

AN EVALUATION OF THE NIGERIAN NATIONAL SECURITY VIS A VIS INTERNATIONAL LAW IN THE FORESEEABLE FUTURE.

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Abstract

National Security is the aggregation of the security interest of all individuals, communities, ethnic groups, political entities and institutions in the territory of Nigeria. As norms associated with democracy are taking their roots, Nigeria's security outlook remains uncertain. In almost all the geographical areas of the country, there is one form of security challenge or the other. There is militancy in the Niger Delta, in the far North of Borno State, there is Boko Haram, in the middle Belt, there is violence between Christians and Moslems and in many other places it is the Fulani herdsmen. There is need to formulate policies and strategies to eliminate these threats to lives and properties. The Nigerian government should employ all elements of national might to ensure physical security, build individual and collective property, cause national development and promote Nigeria's influence in regional, continental and international affairs. These must be carried out under the municipal and international laws. Municipal law is the internal law of a nation. They include the ordinance and other laws applicable within a city, town or other local government entity. International law on the other is the legal principles governing the relationship between nations, more modernly the law of international relations embracing not only nations but also such participants as international organizations, multinational corporations, nongovernmental organizations and even individuals (such as those who invoke their human rights or commit war crimes). This paper critically evaluates Nigeria's national security amidst democratic norms which were found to be changing nature of international security and future challenges of international security; to seeing whether designing grand strategy and plan can provide succor. With doctrinal methodology adopted, the finding of this paper is that the present law cum strategy are inefficient and ineffective due to lack of sophisticated technologies and equipment used in fighting crimes in Nigeria. There is need to adopt those modern technologies and equipment being used by the advanced countries of United States of America, North Korea and Russia.

Keywords: Evaluation, National Security, International Law, Foreseeable Future and Nigeria

1. Introduction

National security is the safety of a country and its governmental secrets, together with the strength and integrity of its military, seen as being necessary to the protection of its citizens.¹ International law may be defined as the rules and principles that govern states

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in their relations to each other.² International law is also called ‘The Law of Nations’ but this must be construed to refer more to states than to nation simpliciter. What then is international law? “I know no better definition of it as the sum of rules or usages which civilized states have agreed shall be binding upon them in their dealing with one another”³ Of the many definitions proffered, one deserves mention because of its peculiarity. It is the aggregate of rules governing relations between states, in the process of their conflict and cooperation, designed to safeguard their peaceful co-existence, expressing the will of the ruling classes of these states and defended in case of need by coercion applied by states individual or collectively.⁴ Some states may be coterminous with nations like the Japanese nation and the Japanese state, the Bafutos and Lesotho. Some states contain more than one nation. Example are Nigeria, Switzerland and Canada. Yet some nations are split into several states such as the Germans that are to be found in Germany, Austria, Italy, Poland and Switzerland. The Somalis form part of the population of Ethiopia, Djiboti, Kenya and of the whole of Somalia. The United Nations is strictly a league of independent states rather than of nations.⁵ A definition of Nation and States are germane here. A Nation can be defined as a country considered as a group of people with the same language, culture and history, who live in a particular area under one government: an independent Nation.⁶ State on the other hand is a country considered as an organized political community controlled by one government.⁷ The term ‘state’, applies to that political authority which maintains domination over a specific geographical area. This authority is usually defined by a constitution, which provides for the Institutions of government that are necessary to ensure internal stability and external security.⁸ A state is a politically independent territorially defined, group of people, possessing a government that is subordinate to none other and monopolizing the coercive instruments of compulsion in the enforcement of its decisions.⁹ In other words, a state is the Ultimate stage in the evolution of a community.¹⁰ International law further provides mechanism and procedures for negotiating the necessary rules and standards, settling disputes between countries supervising implementation and compliance with treaties and customary rules. In this context, it facilitates and promotes co-operation between states,

¹ B A Garner, Black’s Law Dictionary, (United States of America: THOMSON REUTERS, 2004) p. 1187

² U O Umozurike, Introduction to International Law (Ibadan: Spectrum Books Limited, 2007) p. 1

³ See also Per Lord Denning, L J (as then was) in *Trendsek Trading Corp v Central Bank of Nigeria* (1977) 1 All ER 881 at 901-2

⁴ See the Soviet Academy of Sciences Kozhevnikov (ed) *International Law* (1961) p. 7

⁵ U O Umozurike, op.cit at p.2

⁶ A S Hornby, *Oxford Advanced Learner’s Dictionary of Current English* (Oxford: 9th ed, Oxford University Press, 2015) p. 1029

⁷ *Ibid* at p. 1528

⁸ R Jordan, *Power and Government in West Africa* (Benin City, Ethiopia, 1978) p. 34

⁹ See E Okoli and E C Okoli, *Foundations of Government and Politics* (Onitsha: Africana: FEP, 1990) p. 14

¹⁰ P N Chikendu, *Introduction to Political Science* (Enugu: Academic Publishing Company, 2002) p. 102

international organizations and non-governmental organizations and constitutes the processes of international environmental governance, international law-making and regulation and, in a few cases of international trusteeship.¹¹ International law must be distinguished from:

1. Municipal law in its highest and widest sense comprises all those rules, written or traditional, which have been laid down for the guidance of the community and to which its members must, if they would avoid Penal consequences or civil liabilities, more or less stringently devised, necessarily conform.¹² It is the ordinances and other laws applicable within a city, town or other local governmental entity.¹³ The international law of a country as opposed to international law.¹⁴
2. Conflict of Laws or Private International Law – is the department of law which arises from the fact that there are in the world different territorial jurisdictions possessing different laws. Its purpose is to protect and ensure the peaceful intercourse of private person in different countries.¹⁵ The situation in which the laws of all states that are relevant to the facts in dispute either are the same or would produce the same decision in the case.¹⁶
3. Comparative Law – the scholarly study of the similarities and differences between the legal systems of different jurisdictions such as between civil and common law countries. Also, termed comparative jurisprudence.¹⁷
4. National Security means the safety of a country and its governmental secrets, together with the strength and integrity of its military, seen as being necessary to the protection of its citizens.¹⁸ National security council is an agency in the Executive office of the President responsible for advising the prevalent on national-security matters.¹⁹

The precis of the paper therefore is how nations or states can achieve security of their citizens and properties within their areas or territories while conforming to international law and relations where they belong. To do justice to this paper, the following measures cum strategies shall be adopted.

¹¹ P Birnie and A Boyle, *International Law and the Environment* (Oxford: 2nd ed, Oxford University Press, 2004) p. 7

¹² Herbert Broom, *Commentaries on the Common Law* 2 (London: 1st Am ed), 1873

¹³ B A Garner, *Black's Law Dictionary* (United States of America: 11th ed., Thomas Reuters, 2019) 1224

¹⁴ *Ibid*

¹⁵ O Agbade, *Themes on Conflict of Laws* (Ibadan: Shaneson Limited, 1989) 2

¹⁶ See *Black's Law*, *op.cit* at 375

¹⁷ *Ibid* at 352

¹⁸ *Ibid* at 1235

¹⁹ *Ibid* at 1235

2. National Security, Right to Information and Classification

The term National Security has been defined in different ways and has undergone fundamental changes since the end of the 2nd world war when the usage of the term became popular and lately since the end of the cold war in the last 2 decades. National security has been defined by defence specialists as first from the narrow perspective as the protection of a nation's people and territories from physical attack; and second the more extensive concept of the protection of political power to the fundamental values and vitality of the state.²⁰ National security in Nigeria is still construed through the narrow sense of it being aimed at the protection of the nation state, its people and political powers. This is seen in the security structure of the nation looking at the extinct National Security Organisation which was created by virtue of decree no 27 of 1976 by the Military Administration of General Olusegun Obasanjo after the aborted Dimka coup which claimed the life of former head of state General Murtala Mohammed. The National Security Organisation was given the mandate of coordinating internal security, foreign intelligence and counter intelligence activities. It was also charged with the detection and prevention of crime against the security of the state, protection of classified materials and carrying out any other security missions assigned by the President, The Babangida administration redesigned the National Security Organisation and separated same into three divisions namely State Security Services, National Intelligence Agency and the Defence Intelligence Agency - each of them with different responsibilities as stated in the National Security Agencies Act. For example, the duties of the Defence Intelligence Agency which are stated as follows:²¹

- (a) Prevention and detection of crime of a military nature against the security of Nigeria;
- (b) The protection and preservation of all military classified matters concerning the security of Nigeria both within and outside Nigeria;
- (c) Such other responsibilities affecting defence intelligence of a military nature, both within and outside Nigeria, as the President or Chief of Defence Staff, as the case may be or may deem necessary;²²

Sub section (2) provides that the National Intelligence Agency shall be charged with the responsibility of (a) general maintenance, of the security of Nigeria outside Nigeria, concerning matters that are not related to military issue; and

(b) such other responsibilities affecting national intelligence outside Nigeria as the National Defence Council or the President, as the case may be, may deem necessary;

Sub section (3) provides that the State Security Service shall be charged with responsibility for:

- (a) the prevention and detection within Nigeria of any crime against the internal security of Nigeria;

²⁰Waltrand Morales (1993)

²¹ Kemi Okenyode Access for Information and National Security; Scooping paper for Nigeria, p 5

²² See S 2(1) of National Security Agencies Act, Laws of Nigeria, 2004

- (b) the protection and preservation of all non-military classified matters concerning the internal security of Nigeria; and
- (c) such other responsibilities affecting internal security within Nigeria as the National Assembly of the President/ as the case maybe, may deem necessary²³

The National Defence Policy developed in June 2006 states that two factors made the publication of the document necessary - the first being the strategic realignment of the international security environment which followed the end of the Cold War while the second is Nigeria's embrace of democratic governance after a long period of military rule. The Policy further states that its contents are taken from the country's National Security Policy 'which focuses on the preservation of the safety of Nigerians at home and abroad and the protection of the sovereignty of the country and the integrity of its assets.'²⁴

However, the definition of national security has been broadened since the end of the cold war beyond the narrow military conception to include human security which combines elements of defence, economic and basic human rights.²⁵ The insecurity situation in the country has necessitated the review of the national security policy as at the time of conducting this study, the new National Security Policy had been drafted by the National Defence College and same had been sent to security chiefs of the different security organisations in the country. It was however not possible for me to get a copy of the said document.²⁶

The present state of insecurity in Nigeria with particular focus (but not limited to the Boko Haram insurgency), Nigeria has enacted the Terrorism Prevention Act²⁷ which provides for measures aimed at prevention, prohibition and combating acts of terrorism; the financing of terrorism in Nigeria and for the effective implementation of the Convention on the Prevention and Combating of Terrorism and the Convention on the Suppression of Financing of Terrorism.²⁸ State security has been a basis for non-disclosure of information in Nigeria and the list of what constitutes 'state security' is not exhaustive - based on experience in the course of work in CLEEN Foundation information related to gender disaggregation of manpower has been termed 'issues of national security'.²⁹ The Terrorism Prevention Act defines acts that can be interpreted as terrorism in Nigeria to include any act that is deliberately premeditated on malice and

²³ Ibid

²⁴ The National Defence Policy of the Federal Republic of Nigeria page 2.

²⁵ This was confirmed by an anonymous source in the office of the National Security Adviser. He stated that there are ongoing discussions of expanding the definition of national security in Nigeria because of the presumed threats that are affecting the country; Per Ball, Nicole & Fayemi, Kayode (2004)

²⁶ Efforts to get to hold an interview with representatives of the National Defense College is still being pursued...

²⁷ 2011 (amended in 2013)

²⁸ This Act illustrates the extension of the definition of national security to include economic elements - in the Act there are provisions criminalising financing acts of terrorism or benefiting from financial proceeds of terrorism.

²⁹ This was the situation in 2010 while carrying out a gender audit in Nigeria as part of a research team working with Geneva Centre for Democratic Armed Forces (DCAF)

could cause harm or damage to the country or an international organisation ; aimed at compelling the government or international organisation to perform or abstain from the performance; intimidation of a population; destabilize or destroy the fundamental political, constitutional, economic or social structures of a country or an international organisation.³⁰ Other acts that could be construed as acts of terrorism in Nigeria are intimidation or coercion of government or international organisations, attacks on lives of individuals to cause bodily damage or death; kidnapping of persons, destruction of government or public facility, transport or information system, seizure of aircraft, ship or any other means of transportation and diversion of the means of transport to commit any of the act earlier stated.³¹ There are mentions of acts that are related to release of dangerous substance to cause of fire explosions, floods which could endanger human lives, interference with or disruption of the supply of water, power supply or any other fundamental natural resource.

There is also in existence (however in a draft form) the National Counter Terrorism Strategy. The Presidential Directive in respect of the National Counter Terrorism Strategy states that terrorism undermines national security. It further states that terrorism 'weakens social and economic development and distorts state cohesion'. The Act of terrorism affects national integration in societies where it has been embedded. The draft National Counter Terrorism Strategy³² provides that there is a need for a coordinated counter approach which would involve all stakeholders and it would be led by the Office of the National Security Adviser. The Terrorist Prevention Act provides the legal framework for which the Office of the National Security Adviser can coordinate the counter terrorism strategy.

Apart from the Terrorism Prevention Act there are other legislations that are related to state security and have impact on the national security framework and release of information - these are the Nigeria Immigrations Act,³³ the Official Secrets Act, the Police Act and Regulations and the Act establishing the Institute for Peace and Conflict Resolution. The Institute for Peace and Conflict Resolution is under the direct supervision of the Ministry of Foreign Affairs and represented on its Council are representatives of the Ministry of Defence, Ministry of Defence and the Ministry of Interior.³⁴ The functions of the Institute³⁵ as follows;

- (a) Promoting peace and security internally within Nigeria and externally in Africa;

³⁰ Section 2 (a) - (c) Terrorism Prevention Act 2011

³¹ Section 2 (c) (l) - (vj) Terrorism Prevention Act 2011

³² The draft National Counter Terrorism Strategy provides that it should be reviewed periodically - biannually because of the dynamic nature of terrorism.

³³ Section 18 lists the categories of persons whom can be prohibited entry into Nigeria. Subsection (1) (d) provides that 'any person whose admission would in the opinion of the Minister be contrary to the interest of national security'

³⁴ Section 3 of the Institute of Peace and Conflict Resolution Act (2007)

³⁵ See Section 8 of Institute of Peace and Conflict Resolution Act (2017)

- (b) Conducting research into the cause, patterns, dynamics, factors and forces behind conflicts and insecurity in Nigeria and Africa;
- (c) Publishing and disseminating case studies from its researches with a view to offering insights into the success or failure in conflict resolution and peace building;
- (d) Identifying these factors, issues, historical phases, capacities and the balance of power of different groups in a conflict situation;
- (e) Promoting a culture of transparent, credible and peaceful democratic succession as a mechanism for conflict prevention;
- (f) Getting practically involved in the task of mediation, conflict management and conflict resolution;

A secrecy clause is provided under section 25 of the ICPR Act, It provides that members of the council, the director general or any member of staff of the institute must treat as confidential any information it has become privy to in the course of his or her work with the Institute. The information can only be disclosed based on the order of a court or under circumstances that may periodically be prescribed by the Council.

The extents of violence in the country have made crime rates worrisome each geopolitical zone is witnessing various types of violent crimes and conflicts. In the South - South zone armed robbery, kidnapping, sabotage of petroleum production facilities by militant youths and insurgency led by the Movement for the Emancipation of Niger Delta (MEND) are prevalent. The South East and South West are noted for organised crimes including drug and human trafficking, armed robbery/banditry, kidnapping/hostage taking, pipeline vandalism, arms trafficking. Cutting across the three northern geopolitical zones are the destabilising issues of indigene/settler internecine conflicts, ethno religious conflicts and religious insurgency led by a group known as Jama'atuahlus-Sunnah Lidda'awati (popularly referred to as Boko Haram). The scenario highlighted above have resulted in the police and other security agencies including the Army and the State Security Services embracing the concept of Intelligence led Policing and there have been workshops, interactions and exchanges with international development partners to build the capacity of the police.

3. The Changing Nature of threats to International Security

"In Larger Freedom: Towards Development, Security and Human Rights for all", noting that the threats to peace and security in the twenty-first century include not just international war and conflict, but civil violence, organized crime, terrorism and weapons of mass destruction.³⁶ They also include poverty, deadly infectious disease, and environmental degradation since these can have equally catastrophic consequences. All

³⁶ B Ramcharan, A New International Law of Security and Protection, available online at <http://www.un.org/en/chronicle/article/new-international-law-security-and-protection>, accessed on 26th November, 2020; See also Bruno, Simma, et al. *The Charter of the United Nations, 3rd ed.*, A Commentary referring to the report of the Former Secretary General, Kofi Annan

of these threats can cause death or lessen life chances on a large scale. All of them can undermine States as the basic unit of the 'international system.'³⁷

The term "international security", in turn, they continue, requires "a transformation of international relations so that every State is assured that peace will not be broken, or at least that any breach of the peace will be limited in its impact. International security implies the right of every State to take advantage of any relevant security system, while also implying the legal obligations of every State to support such systems". The General Assembly, the authors further noted, "has stated that national and international security has become increasingly interrelated, which accordingly makes it necessary for States to approach international security in a comprehensive and cooperative manner".³⁸

Traditionally, the concept of international security was perceived as primarily a problem of State security. Within recent years, however, an additional concept has emerged - that of human security, acknowledging that threats cannot only come from States and non-State actors, but can also exist to the security of both States and the people.³⁹

International security can be promoted and achieved through various policies or measures, two of which- are referred to namely; measures of collective security and adjustment or settlement of international disputes...., International peace and security may be endangered not only by acts of aggression, but also by any other threat to the peace.⁴⁰

Many of the risks were well-known – such as the possibility of desertification in particular regions, or water shortages leading to inadequate harvests and a lack of food supplies, and on the other hand, the prospect of floods or sudden surges in temperature; and the risk of diseases and epidemics spread by dirty water.

Climate “change”, the ‘international security’ article commented, sounded too mild a description and implied a gradual, linear shift over decades to a temperature 2°C higher than we are used to. The more likely reality, however, is climate disruption – erratic shifts in one direction or another. These raised the need for what the French call “green defence”. The changing climate would drive even more people to migrate. Epidemics can spread rapidly in an age of global travel and trade. “In these circumstances it is hard to see how national and European security can be preserved without active intervention to deal with the problems at source.

³⁷ As cited in Bruno, Simma, & Others, eds. *The Charter of the United Nations: A Commentary*, Vol. 1, (Oxford: 3rd ed. Oxford University Press, 2012), 111

³⁸ Ibid

³⁹ Ibid

⁴⁰ See Paragraph 1 of Article 1 of the United Nations Charter

4. Future Challenges of International Protection

"The founders of the United Nations understood that sovereignty confers responsibility, a responsibility to ensure protection of human beings from want, from war, and from repression. When that responsibility is not discharged, the international community is morally obliged to consider its duty to act in the service of human protection."⁴¹

"The task of human protection", he acknowledged, "is neither simple nor easy. We don't always succeed. But we must keep trying to make a difference. That is our individual and collective responsibility. People like myself, as Secretary-General, and the leaders of the world have a moral and political responsibility to protect populations." He continued: "The challenges facing us have changed, but our core responsibility to maintain international peace and security has not slowly but surely sometimes by trial and error, we have learned to use the instruments available under the Charter in new ways, adapting to evolving circumstances. Through this evolution, the need to operationalize a concept of human protection has emerged." "Undoubtedly", the Secretary-General acknowledged, "the UN needs to perform its protection duties more effectively....The best form of protection is prevention. Prevention saves lives as well as resources."

"Beyond the immediate protection agenda, he continued, "the United Nations was addressing the 'creeping vulnerabilities'. They also put populations at risk and weaken societies, and also plant the seeds of violence and conflict: water scarcity, food insecurity, corruption, transnational crimes, the effects of climate change, Often, this impact of climate change, water scarcity, has become the source of conflict, regional conflict, very serious regional conflict. So it is not surprising that these human security issues are finding their way onto our peacebuilding agenda, and specifically that of the Peacebuilding Commission."

"The UN", he acknowledged, "recognizes that human protection stands at the centre of both its purposes and principles."

The United Nations will have to change its approaches dramatically if it is to rise to the challenges of international protection. This will require great daring. In his acclaimed book, "the idea that ... countries will identify violations of peace identically and be prepared to act in common against them is belied by the experience of history,... Collective security has repeatedly revealed itself to be unworkable in situations that most seriously threaten international peace and security"⁴². "He asked the question, "Were the rules and principles themselves the international order, or were they a scaffolding on top of geopolitical structure capable of indeed requiring more sophisticated management?"⁴³

⁴¹ See Bam Kimoon, 'Human Protection and 21st Century United Nations', Lecture delivered at Oxford University February 2, 2011

⁴² H Kissinger, *World Order* (New York: Penguin Press, 2014), 264

⁴³ *Ibid*, 266

Kissinger did not factor into his thinking the evolving challenges of international security and of human protection. The contemporary and future threats to international security and the challenges of international protection are such that even the mighty powers will have to recognize that United Nations action is necessary to save humanity and its habitat. We shall need to turn to the United Nations as a system of public order, as advocated by the late Ian Brownlie;

"The design of the United Nations constitutes a comprehensive public order system, in spite of the weakness involved in multilateral decision-making, the assumption is that the Organization has a monopoly on the use of force, and a primary responsibility for enforcement action to deal with breaches of the peace, threats to the peace or acts of aggression. Individual Member States have the exceptional right of individual or collective self-defence, in the case of regional organizations the power of enforcement action is in certain conditions delegated by the Security Council to the organizations concerned."⁴⁴

Enforcement action may involve the use of force on behalf of the community against a State. However, the practice has evolved of authorizing peacekeeping operations which are contingent upon the consent of the State whose territory is the site of the operations, in recent history the roles of peacekeeping and enforcement action have on occasion become confused, with unfortunate results."⁴⁵

We shall need to transform international law into a law of international security and protection.

5. A New International Law of Security and Protection

The foundations of a new international law of security and protection are already in place. They consist of:

- The competences of the Security Council under Chapter 7 of the United Nations Charter; the Security Council must transform itself into the world's executive authority,
- The competences of the United Nations Secretary General under Article 99 of the Charter; the Secretary-General must increasingly make submissions, including legal submissions, to the Security Council under Article 99 of the Charter and invite it to issue mandatory orders under Chapter 7 of the Charter.

⁴⁴ Per Ian Brownlie, *Principles of Public International Law* (Oxford: 6th ed., Oxford University Press, 2003), 700

⁴⁵ Ken Conca, *An Unfinished Foundation: The United Nations and Global Governance* (Oxford: Oxford University Press, 2015), 14

- The recommendatory competences of the United Nations General Assembly combined with the process of the formation of international customary law; the Secretary-General must use his Annual Reports to the General Assembly to draw its attention to threats to human security and to indicate policies and recommendations that can, through widespread consensus, crystallize into norms of international customary law.
- The interpretative role of the International' Court of Justice to clarify the role of the law in meeting the circumstances of contemporary society; the Security Council and the General Assembly should use their competences to submit requests to the International Court of Justice for Advisory Opinions on the duties of States to cooperate for the security and protection of humanity and its habitat.

There is also room for;

- Security advisories by heads of United Nations agencies.
- Protection alerts by the United Nations High Commissioner for Human Rights.
- Security and protection actions by regional organizations.

The urgent need for progressive development of international law in key areas has also been identified by scholars and practitioners. In his recent book. *An Unfinished Foundation: The United Nations and Global Environmental Governance*, Ken Conca calls upon the International community to urgently;

- Find an explicit human right to a safe and healthy environment.
- Acknowledge an environmental responsibility to protect.
- Infuse the law-and-development approach with stronger peace-and rights practice.
- Find a legitimate (and clearly limited) environmental role for the United Nations Security Council.
- Exploit opportunities for environmental peacebuilding.
- Reconceive and strengthen what it means for the United Nations to make a "system-wide" response on environmental problems.

This study presents an overview of Nigeria's national security strategy process and security architecture by examining the following:

- Nigeria National Security Policy and Strategy;
- Sectorial security strategies;
- National Security Architecture of Nigeria;
- Implementing instruments of National Security in Nigeria;
- Monitoring and oversight mechanisms.⁴⁶

⁴⁶ Brid. Gen. (Ret) Saleh Bala and Emile Ouedraogo, National Security Strategy Development: Nigeria Case Study, Working Paper (Preliminary Draft) July 2018, p 1

The National Security Strategy of the Federal Republic of Nigeria - Developed and published by the Office of the National Security Adviser in 2014, the Nigeria National Security Strategy guides the formulation of policies and conduct of operations. Nigeria's over-arching strategic vision is to create a peaceful, self-reliant, prosperous, strong nation".⁴⁷ The underlying objective is to "apply all elements of national power to ensure physical security, build individual and collective prosperity, cause national development and promote Nigeria influence in regional, continental and global affairs".⁴⁸ The National Security Strategy 2014 addresses two critical threat areas;

- (a) **National Security Interests:** The *core* national interests as defined in Nigeria's National Security Strategy are the security and welfare of its people; sovereignty and defense of its territorial integrity; peace; democracy; economic growth; and social justice. Sub-regional security and economic cooperation are classified as *strategic* interests. Promotion of peace, security, development, democracy and international cooperation in Africa and the world are peripheral to Nigeria national interests.
- (b) **Threats to National Security:** The most potent threats to Nigerian national security include global challenges; terrorism; transnational organized crimes; crude oil theft or illegal bunkering; Nigeria's borders; climate change; communal and ethno-religious conflicts; pastoralists and farmers conflicts; politics and federalism in Nigeria; governance; poverty; kidnaping, proliferations of small arms and light weapons; proliferation of weapons of mass destruction; illegal migration; economic challenges; financial crimes; information technology and cyber security; natural, man-made and medical related threats; environmental security. The threats enumerated above are by no means the only threats to Nigeria national security.⁴⁹ They are nevertheless the most potent and are adjudged potential sources of disaffection, discontent and instability that could adversely affect the country quest for national stability, unity and development.

Sectorial Strategies - Nigeria's National Strategy relies on sectorial strategies. Sectorial documents are derived from the Grand Strategy and the National Security Strategy. They are developed as responses to the identified threats to Nigeria's national interests. Some of these strategies are fully realized, including the National Defense Policy, the National Counter Terrorism Strategy, and the National Policy on Public Safety and Security.

- a. **National Defense Policy:** The National Defense Policy of Nigeria emanates from the National Security Strategy, which focuses on the preservation of the safety of Nigerian at home and abroad and the protection of the sovereignty of the

⁴⁷ *Ibid*

⁴⁸ *Ibid*

⁴⁹ *Ibid*

country and the integrity of the assets.⁵⁰ A constitutional provision is made for the Armed Forces of the Federal Republic of Nigeria to defend the country from external aggression, to maintain the territorial integrity and secure the borders from violation on land, sea and air as well as to suppress insurrection and act in aid of civil authorities to restore order when called upon to do so by the president.⁵¹

b. The National Counter Terrorism Strategy (NACTEST); Developed by the Counter Terrorism Department in the Office of the National Security Adviser, The National Counter Terrorism Strategy of 2016 (Revised). The current strategy is a review of the initial 2013 document which seeks to confront terrorism and counter violent extremism in Nigeria.⁵² The overall objective of the strategy is to ensure public safety resolving around five main work streams: Forestall, Secure, Identify, Prepare and Implement (FSIPI). Roles and responsibilities of ministries, departments, and agencies are clearly defined in the document.

c. National Policy on Public Safety and Security: The National Policy on Public Safety and Security is an inter-ministerial and inter-disciplinary initiative under the leadership of the federal Ministry of Interior. The principal goal is reduction and eventual elimination of threats to safety and security. It also addresses the socio-economic and mental well-being of Nigerian citizens, including property rights and environmental issues.⁵³

d. National Cyber Security Strategy. In its entirety, cyber security policy and strategies provide a framework of guiding principles and action plans aimed at addressing cyber security and its related incidents. The strategy is tackles cybercrimes, cyber terrorism, cyber espionage, and online child abuse and exploitation.⁵⁴

National Security Architecture of Nigeria - It comprises the following:

a, The National Security Council: The Constitution mandates the creation of a National Security Council that "has the power to advise the President on matters relating to public security including matters relating to any organization or agency established by law for the purpose of ensuring the security of the federation".⁵⁵ It meets as occasion demands, and is composed of the following:

- The President who is the Chairman;
- The Vice President, Deputy Chairman;

⁵⁰ National Defense College Lecture Series

⁵¹ Constitution of the Federal Republic of Nigeria, 1999

⁵² The National Counter Terrorism Strategy, Office of the National Security Advisor, 2016

⁵³ National Policy on Public Safety and Security, Federal Ministry of Interior, 2016

⁵⁴ Osho&Onoja - National Cyber Security Policy and Strategy of Nigeria: A Qualitative Analysis, National Cyber Security Policy and Strategy of Nigeria: A Qualitative Analysis, 2015

⁵⁵ Constitution of the Federal Republic of Nigeria, Op.cit

- The Chief of Defense Staff;
- The Minister in charge of internal Affairs;
- The Minister in charge of Foreign Affairs;
- The National Security Advisor;
- The Inspector General of Police and such persons as the President may in his/her discretion appoint.

b. Coordination of the National Security in Nigeria: The Office of the National Security Advisor (ONSA) is the central body for coordination, control and supervision of national security in Nigeria. ONSA manages national security on behalf of the President of the Federal Republic through the National Security Council (NSC), the joint Intelligence Board (JIB) and the Intelligence Community Committee (ICC). The National Security Advisor is the principal officer of the National Security Council and advises the President on national security issues.

Implementing Instruments of National Security Strategy in Nigeria - Instruments for implementing national security in Nigeria are comprised of:

a. Joint Intelligence Board (IIB): The Joint Intelligence Board has both advisory and executive functions. These include providing the President with advice reports and current assessments of all matters affecting the security of Nigeria; formulating general security policies and procedures; reviewing current issues of national security; and acting promptly to deal with subversion and unrest, after due consultation with the President.⁵⁶ The National Security Advisor is the chairperson of the board. The board meets monthly while its subcommittees meet more frequently as situation warrants.

b. Specialized agencies: State Services Security (SSS), Defense Intelligence Agency (DIA) and National Intelligence Agency [NIA] are specialized agencies for the collection of intelligence and the provision of security services. Notably, SSS provides internal security, The NIA provides external intelligence and DIA provides defense intelligence and security.

c. Armed Forces, the Police and Paramilitary Organizations: They have responsibility for specific aspects of national security and are tasked through relevant ministries, service councils and established chains of authorities.

Monitoring and Oversight Mechanisms -

The National Assembly - The entrenchment of Nigerian democracy has empowered the legislature and civil society in their monitoring and oversight roles, though much has to be done to make them more effective. The Nigerian legislative arm is a bicameral institution known as the National Assembly (NASS), made of the Senate and the House

⁵⁶ National defense College Lecture Series, op.cit

of Representatives. The NASS influences the national security process in terms of decision making and the implementation. The Constitution provides a statutory authority through appropriation instruments, where the NASS can enhance or frustrate the implementation process. When necessary, the NASS is apprised of key national security developments. National security policymakers work with key officers and appropriate committees of both chambers, especially in cases where secrecy is necessary. However, much remains to be done to strengthen transparency and accountability mechanisms.

Civil Society. Nigeria is home to a broad and vibrant civil society. Nevertheless, its relationship with the defense establishment remains fractious,

6. An Overview of Major International Sources of Law on National Security

The legal basis of national security encompasses the system of provisions in international and national law which defines, promotes, regulates and protects the state and national values and interests. These provisions are sacrosanct and apply "equally to all and are equal for all". Thus the legal system and the rule of law are the postulates of national security.⁵⁷

The rule of law is the main prerequisite of the Constitution of the Republic of Serbia⁵⁸ and it is based on inalienable human rights. It is achieved by free and direct elections, constitutional guarantees of human and minority rights, division of power, independent judiciary and compliance of the government with the Constitution and law. Serbia has a unique legal system. The Constitution is the supreme legal act and all other laws and legal acts must be in keeping with the Constitution, whereas all by-laws must comply with the laws. The ratified international treaties which are not contrary to the Constitution and the generally accepted rules of international law constitute an- integral part of the legal system of the Republic of Serbia. The laws and other, general acts passed in Serbia must not be contrary to the ratified international treaties and generally accepted rules of international law; they are published prior to going into effect and generally cannot have a retroactive effect.

As the provisions of international law are undoubtedly of importance for national security, here is a brief overview of international sources of law on national security. Since it is hard to list all of them, we shall briefly present some of the most important regulations.

⁵⁷SasaMijalkovic & DusanBlagojevic, *The Basis of National Security in International Law: Academy of Criminologist and Police Studies, Belgrade* available online at <https://core.ac.uk/download/pdf/300347851.pdf> accessed on 26/11/2020

⁵⁸*The Official Gazette* of the RS, No. 83/2006, see Articles 3,194, and 196.

The United Nations Charter⁵⁹ certainly presents one of the major international legal foundations of national security. The objectives of the United Nations are to: maintain international peace and security, and towards that end take efficient collective measures in order to prevent and remove threats to peace and curb acts of aggression and other violations of peace, as well as to, in keeping with the principles of justice and international law, use peaceful means to settle and resolve international disputes or situations that could lead to breach of peace; to develop friendly relations among nations, based on respect for the principle of equality and self-determination of peoples, and take other appropriate measures aimed at strengthening universal peace; achieve international cooperation by solving international problems of economic, social, cultural or humanitarian nature; promote and encourage respect for the rights and fundamental freedoms of all human beings regardless of their race, sex, language or religion and to become the headquarters for harmonizing the actions taken towards achieving these common objectives.⁶⁰

These objectives are achieved by taking into account the principles of: sovereign equality of all members of the organisation; conscientious fulfilment of the commitments undertaken by the Charter; settlement of international disputes in peaceful ways that do not violate international peace, security and justice; refraining from threat of force or use of force against territorial integrity or political independence of the states or from any other means inconsistent with the objectives of the United Nations; commitment of the members to provide assistance to the United Nations in any action it takes in accordance with the Charter and refraining from assistance to the state against which the United Nations take preventive or coercive action; ensuring that the states which are not members of the Organisation act in keeping with these principles to an extent necessary for maintaining international peace and security and prohibition of interference by the United Nations in the matters that essentially fall within the internal jurisdiction of a state.⁶¹

The Charter promotes the following mechanisms for peaceful settlement of conflicts which may endanger international peace and security: negotiation, investigation commissions, mediation, judicial settlements, resorting to regional institutions or treaties or other peaceful means of their own choice (Chapter VI). It also defines the actions in case of threats to the peace, breach of peace and acts of aggression (Chapter VII). In such situations, the Security Council establishes the presence of the above security threats and decides what measures shall be taken in order to maintain or restore peace and security: appealing on the parties concerned to comply with the measures that the Security Council considers necessary or desirable; taking measures which do not entail the use of

⁵⁹*The Official Gazette* of the DFY, No. 69/1945.

⁶⁰ Article 1

⁶¹ Article 2

armed force (complete or partial interruption of-economic relations and rail, sea, air, postal, telegraphic, radio and other traffic and communication, as well as the severance of diplomatic relations); the use of armed force, i.e. launching actions by air, naval or land forces of the United Nations member states, including demonstrations, blockade and other operations. This certainly does not impair the inherent right to individual or collective self-defence of the states in case of an armed attack, until the Security Council takes one of the above actions. The implementation of self-defence measures is to be reported to the Security Council without prejudice to the powers and responsibility of the Security Council to take action in keeping with the Charter in order to maintain or restore international peace and security.⁶²

The Declaration on Principles of International Law concerning Friendly Relations and Cooperation of States in accordance with the Charter of the United Nations⁶³ promotes and operationalises the ideas and values from the United Nations Charter, including, primarily the following: maintaining international peace and security; developing friendly relations, cooperation and tolerance among nations; respect for the rule of law and commitments undertaken upon signing international agreements; prohibition of national appropriation or establishing national sovereignty over the universe and celestial bodies, including the Moon; refraining from intervening into internal affairs of other states; the prohibition of military, political, economic or other coercion which is directed against political independence or territorial integrity of a state; the prohibition of threats and use of force against territorial integrity or political independence of another state; obligation to resolve disputes between states in the spirit of the United Nations Charter; sovereign equality of the states; equality and self-determination of the nation; prohibition of subjecting a nation to foreign rule, domination and exploitation; prohibition of violating national unity and territorial integrity of other states. These ideas have been turned into the following principles: to refrain from the threat to use or use of force against either territorial integrity or political independence of other states or in any other manner inconsistent with the objectives of the United Nations; to resolve international disputes between states by peaceful means; nonintervention in matters which fall within national jurisdictions of the states; duty of states to mutually cooperate; equality and self-determination of nations; sovereign equality of states and conscientious fulfilment of obligations undertaken by the Charter.⁶⁴

7. Conclusion

It is not in doubt that Nigerian leaders are conscious of the insecurity in the land. Laws against insecurity abounds. In fact, Nigeria has enough Laws and Policies on National

⁶² Article 51

⁶³ Resolution 2625 (XXV) of the United Nations General Assembly in 1970 (*The Declaration on Principles of International Law concerning Friendly Relations and Co-operation among States*, United Nations, A/RES/25/2625).

⁶⁴ Preamble of the Charter

Security. But the problem is the capacity of its agencies to carry out their duties and responsibilities professionally; devoid of corruption. Again, functions of some of these Nigeria National Security agencies are overlapping for effectiveness. Nigeria National security units and officials deserve serious training and development on advanced and sophisticated weapons as the weapons used by the bad characters in Nigeria are unmatched; resulting to defeat in most encounters. Nigeria military performs better when in outside missions, yet machines and weapons used by criminals here are so sophisticated that one cannot imagine their sources.

8. Recommendations

Nigeria National Security officers and units need to be equipped with sophisticated weapons and ammunitions to withstand challenges and lapses in Nigeria security system. The officers to National security deserve multi-serious training and development abroad for better professional performance. In other to eschew corruption in Nigeria national security system, our officers deserved improved and higher salaries and allowances. National security laws in Nigeria demand total overhaul and serious amendments to introduce some innovative provisions that will make them competitive as what are obtainable at international arena. Modern and artificial intelligence technologies should be introduced in our security system for easy detection of crimes perpetrators and their nature of weapons in criminality. Nigerian leaders should also seek collaboration with international and developed countries on the areas of security reform. Nigeria laws and security should be developed along international laws and treaties for greater efficiency. Above all, there is need to increase sanctions against security breaches in our laws to serve as deterrence to the security offenders.