deutsch (1973) states that:

> *Conflict exists whenever incompatible activities occur ... An action which is incompatible with another action prevents, obstructs, interferes with, injures, or in some way makes it less likely or less effective.*

Hocker and Wilmot (1985) asked people to respond to the word "conflict" and were given the following responses: destruction, anger, disagreement, hostility, war, anxiety, tension, alienation, violence, competition, threat, heartache, pain, and hopelessness. Obviously, these people viewed conflict as a concept which evoked negative images. A list of negative assumptions about conflict that are widely held is identified as follows:

➢ Harmony is normal and conflict is abnormal.
➢ Conflicts and disagreements are the same phenomena.
➢ Conflict is pathological.
➢ Conflict should be reduced or avoided, never escalated.
➢ Conflict can be the result of clashes of personality.
➢ Emotions are different from genuine conflict. (Hocker and Wilmot, 1985)

In a similar vein, Deetz and Stevenson (1986) also list negative assumptions about conflict that are prevalent. They include:

➢ Conflict is an unnatural departure from human sociability.
➢ Conflict can and should be avoided in most situations.
➢ Conflict is largely a result of a communication failure, i.e. conflicts arise mostly from misunderstandings. (Deetz and Stevenson, 1986: 205)

Conflict Resolution, on the other hand is conceptualized as the method and processes involved in facilitating the peaceful ending of conflict. Conflict resolution is often used interchangeably with dispute resolution and it is often used where arbitration and litigation processes are critically involved. Also, according to Robert and Garston (2009), the concept of conflict resolution can be thought to encompass the use of non-violent resistance measures by conflicted parties in an attempt to promote effective resolution. Conflict resolution is a conceptual perspective that assumes individuals preferred method of dealing with conflict. This is based on two underlying themes or dimensions: a concern for self (assertiveness) and a concern for other (empathy) (Forsyth, 2008). According to the dual model, group members balance their concern for satisfying personal needs and interests of other in different way. The intersection point between these two dimensions ultimately lead individuals towards exhibiting different styles of conflict resolution (Goldfliers and Robbennolt, 2007).

In the dual model, Goldfliers and Robbennolt (2007) identifie five conflict resolution styles/strategies that individual may use depend on their dispositions toward pro-self or pro-social goals? These are identified as follow:

Avoidance conflict style: this is characterized by inaction and passivity, where parties involved have no concern for their own outcomes as well as the outcomes of others. Thus, the avoiders, during conflict try to adopt a "wait and see" attitude, often allowing conflict to phase out on its own without any involvement (Bayazit & Mannix, 2003)

Yielding conflict style: this on the other hand is characterized by a high concern for other while having a low concern for one's own self. When faced with conflict, individual with a yielding or "accommodating conflict style tend to give in to other demands out of respect for the social relationship.

Competitive or fighting conflict style: this maximizes individual assertiveness (i.e. concern for others). According to Forsyth (2009) groups consisting of competitive members generally enjoy seeking domination over others, and typically see conflict as a win or lose predicament. Here, fighters tend to force others to accept their personal views by employing competitive, power tactics (such as argue; insult; accuse; violence) that foster feeling of intimidation [Morrill, 1995].

Cooperation conflict style: this is characterized by an active concern for both pro-social and pro-self behaviour. Cooperation conflict style is typically used when an individual has elevated interest in their own outcomes of other. During conflict, co-operator collaborates with others in a effort to find an amicable solution that satisfies all parties involved in the conflict. Goldfien and Robbennolt (2007) were of the opinion that individuals with the cooperation conflict style tend to be highly assertive and highly empathetic at the same time. By seeing conflict as a creative opportunity collaborator willingly invest time and resource into finding a "win-win" solution (Forsyth, 2009). Following from above, we will understand that a cooperative conflict resolution style is recommended above all others (Sternberg and Dobson, 1987, Jarbooe and Whiteman, 1996)

Conciliation or compromising conflict style: this is typical of individuals who posses and intermediate- level of concern for both personal and others outcomes. According to Goldfien and Robbennolt (2007) compromisers value fairness and in doing so, they anticipate mutual give-and- take interactions. By accepting some demands put forth by others, compromisers believe this agreeableness will encourage others to meet half-way, this then results in promoting conflict resolution. This style according to Forsyth (2009) can be considered an extension of both "yielding" and "cooperative" strategies.

Following from the above, it is glaring that Nigerian government has already employed both "yielding" and "cooperative" and even conciliatory or compromising conflict resolution strategies which have all failed. This left no option than that of Competitive or fighting conflict

resolution style. This is so because government have set up several committees and it has even offered amnesty in order to end the conflict but the insurgents keep on bombing everywhere, hence, the declaration of state of emergency. On 20 May 2013, the Federal Government issued the formal Proclamation of the State of Emergency with the concurrence of the National Assembly. The preamble to this Proclamation acknowledges that "Nigeria has been experiencing serious crises, internal tension and civil disturbances which presently constitute grave threats to peace, order, good governance, security and safety of life and property", and that "these crises and disturbances transcend religious, political, and ethnic divide with the perpetrators of the crises utilizing terrorist tactics, thereby occasioning serious breakdown of law and order (The National Human Rights Commission, 2013).

The Concept of Peace

Etymologically speaking, the word "Peace" has Latin origin, being "Pax" which means "Freedom from civil disorder". The English word came in use in various personnel greeting from 1300AD as a translation of the Hebrew "Shalom" such a translation is however, imprecise, as shalom, which is also cognate with the Arabic "Salaam", has multiple other meanings in addition to peace, including justice, good health, safety, well being, prosperity, equality, security, good fortune and friendliness (Wikipedia, 2013)

'Peace', like many theoretical terms, is difficult to define. But also like 'happiness', 'harmony', 'love', 'justice' and 'freedom', we often recognize it by its absence. Consequently, researchers in social science have proposed the important distinction between 'positive' and 'negative' peace. 'Positive' peace denotes the simultaneous presence of many desirable states of mind and society, such as harmony, justice, equity, etc. 'Negative' peace has historically denoted the 'absence of war' and other forms of wide scale violent human conflict (Galtung, 1996).

In Webster's Dictionary, peace is defined negatively, as 'freedom from civil clamour and confusion', and positively as 'a state of public quiet' (Webster's1993: 1660). This denotes negative peace and positive peace in their political or 'outer' sense. Webster's proceeds further to define (political or outer) peace positively as 'a state of security or order within a community provided for by law, custom, or public opinion'.

Peace is also described as a state or period of mutual concord between governments. It is a pact or agreement to end hostilities between those who have been at war or in a state of enmity. Peace is harmony in personal relation. Peace is freedom from disquieting or oppressive thoughts or emotion. Peace is a state of harmony characterized by the lack of violence, conflict behaviors and the freedom from fear of violence. Commonly understood as the absence of hostility, peace also suggests the existence of health or nearly healed interpersonal or international relationship, prosperity in matters of social or economic welfare, the establishment of equality and a working political order that serves the true interest of all.

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Theoretical Framework

The fiduciary theory is one of the theories that argue that states bear an obligation to safeguard their subjects' equal freedom during emergencies—even if this requires derogation from some human rights norms such as the freedoms of expression, movement, and peaceable assembly. Non-peremptory human rights norms are subject to derogation in contexts where the strict observance of these norms would conflict with the state's overarching fiduciary obligation to guarantee subjects' secure and equal freedom. But states must also refrain from taking measures in emergencies that would simply replace private domination with public domination.

Criddle and Fox-Decent (2012) argues that fiduciary theory offers a principled framework for clarifying the principles that govern situation for which states of emergency may be declared and other controversial aspects of *jus ad tumultum*. The starting point for this analysis is the state's overarching fiduciary obligation to ensure a regime of peace, secure and equal freedom in the society. A declaration of a state of emergency becomes necessary when exigent circumstances frustrate the state's ability to guarantee peace, security and equal freedom for citizens without temporarily employing laws, policies, or practices that would constitute a breach of fiduciary duty under other circumstances. While all exercises of coercive force by the state demand justification, the state bears a special burden to justify restrictions on personal freedoms when it asserts that exigent circumstances necessitate recourse to powers that would ordinarily violate the fiduciary principle.

The fiduciary theory confirms conventional wisdom regarding justification for state of emergency (*jus ad tumultum)* in some respects and disputes it in others. The European Convention on Human Right (ECHR) established four criteria in lawless for determining whether exigent circumstances justify a state of emergency: a "public emergency" must be present or imminent; exceptional; concern the entire population; and constitute a "threat to the organised life of the community. The fiduciary theory supports three of the lawless criteria but rejects the third criterion—that emergencies concern the entire population—as inconsistent with the state's obligation to guarantee secure and equal freedom for all subjects (Ackerman, 2004).

The fiduciary theory is of the view that all credible threats to individual life and liberty justify recourse to emergency powers, and the competing view that states may employ emergency powers only where the survival or independence of the political community as a whole is at stake. A state's concern for its national security need not amount to a Sisyphean quest for absolute public safety at the expense of human rights; rather, a state satisfies its fiduciary obligation to secure legal order if it prohibits the illegitimate use of coercive force such that no private party or alien power may dominate or instrumentalize its subjects with impunity, and enforces the prohibition with proportionate means (Criddle, and Fox-Decent, 2012). Therefore, Nigeria as a state has a fiduciary obligation to protect live and properties of every Nigerian citizen even when it required her to derogate from certain rights.

Causes of Violent Conflicts in Nigeria

The most salient and the main bases for violent conflicts in Nigeria is the existence of a complex of individuals as well as crisscrossing and recursive identities of which the ethnic, religious, regional and sub-ethnic (communal) factors have had major effects. This is both from the point of view of the identities most commonly assumed by citizens especially for political purposes and the identities often implicated in day-to-day contestations over citizenship as well as competitions and conflicts over resources and privileges. To emphasize the interconnectedness of ethnic, regional, and religious identities and the fact that they are often mutually reinforcing, they are sometimes compounded or hyphenated as ethno-regional and ethno-religious (Osaghae and Suberu, 2005).

The category of ethno-religious identities initially owed its origin to regional formations. It has been useful for differentiating the predominantly Muslim North from the predominantly Christian South. The category has also helped to differentiate the dominant Muslim group in the North from the non-Muslim minorities in the region. Indeed, unlike the south where majority groups are distinguished from minority groups on the basis of ethnicity, majority-minority distinctions in the north have been more religious than ethnic. Thus, a member of the Hausa/Fulani majority group in the north who is Christian is as much a minority in the overall scheme of things as say an Idoma or Igala,(both of which are northern minority groups) and is actually likely to enjoy lesser privileges than an ethnic minority person who is Muslim.

Osaghae and Suberu (2005) noted that the deluge of inter-group conflicts that have afflicted Nigeria may be classified into the following four main, often overlapping types: ethno-religious clashes, inter-ethnic violence, intra-ethnic and/or intra-religious conflicts, and inter-group economic clashes.

Ethno-Religious Clashes: They have occurred mainly in the Middle-Belt and cultural borderline states of the Muslim north. It is often difficult to differentiate between religious and ethnic conflicts as the dividing line between the two is very thin". The major examples of violent ethno-religious conflicts in Nigeria have included the Kafanchan-Kaduna crises in 1987 and 1999, Zangon-Kataf riots of 1992, Tafawa Balewa clashes in1991, 1995 and 2000, the Kaduna Sharia riots of 2000, and the Jos riots of 2001 (International IDEA, 2000: 296).

Inter-Ethnic Violence: While the Tiv-Jukun, Urhobo-Ijaw-Itsekiri, and Hausa/Fulani-Igbo clashes are long-running conflicts that have erupted periodically during the eighties up until the present moment, the Hausa/Fulani-Yoruba clashes took place mainly in 1999-2000 in the wake of the transition from northern-dominated military rule to a Yoruba-led civilian administration.

Intra-Ethnic and/or Intra-Religious Conflicts: The major recent instances of intra-ethnic clashes in Nigeria are the Aguleri-Umuleri conflicts in the Igbo state of Anambra and the Ife-Modakeke conflicts in the Yoruba state of Osun. The violent conflicts involving the Islamic sects have also

developed in the Muslim north between the two major brotherhoods of Quadriyya and Tijanniyya, between these brotherhoods and more puritanical or radical Islamic movements like the Izala and the Muslim Brothers-Shiites (Osaghae and Suberu, 2005). In the case of Plateau State, the issue of ethnicity and religion was at the centre of the conflict and the declaration of emergency further polarized the population. In the present insurgency in the North East and parts of the North West Zones, some sections of the country see it as a religious contraption and are therefore opposed to any talk of amnesty and reconciliation (Punch Editorial, 2013).

Inter-Group Economic Clashes: Many communal clashes in the oil rich Niger Delta have also involved purely distributive sectional struggles for the largesse of the oil industry, including infrastructures and financial compensations provided by the oil multinationals.

Emergency Rule in Nigeria: Historical Antecedents

Since independence, Nigeria has never escaped a season that was free of crises both at community level and beyond. Nigeria has had its own fair share of emergency rule which ultimately snowballed into a civil war. The crises, each time they occurred used to bring calamities of monumental effects that often shook the country to its foundations. On his own accounts, Udo (2013) posits that the history of state emergency in Nigeria politics began in 1962 when large-scale irregularities in country's first real census led to a crisis in the Action Group (AG) controlled Western Nigeria. On October 1, Prime Minister Tafawa Balewa in a nationwide broadcast to the nation that government having aware of violent intention of certain politicians to forcefully overthrow the legitimate government in Nigeria, and that they had been undergoing military training abroad.

Alabi (2010) argues that the above situation culminated in January 15, 1966 coup d'etat which led to the killings of some prominent Nigerians such as Chief S.L. Akintola, the Premier of Western region; Alhaji Abubakar Tafawa Balewa- Prime Minister, the Federal Republic of Nigeria, the Sadauna of Sokoto, and others. As a result of the seriousness of the situation with the tendency for the violence to spread to other parts of the Region, the Federal Parliament in Lagos declared a State of Emergency over the Region by invoking the powers under the Emergency Powers Act, 1961. Then on 29 May,1962 the Governor General promulgated a series of Emergency Powers Regulations, including Emergency Powers (General) Regulations, 1962 (LN No. 54 of 1962); the Emergency Powers (Detention of Persons) Regulations, 1962 (LN No. 64 of 1962); the Emergency Powers (Restriction Orders) Regulations, 1962 (LN No. 65 of 1962) (Udoma, 1994:220).

Thus, government banned public meetings and processions in the whole of Western Nigeria. On November 2, 1962, chief Awolowo was formally charged with 26 others (including Anthony Enehoro, Sam Ikoku, Ayo Adebanjo, Lateef Jakande, Bisi Onabajo, and a host of others) which

are conspiring to overthrow the Federal Government by force Dr. Moses Majekodunmi was appointed the sole administrator of the defunct Western Region as a way of resolving the crisis (Udo, 2013).

Consequent upon this was the countercoup of July 27, 1966 where General Aguyi Ironsi, the then Head of State, Brigadier General Adekunle Fajuyi, the military administrator of Western region, and many others were killed. This climaxed in Nigerian civil war which was fought between 1967 and 1970. The effects were unprecedented in the history of political crises in Nigeria (Anyadike, 2012).

The countercoup by which Gowon emerged as the compromise head of the state was staged by Northern officers. Gowon tried to resolve the ethnic tensions that threatened to fatally divide Nigeria. In his attempt to resolve the conflict, Gowon declared a state of emergency on May 27, 1967 and divided Nigeria's four regions into 12 States. Three days after the Eastern region declared itself as the independent state of Biafra with Odumegwu Ojukwu as its leader, armed conflict began in July that year which lasted for more than two years. After the government victory in January 1970, a remarkable reconciliation took place between the victors and vanquished (Encyclopedia Britannica, 2014).

The Jos crisis of September 2001 was the beginning of a series of outbreaks of communal violence in Plateau State, continuing in 2002, 2003, and 2004. Fighting in Plateau State between February and May 2004 alone generated some 250,000 internally displaced persons (International Crisis Group 2006). In May 2004, President Obasanjo declared a state of emergency in the state, suspending the civilian government and imposing a sole administrator, General Chris Alli. Six months later, some measure of peace having been restored, the civilians resumed office. The governor, Joshua Dariye, had in the meantime been arrested in London on charges of embezzlement, money-laundering, and other financial crimes, had jumped bail, and had snuck back to Nigeria, resurfacing in Jos on the very day he resumed office. He was subsequently impeached by the Plateau State House of Assembly and indicted by the Nigerian Economic and Financial Crimes Commission on charges of looting billions from Plateau State (Ostien, 2009).

In October 2006, a state of emergency was also declared in Ekiti State. President Olusegun Obasanjo in a nationwide broadcast explained he was declaring a state of emergency on the state of Ekiti in order to "ensure that peace and orderliness returns to the state". He said the emergency rule will last 6 months in the first instance. He also said the state house of assembly had been suspended and retired Major Tunji Olurin was appointed the administrator of Ekiti state (Alemika, 2013).

Also, on May 14, 2013, President Goodluck Jonathan declared a state of emergency in Borno, Yobe and Adamawa states. The recent declaration of emergency rule in the above 3 Northern states was based on persistent insecurity in the region by an Islamist extreme group called Boko

Haram. Invoking section 305(1) of the 1999 constitution, the President got support from eminent lawmakers and political leaders, who said he acted within the law. The government warned the terrorists that the government will use all resources at its disposal to destroy their activities as they are embarking on a war they cannot win.

Shehu Sani, a civil right activist in northern Nigeria, was the first to help broker peace deal with the sect and amnesty committee was set up, but for one reason or the other, this process failed and emergency rule was declared (Business day, 2012). When invoking his emergency power, Jonathan noted that:

> *These terrorists and insurgents seem determined to establish control and authority over parts of our beloved nation and to progressively overwhelm the rest of the country. In many places, they have destroyed the Nigerian flag and other symbols of state authority and in their place, hoisted strange flags suggesting the exercise of alternate sovereignty (Jonathan, 2013,)*

Legal Framework of Emergency Rule

Article 4 of the International Covenant on Civil and Political Rights (ICCPR) (The International Instruments on Human Rights) define a state of emergency as a *public emergency which threatens the life of a nation*. Accordingly, war is the greatest public emergency; the emergency must be actual, affect the whole population and threat must be to the very existence of the nation. The declaration of emergency must also be a last resort and a temporary measure. Thus, following from above, it is abnormal to seek to declare a state of emergency in the Federation or any part of it when the federation is at peace and its security is in no way threatened either by internal forces or external challenges. A State of Emergency is therefore contemplated as a last resort when the country or the State faces emergency of such a magnitude that requires extra ordinary measures to restore normalcy and this includes natural disasters and other emergencies with profound impact on the State, its people and resources (Alemika, 2013).

Some of the most important human rights conventions are the International Covenant on Civil and Political Rights, the European Convention on Human Rights and the American Convention on Human Rights. The restoration of a state of normalcy where full respect for the covenant can again be secured must be the predominant objective of a state party derogating from the covenant. Thus, before a state moves to invoke article 4, two fundamental conditions must be met: the situation must amount to a public emergency which threatens the life of the nation, and the Party must have officially proclaimed a states of emergency. This requirement is essential for the maintenance of the principles of legality and rule of law at times when they are most needed (Human Right Committee, 2001).

In Nigeria, section 305 of the Constitution of the Federal Republic of Nigeria, 1999(as amended) provides for the Declaration of a State of Emergency in the Federation or any part thereof. This can be done by the President issuing a Proclamation of a State of Emergency through an instrument published in the Official Gazette. According to Alemika (2013) the President can do only when

(a) The federation is at war;

(b) The federation is in imminent danger of invasion or involvement in a state of war;

(c) There is actual breakdown of public order and public safety in the Federation or any part thereof to such extent as to require extraordinary measures to restore peace and security.

(d) There is a clear and present danger of an actual breakdown of public order and public safety in the Federation or any part there of requiring extraordinary measures to avert such danger;

(e) There is an occurrence or imminent danger, or the occurrence of any disaster or natural calamity, affecting the community or a section of the community in the Federation;

(f) There is any other public danger which clearly constitutes a threat to the existence of the federation; or

(g) The President receives a request to do so in accordance with the provisions of subsection (4) of section 305.

Constitutional Provisions

Other than the 1960 Constitution, the 1963, 1979 and 1999 Constitutions provide for declaration of emergency. Section 70 of the 1963 Constitution provides as follows:

> *(1) Parliament may at any time make such laws for Nigeria or any part thereof with respect to matters not included in the Legislative Lists as may appear to parliament to be necessary or expedient for the purpose of maintaining or securing peace, order and good government during any period of emergency.*
>
> *(2) Any provision of law enacted in pursuance of this section shall have effect only during a period of emergency:*
>
> *Provided that the termination of a period of emergency shall not affect the operation of such a provision of law during that period, the validity of any action taken there under during that period, any penalty or punishment incurred in respect of any contravention thereof or failure to comply therewith during that period or any proceeding or remedy in respect of any such penalty or punishment.*
>
> *(3) In this section "period of emergency" means any period during which*

(a) the federation is at war.

b) there is in force a resolution passed by each House of parliament declaring that state of public emergency exists; or

c) there is in force a resolution of each House of parliament supported by votes of not less than two-thirds of all the members of the House declaring that democratic institutions in Nigeria are threatened by subversion.

The provisions in sections 265 and 305 of the 1979 and 1999 Constitutions respectively are in pari materia. Section 305 of the 1999 Constitution provides thus:

(1) *Subject to the provisions of this Constitution, the President may by instrument published in the Official Gazette of the Government of the Federation issue a Proclamation of a state of emergency in the Federation or any part thereof.*

(2) *The President shall immediately after the publication, transmit copies of the Official -Gazette of the Government of the Federation containing the proclamation including the details of the emergency to the President of the Senate and the Speaker of the House of Representatives, each of whom shall forthwith convene or arrange for a meeting of the House of which he is President or Speaker, as the case may be, to consider the situation and decide whether or not to pass a resolution approving the Proclamation.*

The Governor of a State may also with the sanction of a resolution supported by two thirds majority of the House of Assembly, requests the President to issue a Proclamation of a State of Emergency. The critical thing here is that a State of Emergency is not a tea party. It is a serious national security challenge requiring extra ordinary measures to contain.

Emergency Rule: A Panacea for Peace and Conflict Resolution

In this segment, the study considers the situation for which state of emergency is declared and its possibilities to serve as a panacea for peace and conflict resolution to ethno-religions, social and political conflicts. Though there are several ways of resolving conflict, however, conflict that arises between dissimilar parties, such as between an established government (constituted authority) and a group of rebels or an insurgent group (like that of Federal Government of Nigeria and insurgent groups-Boko Haram) is called asymmetric conflict. Here the root of the conflict lies not in particular issues or interests that may divide the parties, but in the very structure of who they are, what they want and the relationship between them. Therefore, classical conflict resolution, in some views, applies only to symmetric conflicts. In asymmetric conflicts, the structure is such that the top dog cannot afford to lose and always want to win (Ramsbotham, 2011).

Although the declaration of state of emergency by Gowon failed to stop the civil war but contributed crucially to the collapse of the Igbo secessionist campaign, to the relative

stabilization of post-war Nigeria, and to the prevention of any further major secessionist conflict in the federation. These achievements reflect the genius of Nigeria's multi-state federalism in mitigating conflict through the partial compartmentalization or decentralization of conflicts in separate, multiple, sub-federal arenas (rather than a few large regional centres), thereby reducing the capacity of such conflicts to polarize or destabilize the entire federation (Diamond, 1999).

The political crisis that rocked the Action Group in the then western region was another cause for emergency rule. The crisis was believed to be capable to degenerate to intra-tribal war among the people of the western region, but the prompt action took by the government at the centre put an end to the crisis. Also, the declaration of emergency rule in the crisis ridden area of Jos and wider Plateau State in 2004 was said to have restored some measure of peace in the community, and Six months later the civilians resumed back to office.

The call for an Islamic state (secession) by the so-called Boko Haram insurgent group is a declaration of war against the Nigerian state. It is not an over statement that Boko Haram insurgency in Nigeria today is a violent group that defies all logical assumption which are known to the presumptive analysis and assumption of global terrorism. The group has adopted its own unique ideology which is a mix of local discontent with the Nigerian government; corrupt leadership; lack of basic provisions of needed amenities and lack of employment (Ibegbu, 2013).

As a result of the above situation, we have a lot of free hands that are begging to be of service to the highest bidder. In curbing the above situation the Federal government of Nigeria often used and is currently making use of emergency power to bring about peace and conflict resolution in the area of crises. The declaration of emergency rule in three Nigerian North-Eastern States of Borno, Yobe, and Adamawa on May 14, 2013 by President Goodluck Jonathan had ignited a debate about how best to deal with the insurgency that was eating deep into Nigeria through the North-East. But the debate ended on an undisputed position that something urgent needed to be done to reclaim the security and sovereignty of Nigeria (Obia, 2013).

Abati (2013) noted that before the declaration of state of emergency, the situation in the affected states was really bad, there was anxiety even beyond the affected parts to all parts of the north with the insurgents wanting to launch an Islamic state in the entire north and to progressively overwhelm the rest of the country. The insurgents and terrorists had posed serious threat to the sovereignty of Nigeria; they were hoisting their flags and they were carving out enclaves. But since the declaration of state of emergency, though it has not been able to stop their activities, it has effectively reduced the activities of the insurgent to the north-east and thereby making the Nigeria sovereignty to be intact.

Unfortunately, usually the declaration of the state of emergency is not without its shortcomings. There has been a correlation between emergency situations and grave violations of human rights. The problems in the practice of states of emergency are many and varied and combine to create a powerful and severe impact on human rights protection. Even those human rights from which

derogation is not permitted are often affected. This bleak record has included states of emergency frequently accompanied by arbitrary detentions without due process, disappearances, summary executions, torture, and other forms of ill treatment."' Freedom from arbitrary detention and fair trial are human rights particularly affected by emergencies. The U.N. Working Group on Arbitrary Detention, for example, has described states of emergency as a "root cause" of arbitrary detention. States of emergency can impact economic, social, and cultural rights as well as civil and political rights (Sheeran, 2013).

Also, vulnerable groups may be the most affected by human rights violations, especially minorities and refugees, as well as journalists and human rights workers. In Nigeria for example, so many innocent lives have been wasted while women and children are the majority of the victims. There is also a disturbing tendency, observed in the International Court of Justice study, for states of emergency to become perpetual or to effect far-reaching authoritarian changes in the ordinary legal system. Such semi permanent states of emergency lead to risks of institutionalizing the limitations on human rights. This is evidenced by the shift of offending laws from emergency legislation to permanent internal security laws.

Sheeran (2013) contends that states of emergency can become a tool to protect a government or leader by limiting freedom of expression, political assembly, and association and other civil and political rights. The most serious human rights violations tend to occur in situations of tension when those in power are, or think they are, threatened by forces which challenge their authority or which they perceive to be a threat. There is a tendency for some governments to regard a challenge to their authority as a threat to the life of the nation even if peaceful. This is particularly so for governments which provide no lawful means for transfer of power. Such governments can be quick to use disproportionate force against peaceful protestors, particularly in non democracies, and then utilise the resulting violence as a pretext to justify a state of emergency.

Concluding Remarks

The need for this study is driven by the serious armed conflict often caused by crime and violent crisis connected with the activities of terrorist groups which have led to state of emergency declaration in the North. The study finds that emergency rule declaration is just a way of tackling security problems and may not be totally relied on as a panacea for peace and conflict resolution, as this is not a win-win method. The emergency action to reclaim the country is an issue on which Nigerians have made a common cause. Thus the matter before the lawmakers was beyond partisanship and the discussions needed to be restricted to the legislators to protect their individual identities (Abaribe, 2013). The study also finds that high incidence of the terrorism in Nigeria threatens the peace, unity, security, general well being of the citizenry and economic development of the nation. Based on this conclusion, in order to prevent further act of terror and to ensure the greater safety of the people, law enforcement efforts must be better coordinated, intensified and made more effective.

The Government must therefore develop a clear and sustainable strategy of tackling insecurity. All the strategies so far are ad-hoc and episodic and do not address the germane issues that have given rise to the present security challenges and the serious insurgency problems facing the nation. We agree that the present insurgency has no rules of engagement. It is targeted at everybody, Christians and Muslims, women and children, security forces, international community, traditional rulers and government infrastructure. It aimed at creating a religious war in the country or at worst to make the country ungovernable.

Terror and the present insurgency can only be tacked and defeated if the President and the leadership of the country place national interest over and above profit motive. If the government sincerely and truly invests in intelligence gathering and surveillance, some of the insurgency related matters can be nipped in the bud. Only the collective efforts of the Nigerian people can defeat insurgency. Those playing politics with the current situation must understand and realize that unless we tackle things collectively, refugee status will await us in foreign countries and status and class does not change refugee status.

A long-lasting solution to the crisis in Jos and wider Plateau State (which has led to the declaration of state of emergency) is needed to tackle the indigene–settler divide. This is so because, given that the conflict over indigene rights is endemic all over Nigeria, Plateau State will hardly arrive at a durable solution on its own. Christian indigenes need only point to the discrimination against fellow Christians in northern, predominantly Muslim states to justify exclusion of Hausa–Fulanis in Jos. The latter constitute Nigeria's most numerous ethnic groups.

Government should guarantee and provide regular training to all personnel of the Armed Forces in the relevant standards as part of a curriculum on internal security operations in the doctrine of the Armed Forces and security agencies generally. The leadership of the Armed Forces should as well regularly undertake rotation and renewal of the troops deployed in the north-east. Troop rotation facilitates rest and recuperation on the part of active service personnel, who are usually engaged when a state of emergency declared in any part of the world

The Federal Government, in collaboration with the relevant States and other Ministries, Department, Agencies, multi-laterals and interested philanthropies should urgently design and deploy mitigation mechanisms to prevent a foreseeable humanitarian emergency, including food security, nutritional and public health crises in the States of north-east Nigeria where the state of emergency is presently in force.

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