

# POST-COLONIAL MILITARY MISCONDUCT DURING INTERNAL SECURITY OPERATIONS IN NIGERIA: AN ETHICAL ASSESSMENT

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## Abstract

*The military in Nigeria is the custodian of national security as well as the symbol of national unity. The involvement of the military in the nation's internal security operations over the years has been at optimum controversial. Nigeria since 1960 as a nation has been involved in and entertained so many internal security crises. In handlings some of these security crisis, the military were involved. In their engagement in internal security operations, there have been cases of misconduct by these military personnel who were called up to defend and protect lives in such situations and such misconducts have been on record. The recorded misconducts are as characterized by; extra-judicial killings, torture of innocent citizens, military engaging non-combatant citizens, the use of excessive force in their operations and extreme use of the consequentialist principle in decision making during engagement. This work attempts to appraise this misconduct found in military engagement in internal security operations in Nigeria. To achieve this aim, some issues which we found lacking and may be the cause of the above discussed unethical actions of the Nigerian Military are examined. Some of these necessary lacking conditions in military engagement in internal crisis that cause them the temptation of acting unethical are as follows; lack of proper preparations for internal security operation, importance of ethical studies in military training and striking a balance between law and ethics. This work recommends uncompromising adherence to professional rules of engagement and best practices as a solution to the anomaly. Hence, the researcher suggests that, if the military will consider the above observations, there will necessarily be a change in the way they carry out their duty in internal security operations in Nigeria and some of the unethical actions may also be avoided.*

**Keywords:** Military Misconduct, Internal Security, Ethical assessment, anomaly, Nigeria

## Introduction

The Code of Conduct for Law Enforcement Officials was adopted by the General Assembly resolution 34/169 of 17th December, 1979. Article 1 provides that law enforcement officials shall at all times fulfill their duty by law and maintain a high degree of responsibility. Article 2 of the Code of Conduct states that in the performance of their duty, law enforcement official shall respect and protect human dignity and maintain as well as uphold the human rights of all persons. Article 3, provides that law enforcement officials may use force only when strictly necessary and the extent required for the performance of their duty. Article 5 prohibits the inflicting, instigating, torturing or using other cruel, inhuman or degrading treatment or punishment. Law enforcement officials shall ensure the full protection of the health of

persons in their custody and, in particular, shall take immediate action to secure medical attention whenever required. Law enforcement officials, under the code, shall not commit any act of corruption. They are urged to oppose and combat them.

The issue of military involvement in internal security operations has become a worldwide controversy as many countries in the world are faced with the problem of unethical action by the military in such situation. From Syria, Gaza in Palestinian territory, from Iraq to Iran, to Somalia and Nigeria, this security operation internal crisis has been going on. The most problematic challenge faced by the United Nations this day is the problem of violation of human rights and unethical actions by various security operatives especially the military, acting at the order of the government of different countries in the world today. Countries are applying all possible and necessary strategies in order to solve the problem of insecurity, but do not checkmate the strategies applied.

Nigeria is not left out in this problem of human rights violation by the military in their operation. Right from the pre-colonial era, Nigeria government has been facing many security challenges; from religious crisis to ethnic crisis, from political crisis to economic crisis, from ethnic crisis to tribal crisis, to militancy and terrorism. As this insecurity problem evolves in the history of Nigeria, some ruthless strategies have been used by the government of Nigeria in a bid to suppress or quench the security problem at hand. Hence, one should note that every action taken by any person or group of persons has its ethical implications. Such is the case of military actions in the internal security operations. In ethics, what is being searched for is not the legality of actions but their moral implications and justifications. Therefore, what ethics is interested in is the rightness or wrongness of an action. This is so in the case of military engagement in internal security operation.

While combating this very problem of internal security, in the case where the Police Force (who are responsible for keeping civil order in the society) cannot handle the security situation in the country, the military (the Army, Air Force and the Navy ) are involved as stipulated by the Constitution of the Federal Republic of Nigeria as stated in section 217;

The duties of military, that is the Army, Navy, and Air Force will be to defend Nigeria from external aggression, maintain its territorial integrity and security, its borders form isolation on land, sea or air, suppressing insurrection and acting in aid of civil authorities to restore order when called upon to do so by the president but subject to such conditions as may be deserved by an act of nation assembly may be described by an Act of National Assembly.<sup>1</sup>

This section drawn out from Nigeria Constitution, stipulates the Constitutional functions of the Nigeria military, and in this function is made a provision of the military supporting the civil authorities in the restoration of public law and order in the society. The question that arises in this definition of the constitutional duty of the military is; are the military really obeying this duty of aiding the civil authorities in the maintenance of laws and orders in the society or are they violating laws and bringing about unrest and disorder in the civil society? The part A of the question could be said to be the ideal responsibility of the military in aiding the civil authorities in internal security, while the part B of the question is what is actually happening in such military operations. This work therefore discusses some of the examples where the

military are on the side of the part B of the above question; thus, this raises some ethical questions against such actions by the military toward the citizens whom they were meant to safeguard and protect.

These cases of unlawful killings by the soldiers of the Nigerian military and some unethical conducts are prevalent in the Nigerian government and the citizens. This piece shall set to studying and analyzing the ethical problems faced in the military and internal security operations in Nigeria. Most of the actions taken by the military in these operations may be strongly backed up by the constitution of the country, they may be doing such for the territorial integrity of the nation; but the problem here is whether what the military is doing in bringing back sanity and order is both legal and ethical. This work also deals with the concept of Military engagement, the account of some military intervention in internal security operation in Nigeria and appraisal of some misconduct noticed in the account given. This shall be done in line with some ethical principles as it is set out to survey the ethnical problem involved in the military engagement in internal crisis.

### **The Concept “Military Engagement and Internal Security Operations”**

The military refers to the tripartite divisions of the profession of the arms, viz the Army, the Navy, and the Air Force. A military engagement is a combat between two forces, neither larger than a division nor smaller than a company, in which each has an assigned or perceived mission. An engagement begins when the attacking forces initiate combat in pursuit of its mission, and ends when the attacker has accomplished the mission, or ceases to try to accomplish the mission, or when one or both sides received sufficient reinforcements, thus, initiating a new engagement.<sup>2</sup> As a tactical mission, the engagement is often a part of a battle. An engagement normally lasts one to two days, it may be a brief as a few hours and is rarely longer than five days.<sup>3</sup> It is at this scale of combatant that tactical engagement ranges of weapons and support systems become important to the troops and their commanders.<sup>4</sup>

Internal security operations are activities, which are collectively undertaking by domestic security agencies, towards the restorations of law and order and for the purpose of containing domestic threats to the security of the nation. These threats often relate to dire cases of riots, demonstrations, strikes, communal clashes, terrorism, and the likes, which normally fall outside the constitutional duty of the military. Government often relies on deploying the military to enforce orderliness and peace when violence erupts and the security situation worsens to have overwhelmed the Police or other relevant public security agencies. Some of such activities undertaken in aid of civil authority are as follows; Crowd dispersal, Vulnerable point guard, Guard of important persons, taking over and controlling area, Road blocks, Setting up control point, Domination of roof tops, Patrolling, Sweeps, Cordon and Search Piquetting, Ambushes, Tracking, Curfew etc.

### **Some Post-Independent Era Cases of Military Involvement in Internal Crisis**

Nigeria as a nation became a sovereign state in 1960 and therefore began to control her affairs. This era has entertained so many crises where government of the nation involved the military in its control. Here, three crises situations shall therefore briefly be used as case study and such situations are as follows; a) *The Tiv Uprising of 1960-1964*, b) *The Odi Crisis of 1999*, and c)

*The Zakibiam Crisis of 2001.***a. The Tiv Uprising of 1960 -1964**

The Tiv uprising was caused by political fight between political parties in the North. The military involvement in the crisis was only used as a tool to suppression of those who are not in their party and those who do not support the interest of the party. As such, one could say that the military were involved not for the purpose of peace and orderliness in the civil society, but for the selfish interest of the political party that was in power.

In opening years of Nigeria's independence in the early 1960s, according to the narration of Anifowose, Tiv division in Benue province was engulfed by a succession of widespread civil unrest which threatened the stability of Native Authority in particular and the credibility of the Northern People Regional Government in general. The crisis was remarkable for its mutual exchange of recrimination between the government party in the North- the Northern People Congress and opposition United Middle Belt Congress. The NPC blamed the action group (AG) and the UMBC, especially the alliance leader in Tiv division, Mr. Joseph Tarka undermining legitimate authority and canvassing and agitating for the creation of Middle Belt State out of the then Northern region.<sup>5</sup> This development, the region government viewed as conspiracy with external influences to destabilize its government, as Oradi of the NPC noted:

The NPC regarded the long chain of disturbance in the division as conspiracy by some external forces..., aided by some selfish politician in the area who hope to achieve their pet ambition (i.e. the creation of a Middle Belt State). It has been the vowed desire of the disgruntled politicians that by so doing, they will make an in-road into the North and cause a setback to the present peaceful and steady march towards political solidarity and economic emancipation of the Northern Regional Government.<sup>6</sup>

This explains the northern government determination to crush any attempt by the UMBC to undermine their peace and hegemony. On the other hand, the UMBC saw the riots as inevitable and necessary outcome of the oppressive and marginalized polices of the feudal government of the ruling party in the Northern Region (NPC) acting through the Tor Tiv, the Native Authority and its subordinate chiefs. In fact, the leader of UMBC Joseph Tarka said “the violence was only a logical outcome of the policies of the NPC led government and blamed them for it”<sup>7</sup>

Following the incident, widespread violence broke out. Efforts to deploy police force during the unrest were futile as four personal of the NPF were killed. The escalation of the violence led to the use of military force to maintain order. But the 18, 1964 order was the first time when a massive military force involving a whole battalion (3NA) includes the Reece Squadron was being mobilized for an internal security operation. The implication of this military deployment is that failure of the police operators was not publically acknowledged but it is also goes to show the extent to which the government was determine to crush the TIV uprising by all means possible.

**b. Military Involvement in Odi Crisis of 1999**

The crisis known as Odi crisis took place in the oil producing state Bayelsa in 1999 when the

government of Gen. Olusegun Obasanjo's democratic government sent in the Nigeria army to engage in internal security operation because of the killing of some police men by the inhabitants of the location. In this engagement, there were also many cases of extra judicial killings and destruction of property by the Nigerian army. Prior to the Massacre, twelve (12) members of the Nigerian police were murdered by a gang of restive youths near the village of Odi. In an apparent revenge, the military acting on the directive of the Federal government, invaded the village and raided it. This attack was characterized by intense and excessive use of force. In effect, unarmed civilians, including women, girls and children were killed. All the buildings in the village, except the bank, the Anglican Church and the Community Health Centre, were destroyed, leaving the village in a woeful state of desolation (Human Rights Watch, November 1999). The attack on Odi elicited radical condemnation locally and globally. In this attack, women and girls were raped and desecrated in addition to the wanton killings of innocent villagers. The situation was so awful.

### **c. The Zakibiam Crisis of 2001**

The Zaki Biam crisis that took place in 2001 was another case whereby the military unjustly killed innocent citizens of Nigeria at the order of the Federal Government in the name of bringing back peace into the area. The violent response of the military in October was provoked by the abduction and killing of nineteen soldiers two weeks earlier. The soldiers according to government Authorities were on a mission to restore peace in the area affected by the conflict between Tivs and Jukuns, when they were abducted by a Tiv armed group in Vaase, in Benue state, on October 10. Their mutilated bodies were found two days later in the grounds of a primary school in the town of Zakibiam, also in Benue. The exact circumstances of the attack on the soldiers and the motivations behind it remain unclear. The Nigeria government announced the names and ranks of the dead soldiers, which were published in the media<sup>8</sup>. Because of this, the military operation began on October 22, 2001, when soldiers from the 23rd Amored Brigade of the 3rd Amored Division rounded up villagers at Gbeji (in Zaki Biam area of Benue State) in what turned out to be a 'ployed' meeting. The soldiers made the villagers to sit on the ground, separating thereby men from the rest and opening fire on the men indiscriminately (Human Rights Watch, October 25, 2001). The military destruction of homes, shops and killing were indiscriminately carried out by the military in reaction to the death of the soldiers.

## **Evaluation of Some Post- Colonial Military Involvements in Internal Security Operations**

**i.** Moral absolutism is a position which holds that individuals must “do things only when they are right” rather than calculating the consequences of their action. Any extrajudicial killing of a person by Government authorities without the sanction of any judicial proceedings or Legal process is wrong. Extrajudicial punishments are by their nature unlawful, since they bypass the due process of the Legal jurisdiction in which they occur. Extrajudicial killings often target leading political, trade Union, dissident, religion, and social figures and maybe carried out by the state Government or other State authorities like the Armed Forces and Police. The following argument shall be made in order to analyze the ethical implication of extra Judicial killing in military operation.

a. Using Deontological argument, the main duty of the military in internal security operation is

to bring peace and save the lives of the citizens. But some writers are of the opinion that militaries should not involve themselves in the mission of saving lives<sup>9</sup>. They are of the opinion that humanitarian intervention by the military leads to mission creep, with an open ended task of protecting civilians that is too hard for military forces, or a waste of their time. For these critics, the mandate for military force to “protect civilians” is naive and ignores operational realities. Others who are in support of using military force for “good”, and suggest that stopping such insecurity would be easy if the military personal could understand that the military's capacity for war fighting does not prevent it from offering needed humanitarian support, or that an obsession with force protection has prevented military force from taking sufficient action against abusive armed groups. Is the protection of civilians an impossible mandate for the military? This is because the military have not considered the operational implications of such mandate in details, or outlined the necessary steps for making it a reality. The military should consider and plan strategies when they are sending soldiers for such peace keeping mission.

If soldiers are expected to effectively protect civilians in internal crisis, forces currently deployed for peace operations with protection mandate need more operational guidance, and the government that is sending them in such a mission must prepare for what such mission entails. Until this takes place, soldiers who are called up for such mission without strategies are technical knowhow, will continue to act in an unwarranted manner as if they are in confrontation with enemies in a battle field.

b. The next to be considered is the duty of the military personnel with reference to Kantian Categorical Imperative. A term which originated in [Immanuel Kant's](#) ethics. It expresses the moral law as ultimately enacted by reason and demanding obedience from mere respect for reason. [Kant](#) in his ethics takes his point of departure from the concept of a good will: "Nothing can possibly be conceived in the world or out of it that can be called good without qualification except a good will." But that will alone is good which acts not only conformably to [duty](#), but also from [duty](#). And again the will acts from [duty](#) when it is determined merely by respect for the [law](#), independently of inclination, and without regard to the agreeableness or the consequences of the action prescribed. Therefore the first fundamental principle of morality is: "Let the [law](#) be the sole ground or motive of thy will." [Kant](#) further finds that the [law](#) is capable of inspiring respect by reason of its universality and necessity, and hence lays down the following general formula of the moral law: "Act so that the maxim [determining motive of the will] may be capable of becoming a universal law for all rational beings." Necessity and universality, he declares, cannot be derived from experience, whose subject matter is always particular and contingent, but from the mind alone, from the cognitive forms innate in it. Hence the moral law originates in pure reason and is enunciated by a synthetical judgment a priori--a priori because it has its reason, not in experience, but in the mind itself; synthetical, because it is formed not by the analysis of a conception, but by an extension of it. Reason, dictating the moral law, determines man's actions. Yet it may do so in a twofold manner. It either controls conduct infallibly, its dictates being actually responded to without conflict or friction--and in this case there is no [obligation necessary](#) or conceivable, because the will is of itself so constituted as to be in harmony with the rational order--or it is resisted and disobeyed, or obeyed only reluctantly, owing to contrary impulses coming from

sensibility. In this case determination by the law of reason has the nature of a command or imperative, not of a *hypothetical* imperative, which enjoins actions only as a means to an end and implies a merely conditional necessity but of a *categorical* imperative, which enjoins actions for their own sake and hence involves absolute necessity. While for God, Whose will is perfectly holy, the moral law cannot be obligatory, it is for man, who is subject to sensuous impulses, an imperative command. Accordingly, the categorical imperative is the moral law enacted by practical reason, obligatory for man, whose sensibility is discordant from the rational order, and demanding obedience from respect for its universality and necessity.

When this Kantian Categorical Imperative is applied to the Nigeria Military, we come to the point to say that military officers should act in a way that they would love it to be a Natural Universal law. If unnecessary killing becomes a Universal Law, then everyone will be free to kill his brother thereby working against what they swore to protect. Another point is that they themselves may also have fallen prey to this maxim before they became soldiers and are able to protect themselves from aggression. If this maxim continues as a Universal Law, then there will be a fine when there will be no community or even state to be protected. As such their actions will be against that which they meant to protect. By this point Kant's Categorical Imperative will term their actions as Unethical.

## ii. Use of Excessive Force

Force is defined as the authority to use physical coercion to overcome the will of another<sup>10</sup>. Despite the negative connotations often associated with force, officers are clearly within right to apply reasonable and necessary force in self-defence, the defence of others, in preventing escape, or in overcoming resistance during the commission of a lawful arrest. The use of force is one of the problems faced by the Nigeria military today. One could say that the military in Nigeria have not yet understood how and when force should be applied in their operations in internal security. At this juncture, study on the use of force by officers in operations is inevitable. Excessive force, in contrast, is defined as that which is greater than that required to compel compliance from a willing or unwilling subject<sup>11</sup>. Unfortunately, defining excessive force is often much easier than actually identifying and measuring it.

The military often enter into internal security operation with little, if any, experience in handling many of the challenges and moral dilemmas offered by such work.<sup>12</sup> Nonetheless, officers are given vast discretionary powers and the authority to use force when needed.<sup>13</sup> Many officers are profoundly influenced by normative subculture values, which, in some cases are contrary to law and policy, especially in cases where those behaviours are positively reinforced by peer pressure.<sup>14</sup> Because most officers have a strong positive image of themselves as good, caring individuals, they often attempt to justify actions by arguing for the "grater good" - that is, society will benefit by removing a dangerous criminal from the streets.

Clearly, an officer's decision to use force, then, is based on a number of situational and individual factors, as well as an officer's moral and social reasoning. Proper ethical reasoning, however, requires exposure to an appropriate complex set of moral dilemmas, as well as an

appropriate level of training level of training in decision making, critical thinking, and problem solving. Consistent with this work, Scharf, Linninger, Marrero, Baker, and Rice found evidence that training officers in recognizing and responding to moral dilemmas, including associated philosophical reflection and legal reasoning, may change how officers view ethics. The logical interface with force seems clear enough: Moral reasoning is a dynamic process dependent on a number of variables, each of which is further influenced by myriad factors.<sup>15</sup> This conception of ethical reasoning makes sense if an officer pauses to consider how the application of coercive force is potentially dependent not only on logical reasoning, but a set of broader, underlying moral and philosophical principles.

Military officers in internal security operations possess significant amounts of power and authority, and use force as a means to control deviant behaviour.<sup>16</sup> The decision to use force, however, is based on the totality of inputs from myriads sources. Law, department policies, training, situational and individual variables, and ethical systems all affect an officer's decision to apply force. Nevertheless, each decision to use force has significant ethical and moral implications for the officer, his agency, and the community at large. In the end, however, it comes down to an officer choosing to follow a moral clarity, not letting emotions influence his decisions or following the immoral conduct of others, that is more likely to ensure only necessary force occurs.<sup>17</sup>

### **iii. Shooting at Non-combatant**

One of the unethical actions carried out by the military in internal security operations is the harming and shooting of non-combatant citizens found in their engagement. There have been records where the military shot into the crowd of the unarmed and non-violent women/citizens who were demonstrating, also in the case of Odi, there was also a record of the military shooting non-combatant citizens. The case of Zakibiam is not left aside as the captured and shot many innocent citizens in the yam market. These harm carried out by the military on non-combatant civilians during their engagement is the discussion of this section.

The traditional view on the handling of non-combatant immunity requires soldiers to discriminate between legitimate and illegitimate targets when employing force. This requirement also typically draws its justification from the state's obligation to protect its citizens from harm. Most traditional views of military ethics define war in terms of some violation of a state's political sovereignty or territorial integrity.<sup>18</sup> These “states right” are not themselves morally worth defending, but derive their value to the extent their preservation secures the rights of citizens to life and liberty. Because these rights are universal, they apply equally to friendly and enemy non-combatants and restrict the kind of harms soldiers may commit. This restriction, referred to as non-combatant immunity, requires soldiers to intent not to harm non-combatants when employing force against otherwise legitimate military targets.

Discrimination does not, however, directly entail a requirement to assume additional risk beyond what is required to accomplish the mission. What requires soldiers to assume such additional risk are those instances where efforts to discriminate will be imperfect and that no matter how precise combatants try to be, non-combatants will be harmed. In those instances, soldiers must take additional measures to mitigate the risk to non-combatants, even if that

means assuming additional risk themselves by warning the non-combatants during engagements.

Thus, even though giving such a warning would give enemy soldiers time to react and place him at greater risk, he was obligated to offer it anyway. Dave Luban articulates the objection this way:

Knowing that an attack will hit both military and civilian Objects, the soldier must take care to intend only to hit the Military target, not the civilians. That seems like an absurd and dishonest mental game. How do you avoid war crimes? Close your eyes, take a deep breath, concentrate hard, and refocus your intentions. Then go ahead and do what you were going to do anyway.<sup>19</sup>

To avoid absurdity and dishonesty one must take action to discriminate, even if that required additional risk. Of course, as noted above, that risk is still limited by the fact that combatants are not obligated to conduct operations in a way they will knowingly fail or not be able to continue the fight. When enemy combatants and civilians are difficult to separate in the manner described above, it is often because there are some sorts of order that support the activities associated with civil society. However, insurgences usually take place in the context of a larger social and political order to which the insurgents either object or exploit and which counter-insurgent forces are presumably trying to defend. In fact, these sorts of irregular conflicts are not so much about destroying a particular order, but to gaining control over it. This point suggests that we have to reconsider what sort of adversary irregular adversaries are. Rather than an existential threat to the state, they are an existential threat to the citizens of the state. This distinction is important. In the kinds of conflicts represented by Iraq, Afghanistan, and Gaza, the immediate threat is not to the state but to citizens. However, the standard view rests on the idea that war is only justified in the face of an act of aggression defined as a violation of political sovereignty and territorial integrity. That kind of aggression, however, is not what soldiers typically confront irregular warfare. In these conflicts, their aim is to maintain a particular order, not destroy it.

Over time, this could cause change. And when it does, the sort of ethics reflected in the standard view would be appropriate. However, to the extent irregular adversaries represent a threat to individual right but not the corresponding state's right, they are then best conceived as criminal. While they do not directly threaten those state's right, their threat to individual right still places a burden on the state to protect them.

In 2001, there came an argument in the monograph 'Peacekeeping and the Just War Tradition', that the distinction between war fighting and law enforcement was essential to understanding soldier's ethical obligations in irregular conflicts. This distinction is well-captured in the actions of a joint police-military patrol undertaken during the 1992 Los Angeles riots, where Marines and police responded to a domestic disturbance. When they arrived at the apartment where the disturbance occurred, the police knocked on the door and announced themselves. The response was a shotgun blast through the door that fortunately missed the officers. As the police readied to enter the room, they yelled to the Marines, "Cover me!". In response, the Marines fired approximately 200 rounds through the door. Fortunately, no one was injured.<sup>20</sup>

Though both military and law enforcement organizations instruct their forces to always use

the least force necessary, this example shows they have very different conceptions of what necessity entails. In the police view, it would be better to develop the situation and ascertain whether there were nonviolent ways to resolve it. As far as the Marines were concerned, any degree of Proportion force that eliminated the threat would be appropriate, even if it puts civilians at some risk. These different models provide soldiers with different conceptions of the use of force they can employ to meet their obligations to the mission, non-combatants, and themselves. By understanding that there is more than one context in which to apply military force, we reframe the problem. Rather than simply asking what the rules permit, we ask first how do these rules apply given the relevant context. In this view, military necessity, proportionality and discrimination still matter but their application changes depending on whether the most force permissible or the least force possible applies. Further, this view allows us to recognize that force protection is itself a moral obligation that commanders must consider when determining that burden of risk.

With the actions of the Nigerian soldiers towards the non-combatants in their operation, it will be presumed that they are not cognizance of the above ethical conditions towards the protection of the non-combatant citizens in military operations. The protection of the lives and property of these citizens are therefore the reason for which the military are engaged in internal security operations. If they turn out to harm or engage these non-combatant citizens, then it would be said that they (the military) have lost their focus.

#### **iv. Ethical Discourse of the Act of Torture**

The Nigerian soldiers in their involvement in internal security had in one way or the other tortured their captives while questioning them. The excessive torture of those being questioned by the military in internal security operation is one of the ethical problems noted in the history of military involvement in internal security operations. The question here lies on the rightness or wrongness of this very act of torture by the military in internal security operations.

A position of moral absolutism holds that individuals must “do things only when they are right” rather than calculating the consequence of their action.<sup>21</sup> Such a perspective condemns torture as an unacceptable practice, arguing that torture and related abuses should be absolutely banned because they are;

antithetical to the entire concept of human right. Rights define the limits beyond which no government should venture. To breach those limits in the name of some utilitarian calculus is to come dangerously close to the ends-justify-the-means rationale of terrorism. By contrast, a society that rejects torture affirms the essential dignity and humanity of each individual.<sup>22</sup>

Torture is morally unjustified, therefore, because it “dehumanizes people by treating them as pawns to be manipulated through their pain”.<sup>23</sup> This perspective is reflected in the absolute moral imperatives laid out in various international conventions. The 1948 Universal Declaration of Human Rights stipulates, in unquantified terms, that “no one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment” (Article 5). The Geneva Conventions of 1949 not only provides protection for enemy combatants and civilians but also instruct that unlawful combatants must be “treated with humanity and ... shall not be deprived

of the right of fair and regular trial” (Forth Geneva Convention, Article 5). The 1966 International Covenant on Civil and Political Rights prohibits torture even “during public emergencies that threaten the life of the nation” (Article 4 and 7). Similarly, the 1984 'Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment' insists that “no exceptional circumstance whatsoever, whether a state of war or a threat of war, internal political instability of any other public emergency, may be invoked as a justification of torture” (Article 2)

One of the ethical problems noticed in the Military intervention in Nigeria history is their use of any available means towards achieving their aim (*Use of Any Means Instead of Good Means in Military Operations*). In this case, one could say that the Nigerian Military makes use of the Machiavellian principle which states that the end justifies the means. This is a consequentialist morality, whereby the consequences of our action is what is determined in the judgment of rightness or wrongness of such action. For the Nigerian military in their operations in internal security, what they see as good is making sure that the aim of their action is achieved. As such, they engage themselves in every possible means towards crushing any situation of insecurity in the nation, without minding if such actions would affect innocent citizens of Nigeria.

### Conclusion

It is good in this conclusion to bring out solutions to these problems. Some of these necessary lacking conditions in military engagement in internal crisis that cause them the temptation of acting unethically are as follows: lack of proper preparation for internal security operations, importance of ethical studies in military training and striking a balance between law and ethics.

Proper training and preparation before internal security operations is very necessary for the combatants who are involved in internal security operation. The reason for another training and preparation for internal security operation is that it is different from normal war conditions by its nature. Most times, the problem the military have in internal security operation is that they use the same approach which they use in war engagement while in internal security operation and as such, handle non-combatant citizens as they would handle the combatants in warfare. The equipments involved in warfare should be different from those that should be used in internal security operations. Governments and by analogy the military should develop a range of means as broad as possible to equip soldiers involved in internal security operations with various types of weapons and ammunitions allowing for a differentiated use of force and firearms.<sup>24</sup>

Non-lethal weapons should be developed for use in appropriate situations, with a view to increasingly restrain the application of means capable of causing death or injury to persons.<sup>25</sup> For the same purpose as above, soldiers should be equipped with self-defense equipment, such as shield, helmet, bullet-proof vest and bullet-proof means of transport, in order to limit the need to use weapons of any kind. In carrying out duties soldiers must, as far as possible, apply non-violent means before resorting to the use of force and firearms. They must use these only

if other means remain ineffective or hold no promise of achieving the intended result.<sup>26</sup>

In their training for internal security operations, the military must have the following at the back of their mind; the military originally are not trained for the purpose of internal security operations as have been stated in the above explanations. It is the duty of the civil authorities to combat internal security crisis, but when they cannot handle such situations, the president has the legal power to involve the military so as to aid the civil authorities. For this cause, the military needed another level of training so as to remain civil in their operations. Explaining more on this, the Law of Armed Conflict in Internal Security Operations states as follows;

Since the primary function of the military is to defend the country in times of war, military training is usually based on inflicting maximum damage and destruction on their opponents and defeating them in the shortest possible time within the rules and the law of armed conflict. Meanwhile, internal security operations only require restraint and the use of minimum force which is in contrast to what is usually required of soldiers in conventional warfare. The requirement for minimum force is because they are now maintaining law and order among their own people in their own country.<sup>27</sup>

The arbitrariness associated with the military while in internal security operations can be attributed to the kind of training undergone by the soldiers. There is therefore need for the military to undergo proper training to deal with internal security operations. This fact was also acknowledged by Chief of Army Staff in 2013, Lt. Gen. Onyeabo Ihejirika, who said that the Nigerian Army must refocus its logistics training to cater for internal security operations in aid of civil authority.<sup>28</sup> The next challenge faced by the military in internal security operations is an outcome of lack of proper training for internal security in the military. This challenge comes in the form of military orientation which they were supposed to acquire in the process of training for internal security operation.

Coming to the aspect of orientation, the military are to be given a different orientation from that which they have already acquired in their military training for war engagement. This is the attitude or views of a person. Military orientation dictates that a potential threat is an enemy and as such should be eradicated. Having a mindset like this during internal security operations is dangerous. Defence against external aggression should be differentiated from the defence employed against 'enemies' within.

### Endnotes

<sup>1</sup>1999 Constitution of the Federal Republic of Nigeria, Section 217

<sup>2</sup> T.N Dupuy, *Understanding War; History and Theory of Combat*, London: Leo Cooper, 19992, p 65

<sup>3</sup> Richard Simpkm, *Race to the Swift: Thought on Twenty-First Century Warfare*, Donn A. Starry [Forw.], London: Brassey Defence, 1985, p. 67

<sup>4</sup> T.N Dupuy, *Understanding War; History and Theory of Combat*, pp 65-66

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- <sup>8</sup> For example, "As army buries 19 slain soldiers..." in Lagos-based *This day*, October 23, 2001
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- <sup>19</sup> David Luban, "Risk Taking and Force Protection," The Scholarly Commons, Washington, DC: Georgetown University Law Centre, 2011, Pp. 8-9
- <sup>20</sup> James D. Delk, *Fires & Furies: The LA Riots*, Palm Spring, CA: ETC Publications, 1995, P. 74
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- <sup>22</sup> Joseph S. Nye, Jr., *Understanding International Conflicts: An Introduction to Theory and History*, 2005, p.21
- <sup>23</sup> Joseph S. Nye, Jr., *Understanding International Conflicts: An Introduction to Theory and History*, 2005, p.23.
- <sup>24</sup> Basic Principles, Principle 2
- <sup>25</sup> Basic Principles, Principle 2
- <sup>26</sup> Basic Principles, Principle 4
- <sup>27</sup> The Law of Armed Conflict, *Internal Security Operations- Part A* International Committee of Red Cross Unit for Relations and Security Forces, 2002, P.8
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