

CONTROL OF UNLAWFUL POSSESSION AND MOVEMENT OF SMALL ARMS AND LIGHT WEAPONS TO EXTERMINATE INSECURITY IN NIGERIA

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ABSTRACT

The nefarious acts carried out with arms and weapons unlawfully possessed by many people in Nigeria, a developing country in Africa is a serious threat to the peace of the nation. It has a devastating effect on the economy of the nation which has greatly been dwindling since the security situation of the economy has been aggravated. This paper examined the daily manifestation of killings; the global efforts against proliferation; their free flow into Nigeria and the negative externalities militating against the nation's development. The paper relied on doctrinal (theoretical) legal research methodology. It relied on international and regional legal framework; municipal law, case law and other relevant legal authorities. It also relied on newspapers, textbooks, journals and internet materials. They were all exposed to content analysis. The paper discovered that imported arms are easily smuggled into Nigeria; proliferated in the country; illegally acquired; used to threaten and terminate people's lives thereby making the country a dangerous place to leave. The state of insecurity is so serious to the extent that it had crippled the economy and it is threatening the existence of the nation. It had made some ethnic groups in the country to be agitating and planning to break away from Nigeria to become separate sovereign nations. The paper concluded that the movement protocol of ECOWAS has been abused and it has a devastating effect on Nigeria's economy. Hence, the nation has to check the inflow of the dangerous weapons being smuggled into the economy. The international instruments and the local legal framework should be strictly applied to stem the tide.

Keywords: Insecurity, arms, weapon, killings, proliferation, unlawful possession, movement protocol, negative externalities

INTRODUCTION

The proliferation of dangerous weapons and the rate at which they are used to perpetrate evil is a matter of serious concern in many countries, particularly in Nigeria, a former British colony; a developing country, and the most populous nation in Africa. It is a country currently pervaded by insecurity and terrorism which have deprived the people of socio-economic benefits that would have accrued to the nation from its tremendous resources. The flow of guns among others and the rate of killings in the nation in recent times need to be nipped in the bud. Without controlling the possession of arms, the insecurity in the nation will persist and continue to dent the image of the country among the comity of nations. It may also make many advanced nations to be scared of allowing the immigration of Nigerians to their countries.

It is ridiculous that a country where arms and ammunition are not manufactured is hosting a large number of criminals that are mostly apprehended while in possession of sophisticated weapons. The economy of the country had been affected by insecurity. Foreign Direct Investment and tourism are becoming things of the past in a country rated as a parent in Africa and which was a home for foreigners, investors and tourists until recently.

Meanwhile, foreigners are often alleged to be responsible for nefarious acts in the country. The porous border and the ECOWAS free movement are being abused, hence the smuggling of small arms and ammunition had resulted in a heavy flow of them. If left unchecked, it can degenerate to other countries with tighter security just as it nearly happened through AbdulMutallab on the 25th of December 2009. He smuggled a bomb into the U.S. plane that had about 300 people on board. They were travelling from Amsterdam to Detroit.ⁱ Insecurity will discourage the travelling of people to affected areas and had made the United States of America to issue travel warning to some places in Nigeria.

The United Nations had made efforts to control terrorism and other acts constituting a breach of peace and infringement upon people's rights. The president of the Niger Delta Alliance who met with officials of the US Department of Homeland Security maintained that the economic and human effect of the insecurity in Nigeria is a matter of serious concern locally and internationally. It had caused increase in the number of those who migrated and that of internally displaced persons. He added that kidnapping, banditry, terrorism, insurgency, and herdsmen skirmishes had increased the death rate in the nation. It had also discouraged investors hence, worsening the economic situation. He acknowledged the efforts of the Government; advised the youth to shun violence while he solicited the expertise and technical experience of the United States of America in assisting the nation.ⁱⁱ Continuous production, possession and smuggling of the deadly weapons have led to the persistent insecurity and terrorism in the economy.

To tackle insecurity and terrorism in Nigeria, it is pertinent to examine the relevant legal framework and its implementation. This paper examined the rate of death incidental to possession and wrong use of guns and other dangerous weapons in Nigeria. It also examined local and international law on unlawful possession of them, and the movement protocol of the Economic Community of West Africa which is alleged to have been abused.

STATEMENT OF RESEARCH QUESTION

Peace is inevitable for the existence of humans. A place without peace and where high percentage of life of man is terminated daily is another Bermuda triangle which is a serious threat to human existence. A place where human beings are slaughtered like goats and massacred by guns and other dangerous weapons is a place where the human right to life; the dignity of the human person and other rights are deprived. No one knows where such evil intentions and inhuman treatment will degenerate to. It can spread to any country. The memory of such an act is the September 2001 killings in the United States of America which is still green in the world. Meanwhile, the effect of insecurity is being felt by advanced nations through a geometric increase in the rate of migration from Nigeria and other countries suffering from insecurity.

The rate at which ammunition, lethal guns and other dangerous weapons are being smuggled into Nigeria is geometrically increasing daily. It was revealed that from 2015 to 2022 Nigeria has expended over ₦11.18 Trillion on insecurity yet the nation is still being rated out of all the nations of the world as the second most often attacked nation. ⁱⁱⁱ

Ondo State Government has made up its mind to apply the doctrine of necessity to implement its legal, moral and constitutional obligation. It would do this by procuring ultra-modern rifles for the state-established security outfit for the protection of the people in the state despite the refusal of the Federal Government to approve it. This will be done because the fact that bandits that are terrorizing and killing the people with ultra-modern rifles and with impunity are not checked. ^{iv}

LITERATURE REVIEW

Clarke, (2020) agree with many other writers that arms and light weapons are still smuggled and trafficked by non-governmental bodies and individuals for illegal and terrorist acts. They are also used for extortion, intimidation, kidnapping, stealing and robbery. ^v

Efrat (2010) adds that illicit arms are used for human rights violations, rape, killing, torture and gang warfare. He maintains that the purpose of international control of the flow of goods to a nation is to reduce goods with a negative impact on a nation. Such flow of goods occurred through death and the flow of refugees triggered by the proliferation of arms. Unfortunately, there have been disagreements among governments thereby making it difficult to have effective control. Morgan and Nowak (2019) argue that the trafficking of arms was part of the illegal global commerce taking place from countries in West Africa to the Sahel. They explain that the illegal sale of weapons, smuggling, migration and drugs are specially ordered because of their important nature. The trafficking of small arms is encouraged by many things which include easy access to the products, porous borders and weak institutions in the national boundaries of affected countries. ^{vi}

Ogota (2005) writing on human security maintains that the world we are living in today entails the movement of goods, money, and information from one country to another. It is a place

where weapons, pollution, diseases, terrorists and economic crises are threatening people's life from one nation to the other. Free trade, investment among nations, fast spread of information and transportation can be responsible for the significant increase in which the economy is growing globally with a great impact on the life of the people. The world is interdependent whereby errors or omissions of some people determine the security and survival of others. ^{vii} Baly (2006) propagates that terrorism has made the world realise how different ideas, money and people can be united for a great impact on the world. Migration and trafficking of weapons among others must be fought collectively at the international level. This can be achieved only by extraordinary global efforts. ^{viii}

THE PROLIFERATION

The global proliferation of roughly 1 Billion light weapons and small arms continues to threaten the security and the peace of the world. Terrorism, intra-state conflicts, organized crime and conflicts among gangs have been discovered to be responsible for the spread. No country is spared of it. It takes place even in non-conflict countries. The arms and weapons have been used through human rights abuse, rape, the killing of children and gender-based violence among others. ^{ix}

The movement of light weapons and small arms is alarming. It is obviously a bad omen for Nigeria. It is the major instrument of violence and insecurity ravaging the economy. It has been reported that small arms unlawfully possessed in Nigeria is more than 6,145,000 while the number of arms legally possessed by the military, the Police and other security agencies is roughly 586,600. ^x In 2016 the United Nations through Ms Olatokunbo Ige, who was the Director of U.N in charge of Peace and Disarmament in Africa proclaimed that small arms and light weapons in circulation in Nigeria were more than 350 million which is 70% of about 500 million of it in circulation in West Africa. ^{xi}

MEANS OF PROLIFERATION

Smuggling and illegal trafficking are greatly contributing to the influx of arms and they are difficult to control. This is because the country's land has a very long distance of many routes

and borders. The most porous of the borders are the one in Cameroun in the Eastern part; the Republic of Benin in the Western part, the Republic of Niger in the Northern part and Chad which is also in the Northern part of Nigeria. There are airports, many seaports and porous borders that are used as routes by smugglers bringing different kinds of goods to Nigeria. This makes discovery and surveillance difficult. There is no enough personnel to control the entry of people into the nation. The number of serving police, the Navy and customs officials are not enough to handle the assignments and this makes the situation difficult.^{xii} The circulation of imported small arms and light weapons in Nigeria is enough to prove that there is movement of them into the country but it is difficult to know all the routes because they are too many.

The First Committee on (Disarmament and International Security) was told that serious action is necessary by countries producing weapons to control the unlawful usage of weapons. Representatives of Jamaica, Nigeria, and Caribbean countries among others presented reports to the committee. The representative of Jamaica reported that illicit small arms and ammunition have threatened the health, security, safety, and development of Jamaica. The Nigerian delegate also revealed that cities and communities have been massacred with weapons illegally acquired by the people. These weapons were not produced in the region yet it is one of the regions that fall victim to the proliferation.

The representative of Caribbean communities revealed that 70% of criminal acts in the region were perpetrated with the use of illegally acquired weapons.^{xiii}

REASONS FOR THE DEMAND

There are two basic reasons why people are demanding firearms and portable weapons in Nigeria. They are legally demanded to control insecurity and illegally for personal benefit. The security operatives demand them for law enforcement and to secure the nation. It has been discovered that many of them have been using the allocated arms to them for other purposes different from the reasons for allocating it to them. Such include usage to abuse people's fundamental human rights, renting for personal benefit, extraordinary force when overpowering political protesters. Meanwhile, the fundamental aim behind the allocation of the

weapons to the security operatives of the nation is to maintain national security, law and order in the nation. There has been an increase in the quantity demanded sometimes as indicated in their budgets. The Civilians of the population procure small arms for personal security to complement the efforts of the law enforcement agents who have failed to maintain adequate security in the nation. Instead of using it for lawful purposes, there have been diversions of such for other purposes which include usage for criminal acts by gangsters, armed robbery, oil bunkering, smuggling, election violence by political tugs, and cultism among others.^{xiv}

THE UNITED NATIONS LEGAL FRAMEWORK

State Parties approved on 8 December 2005 an instrument to allow countries to identify and quickly trace in a reliable way, Illegal firearms and portable weapons.^{xv} This is to assist state parties to identify and trace timeously and reliably, all illicit small arms and light weapons. It was also enacted to promote and enhance global assistance and cooperation in marking and tracing. It facilitates and complements the extant regionally and internationally made bilateral contracts. This is to avert fighting and purging of unlawful sales of firearms and portable weapons generally.^{xvi}

REGIONAL POSITION

The Executive Council of the African Union recalled their declaration made in Bamako on the African stance on illegal proliferation, distribution and trafficking of firearms and portable weapons. This was done to reaffirm their promise to execute the programme of the United Nations to fight and put an end to the menace as adopted in July 2021 in New York. It recognised their efforts of signing and ratifying other instruments to control the menace such as the SADC Protocol of 2001; and the Protocol in Nairobi for the Great Lakes Region.^{xvii} The Africa Union however inter alia made provision to cooperate with international community to fight the proliferation in the region and at continental level.

ECOWAS Efforts

The Economic Community of West Africa had a Convention which was adopted on the 14th of June 2006. It illegalised transfer of fire arms and portable weapons within the West Africa unless there is approval from the Secretariat of the ECOWAS.^{xviii} It has been alleged that it is responsible for the smuggling of small arms and light weapons due to the porous border which is aiding the free movement of perpetrators.

ECOWAS Free Movement Protocol

The ECOWAS Countries in 1979 signed a free movement protocol to allow freedom of movement, residents and establishments. The protocol under Article 2 allows the free movement of citizens of member countries from one country to another.

The free movement Protocol meant to promote the economy and development in West Africa was abused and used to promote criminalities. This has resulted in insecurity in the economic community. Weapons are easily accessed because of their free flow.^{xix} There is agitation that Nigeria should readjust its decision on ECOWAS movement protocol since it has resulted in kidnapping, banditry, and carriage of firearms and portable weapons thereby bringing insecurity to Nigeria.^{xx}

THE LAW ON UNLAWFUL POSSESSION OF FIRE ARMS IN NIGERIA

The constitution which is the grundnorm in the country which provides for the fundamental human rights of the people does not give anybody the right to possess a gun or firearms.^{xxi} This is contrary to the position of law in some countries. The United States of America is a good example. The law frowns on unlawful possession of firearms by private persons. Section 3 of the Firearms Act provides that the possession of a gun by a private person will not be unlawful if the person is granted a license to possess a gun.

Section 428 of the Criminal Code Act of Nigeria is on unlawful possession of arms. Section 428(a)^{xxii} prohibits deliberate detention, buying, exchange or receipt from any member of the Armed Forces of Nigeria or from any serving police officer or deserting officer or from anyone acting on behalf of the above-mentioned personnel who is in unlawful possession of such arms found with him. It is also prohibited in section 428(b) to solicit or entice any of the said persons

to sell, alienate or dispose of such weapon. Section 284(c) prohibits serving as an employee of officers or deserted officer prohibited in section 284(a) while section 284(d) expressly prohibits possession without satisfactory account of the possession of any ammunition, medals, clothing, accoutrements and other appointments meant for the use of members of the military or the Nigerian Police.

CONCLUSION

Peace is essential to the existence of man. People are exposed to danger where they are terrorized, tortured and kidnapped for ransom. They are also exposed to hunger and hardship when money meant for the development of the nation is spent endlessly on insecurity. These will make them migrate for greener pastures. This movement can affect the hosting countries in terms of an increase in the rate of population, and economic hardship among others. Besides, it is dangerous to the hosting countries if unscrupulous or compromising immigrants are mistakenly allowed to enter the country.

A world where people are so deadly to the extent of not being bothered if they are killed through suicide bombing when engaging in the murder-mission of a great number of people needs serious caution and review of relevant laws.

RECOMMENDATIONS

Nigeria needs to work on the inflow of people and goods to its country. Its position on the free Movement within West Africa needs to be reviewed since it is affecting the economy. All relevant laws to control insecurity should be properly implemented.

Anybody arrested to be in unlawful possession of firearms and portable weapons should be brought to book according to the law. This should be done without sparing anybody.

Nigeria should intensify efforts to monitor its borders. Since the country is large with many borders, it can introduce modern technology such as drones and C.C.T.V. to monitor the

borders; trace illegal immigrants, and those of them with firearms and portable weapons should be punished.

Development of border towns is essential. It should concentrate on the development of the towns to reduce the bush and tick forests to enhance monitoring. Besides, the development will reduce idleness and unemployment making many people especially the youths engage in smuggling and criminal acts.



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