

## **BALANCING THE CONFLICT BETWEEN TERRORISM AND THE RIGHT TO SELF-DETERMINATION IN NIGERIA\*\***

### **Abstract**

*In recent years, the conflict between terrorism and the right to self-determination has become one of the most complex and challenging issues facing Nigeria. The rise of terrorist organizations such as Boko Haram, which has been linked to attacks on civilians, military personnel and other targets, has heightened the tensions surrounding self-determination and sparked debate about the appropriate response. At the center of this conflict is the question of whether the right to self-determination should be curtailed in order to combat terrorism or whether this would be a violation of human rights and potentially lead to further violence. Using a doctrinal research methodology, this paper analysed the conflict between terrorism and the right to self-determination in Nigeria. The paper found out that the lack of universally accepted definition of terrorism, coupled with the inherent sovereign power of states to enact anti-terrorism legislation, can lead to the conflation of terrorism in Nigeria.*

**Keywords: Balancing, Conflict, Terrorism, Right, Self-determination**

### **1. Introduction**

Terrorism is a concept of both National and International contestation. The effect of terrorism has been felt in virtually every corner of the globe and clearly has a very real and direct impact on human rights with devastating consequences for the enjoyment of rights to life, liberty, dignity of human persons and personal integrity of the victims. In addition, to these individual costs, terrorism can destabilize governments, undermine civil society, and jeopardize peace and security and thereafter social and economic development. All these, have real impact on the enjoyment of human rights. Corollary to this is the idea of right to self-determination, which denotes the legal right of people to decide their political, economic, and social affairs within the borders of a territory. The UN Charter is a pioneer in providing official recognition to the right to self-determination of people. Eventually, the right to self-determination, as pursued by various groups today, is formally crystallized in the instruments of the United Nations. Under the umbrella of the United Nations, subsequent human rights conventions have guaranteed and provided the right to self-determination as a human right of the people.<sup>9</sup>

Thus, this right to self-determination has been interpreted in various ways, with some arguing that it is a universal human right that all people have a right to self –determination, regardless of their country’s legal framework. Others have argued that the right to self-determination is a legal concept that can only be exercised within the boundaries of the law, and that any attempt to exercise this right outside of these boundaries would be considered illegal, including acts of terrorism. As such, the conflict between terrorism and the right in Nigeria is a complex issue that raises questions about the scope of self-determination and the extent to which it can be considered a right, as well as the implications of terrorism laws on the ability of groups to exercise their right to self- determination.

### **2. Terrorism as an Offence in Nigeria**

There is no universal definition of the offence of Terrorism. The question of definition has always been the subject of controversy due to lack of uniformity in perception and statutory definition. Some statutes made an attempt to define terrorism while others described acts constituting terrorism. A look at the Terrorism (Prevention and Prohibition) Act 2022 prohibits and itemizes what constitutes acts of terrorism without attempting to define terrorism. It simply stipulated that all acts of terrorism and the financing of terrorism are prohibited.<sup>1</sup> Thus, the Act covers variety of criminal acts against a country or an international organization willfully performed with the intention of furthering an ideology, whether

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<sup>1</sup> Terrorism (Prevention and Prohibition) Act 2022, Section 2. Hereinafter referred to as TPA.

political, religious, racial or ethnic.<sup>2</sup> It includes acts which may seriously intimidate the population, or seriously harm, damage, destabilize or destroy the fundamental political, constitutional, economic, or social structures of a country or an international organization, in violation of the provisions of international treaty or resolution to which Nigeria is a party. Acts of terrorism further extend to acts involving:

- i. Kidnapping, death or grievous bodily harm, seizure or diversion of an aircraft, ship, or other means of public transport, destruction of government or public facility and other national critical information infrastructure;
- ii. Engaging in acts likely to endanger the safety of an aircraft, ship, train, or any other means of transportation, which includes bombing and other acts of violence at airports and other public places;
- iii. Acts prejudicial to the national security or public safety, not limited to the propaganda and dissemination of information in any form or mode calculated to cause panic, or intimidate a government, person or group of persons, cause major disruptions to essential emergency services, computer system or public service delivery.<sup>3</sup>

### **3. Causes of Terrorism and Agitations for Right to Self-determination in Nigeria**

The emergence of terrorism and agitations for right to self-government in Nigeria is traceable to factors such as Bad governance, Religion extremism, the proliferation of small arms and light weapons, political greed and foreign influence.

#### **3.1 Bad Governance**

There is a strong connection between bad governance and both the demand for self-determination in Nigeria. Poor governance, such as corruption, political exclusion and inequality, can create grievances and resentment among citizens, which can be exploited by terrorist groups to radicalize and recruit new members.<sup>4</sup> In addition, bad governance can lead to a lack of trust in the government and the state, which can contribute to the desire for independence or autonomy, a drastic increase in the rate of armed crime and agitation for right to self-determination. According to Bentham,<sup>5</sup> the father of utilitarianism, he argued it is an explanation of pain and pleasure, that every government is its executive, the legislature should govern and make a law that will call for the greatest happiness of the greatest number of people. The Nigerian government had failed on this as they have even failed to give the basic necessities of lives that will enhance citizens' livelihood and guarantee a high standard of living to the people. In an undeveloped society where citizens lack in terms of employment, education, food, shelter, housing, clothing and have no access to social amenities, in this case, citizens are being frustrated and tends to look for a way of survival at all means, based on this, citizens are being brainwashed easily, and bought over cheaply by the terrorist groups to act as an instrument of terror in the state.

#### **3.2 Youth Unemployment**

The high level of youth unemployment in Nigeria has been identified as one of the key social and economic factors that contribute to the rise of terrorism and separatist movements in the country. Unemployment and underemployment among young people has led to a sense of hopelessness and lack of opportunity, which has made them more vulnerable to radicalization by terrorist groups. Moreover, the lack of economic prospects for youth has been a major factor in driving them to join separatist groups that promise better economic opportunities.

Emile, submitted that the social problems and the causes of Boko Haram terrorism in Nigeria are Youth unemployment, endemic job creation, failing economies, regime corruption and repression, and

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<sup>2</sup> TPA, Section 3.

<sup>3</sup> TPA 2022, Section3.

<sup>4</sup> E EEzeh and E Nnadi, 'Terrorism and Governance in Nigeria: The Nexus,' (2019) 5 (1) *Journal of Contemporary Administration and Policy Studies*, 1.

<sup>5</sup> J H Burns and HLA Hart, eds, 'An Introduction to the Principles of Morals and Legislation (Oxford: Clarendon Press, (1789) 74.

religious sectarianism.<sup>6</sup> McNamara argued that a country that is not developed is not secured, and end up equating development with security.<sup>7</sup> Nigeria's government has failed to develop the country and that has become a security challenge on the state (country) as crimes such as armed banditry, kidnapping, terrorism, Fulani herdsmen, yahoo and drug trafficking have now become a means of survival to the citizenry. More and idler hands amongst the youths of Nigeria are being employed by the Islamic sect Boko Haram to act as a fighter for the group because an idle mind is the devil's workshop.

### **3.3 Marginalization**

Marginalization is one of the factors that contribute to the rise of terrorism and separatist movements in Nigeria. Marginalization refers to the exclusion of certain groups of people from the political, economic, and social life of the country. In Nigeria, marginalization has been particularly severe for certain ethnic groups, including the Igbo and the Yoruba. This marginalization has resulted in a sense of exclusion and injustice, which has fueled the rise of separatist movements. Marginalization is the process of a deliberate endeavor by the government of Nigeria to deny some ethnic groups of their fair share of national resources and repress their development in every aspect of life. This is a major cause of terrorism and agitation for the right of self-determination in Nigeria. This has caused retarded development and created feeling of alienation among some tribes in Nigeria especially in the North-eastern and Eastern part of Nigeria who are indeed deprived of their basic rights.

### **3.4 Religious Extremism**

Religious extremism is also a contributing factor to the rise of terrorism and separatist movements in Nigeria. Nigeria is a deeply religious country, with a significant Muslim population in the north and a Christian population in the south. Religious extremism can take the form of the interpretations of Islam or Christianity that promote violence or intolerance this has led to conflict and violence between different religious groups, and has fueled separatist movements. Religion plays a serious role in fostering terrorist tendencies because of its penchant for labeling one group as superior and others as inferior based on their monopoly of access and ownership of a supposed supreme universal being. Religion therefore is no doubt one of the root causes of terrorism in Nigeria.

### **3.5 The Proliferation of Small Arms and Light Weapons**

The increasing number of arms production and circulation in Nigeria is another cause of terrorism. No terrorist act could be easily championed without the availability and the use of arms. Boko Haram in Nigeria has been known to be championing their course with the use of arms such as A.K.47 Rifles, bombs, knife and cutlasses, rocket propelled Grenade (RPG), sub-machine guns (SMG) and envy guns such as General purpose machine guns (GPMG), and armored tanks.<sup>8</sup> The presence of these weapons has led to increased insecurity and instability, which has also fueled separatist movement.

### **3.6 Political Greed**

Most acts of terrorism are being mobilized by politics and politicians. Some politicians have become sponsors to a terrorist organization. They do this in order to destabilize government of the opposition. Politicians use thugs during elections they buy them arms to be used in disrupting election process. These arms most of the times are not retrieved from the thugs, they end up using it as instrument of terror on the society.

### **3.7 Disparity between the Elected and the Electorate**

There is a huge gap between the country's government and its people. This is another cause of terrorism in Nigeria. While others manage to deal with this in a civilized manner, others take to arms and use fear as their instrument of getting what they want from the Nigerian government. Corrupt politicians have

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<sup>6</sup> OS Osewa, 'Terrorism in Nigeria: Causes, Consequence and Panacea', (2019) 6(2) *International Journal of Legal Studies*, 341-366

<sup>7</sup> Ibid.

<sup>8</sup>Osewa (n14).

caused economic poverty and inequality which have resulted in grievances across Nigeria. Politicians are also seen to be too far from the citizens as they are not always seen on ground to address the issues and challenges facing the citizens who voted them into power.<sup>13</sup>

#### **4 Self- Determination Movements in Nigeria**

The early self-determination activism was framed around the imperialism of international oil companies in the Niger Delta region of Nigeria,<sup>9</sup> As early as February 1966, Isaac Adaka Boro had declared the independence of the Republic of Niger Delta and taken up arms against the Nigerian state. The secession attempt was crushed within two weeks. Many revolutionary groups seeking self-determination that has gained prominence due to Nigeria's current state of insecurity is the Oodua People's Congress (OPC), situated in the southwestern region.<sup>10</sup>In 1967, the Igbo ethnic group of southeastern Nigeria attempted to secede from the Nigerian state by declaring the Biafra Republic. Before that declaration, concerted efforts were made to appease all parties involved, but all were ineffective. This secession attempt resulted in a 3-year war (1967–1970) that killed millions of people in the southeastern region and inflicted massive destruction of property and the environment<sup>11</sup>. Over 50 years after the civil war, the wound, especially with the Igbos, is still undergoing healing processes.

Perhaps, in the early 2000s, new eruptions of agitation for the independent state of Biafra started. The first nonviolent social crusade to gain public attention was called the Movement for the Actualization of the Sovereign State of Biafra (MASSOB), founded by Ralph Uwazuruike, a trained lawyer. The activities of MASSOB also led to confrontations with 76 law enforcement at different times and the arrest of its leader. Still, unlike Boko Haram, it received little attention from the international media or the global community.<sup>12</sup> Moreover, Nnamdi Kanu, a Nigerian-British man based in London and born at the end of the Nigeria-Biafra war in 1970, was concerned that the ambition for the independence of Biafra would not be realized through MASSOB. He decided to use the evolving mode of communication, social media, and online radio (Radio Biafra) to inspire millions of proBiafra independence activists, supporters, and sympathizers to his Biafran cause.<sup>13</sup>

Indeed, in Nigeria, there have been several self-determination movements over the years, including the Niger Delta self-determination movement,<sup>14</sup> the Oodua People's Congress, and the Indigenous People of Biafra (IPOB).<sup>15</sup>These movements have called for greater autonomy, self-government and control over resources in their respective regions. Self-determination movements in Nigeria are complex and multifaceted, with different groups having different goals and motivations. The movements also have historical and cultural roots that go back to the pre-colonial era, when the different ethnic groups had distinct identities and political structures.<sup>16</sup> In the colonial era, the British rulers established a unitary state, which suppressed the diverse identities and interests of the different ethnic groups. After independence, these historical and cultural differences continued to shape the political landscape, and self-determination movements emerged as a way to address these grievances.<sup>17</sup>

These movements have also evolved over time, with some groups pursuing political solutions within the framework of a united Nigeria, while others advocate for secession. For example, the movement for

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<sup>9</sup> TJ Akobella, 'Exploring the Meaning and scope of Self-Determination under International Law: A Case Study of Separatist Agitations in Nigeria', (2023) 3 *Cavendish Unersity Law Journal*, 5.

<sup>10</sup> E Ben-Edet, 'Terrorism: A Case Study of The Global Security Threat of Boko Haram and The ISIS Alliance in Nigeria', <TERROISM MATERIAL 4.pdf>accessed 1 November 2023.

<sup>11</sup> Ibid.

<sup>12</sup> Ibid.

<sup>13</sup>Akobella, (n9.)

<sup>14</sup>U Ukiwo, 'Resource Politics and the Struggle for Self-Determination in the Niger Delta', (2012) 59(2) *Africa Today*, 105.

<sup>15</sup> W Adebani, 'From Sovereign National Conference to the Oodua People's Congress: The National Question, Regionalism and the Case for Yoruba Self-Determination', (2011) 49 (3) *The Journal of Modern African Studies*, 403.

<sup>16</sup> Ibid.

<sup>17</sup> Ibid.

the Emancipation of the Niger Delta has called for increased autonomy and a fair share of oil revenues, while IPOB has advocated for a separate Biafran state. There is also a diverse range of opinions within each movement, with some supporting peaceful solutions and others advocating for armed struggle.

### 5. The Right to Self-Determination in Nigeria

The right to self-determination is a human right and important to human survival. It is also a principle of international law given that it justifies the independence of people and peoples specifically during the times of decolonization of African states.<sup>18</sup> This right is a human right recognized by the international human rights instruments.<sup>19</sup> Further stressing the right of self-determination involves the complementally roles it plays in public international law, emphasizing the equality of states, sovereignty and territorial integrity and to absolutely prohibit the use of force and non-interference in other sovereignty. Article 1 of the International Covenant for Civil and Political Rights opined that people has the right to determine their political independence. The General Assembly of the United Nations in Resolution 1514 declares that self-determination includes the right to complete independence howbeit in the colonial setting.<sup>20</sup> Again, the General Assembly in Resolution 2625 speak on several mode of exercising self-determination, and they include the establishment of a sovereign and independent state, the free association or integration with an independent state or the emergence into any other political status, freely determined by a people. All these constitutes mode of implementing the rights of self-determination by the people.<sup>21</sup> Perhaps, President Woodrow Wilson, in 1919 while introducing the concept of self-determination in the League of Nations defined the concept as the right of every people to choose the sovereign under which they like to be free of alien masters, and not to be handed about from sovereign to sovereign as if they were mere property. It is a right which arises when there is international recognition of the rights of the inhibitory of a colony to choose freely their independence or association with another state.<sup>22</sup> This early era of the concept was primarily concerned with granting independence to colonized nations, especially in Africa and Asia who had suffered the menace of servitude and slavery of colonialism. It was an era where most African Nationalist was bent on liberating their countries from the scourge of colonial powers.

Perhaps, it was at independence of many colonized countries that the concept of self-determination became dichotomous, (internal and external aspect). While the internal aspect of self-determination proposed that, the people in a sovereign state can elect and keep the government of its choice as a right which recognized and protect ethnic, racial and religious minority within a state and to also allow every group to be represented in the national government at equal proportion, for the betterment of the overall constitutional democracy of the state.<sup>23</sup> In this way, internal self-determination is often a tool for conflict mitigation and the recognition of the right can reduce the risk and potency of secessionist movements. Internal self-determination can be realized in conjunction with the implementation of other fundamental rights recognized under international law like cultural rights, political rights. It can be implemented through self-government and devolution arrangements like creation of autonomous regions or establishment of federal systems.<sup>24</sup> Moreover, the Committee on Elimination of Racial Discrimination defines internal self-determination as the rights of all peoples to pursue freely their economic, social and cultural development without outside interference.<sup>15</sup> This connotes the right of every citizen to take active part in the conduct of public affairs at any level. Internal self-determination includes a wide range of democratic practices that can be used to open space for managing diversity and multiculturalism, as

<sup>18</sup>International Covenant on Economic, Social and Cultural Rights (ICESCR) art. (1).

<sup>19</sup>J Anaya (indigenous people in international law) oxford. 1996 p.88

<sup>20</sup>Declaration in the Granting of Independence to Colonized countries and people, G.A. Res. 1514 (XV UN GAOR Supp. 06 at to UNDOCA/4684 1961.

<sup>21</sup>Declaration on principle of International Law concerning friendly relations and co-operation among states under alien subjugation, domination and exploitation, via United Nation Charter.

<sup>22</sup>E MAberg, 'Self-determination in Hong-Kong; A new challenge to an old Doctrine' (1985) 22 *San DL Rev.* 839.

<sup>23</sup>P Thornberg, The democracy or Internal Aspect of self-determination, with some remark on federalism p. 101-138. See also Joshua C. International Law and self-determination. The Interplay of the politics of Territorial possession with formulation of post colonial National Identity. London. Nijhoft (2000), p.11.

<sup>24</sup>Committee on Elimination of Racial Discrimination General recommendation No. 211996.

well as addressing historic claims for sovereignty and self-governance while the external aspect of self-determination is the right to break-away from any sovereign to form her own sovereign at any stage if marginalization and oppression became rampant to them.

## **6. Right to Self-Determination and the Nigerian Constitution**

The Nigerian Constitution<sup>25</sup> does not expressly provide for right to self-determination in the strict sense of it. The Constitution provides that Nigeria is one indivisible and indissoluble sovereign State to be known by the name, the Federal Republic of Nigeria.<sup>26</sup> This constitutional provision was given a judicial flavor where the Court held that Nigeria is indissoluble.<sup>27</sup> Despite the above stated provision of the Constitution, there is a rare of hope when same made provision for the right to freedom of expression and freedom of association.<sup>28</sup> Again, the Nigerian Constitution recognized other human rights treaties that provide for the right to self-determination in the International system. A country can enter into or become a party to such treaties or international conventions through adoption, accession, ratification, or domestication.<sup>29</sup> The Constitution provided that no treaty between the federation and any other country shall have the force of law except to the extent to which any such treaty has been enacted into law by the National Assembly.<sup>30</sup> It imperative to state that some human right instruments providing for the right to self-determination have been ratified or enacted into law by the Nigerian Government<sup>31</sup>

Furthermore, the provisions of these human right Instruments have enjoyed judicial backing and therefore have the force of law and are binding in Nigeria. The Supreme Court held that the provisions of the domesticated African Charter on Human and Peoples Right are enforceable in the same manner as those of Chapter IV of the 1999 Constitution providing for fundamental rights.<sup>32</sup> The same similar decision was given when the court held that the human rights enshrined in the African Charter on human and peoples' Rights 1981 had the force of law in Nigeria by virtue of the domestication of the charter in Nigeria.<sup>33</sup> The said Charter provided that all people shall have right to existence. They shall have the unquestionable and inalienable right to self-determination. They shall freely determine their political status and shall pursue their economic and social development according to the policy they have chosen.<sup>34</sup> In *Katangese Peoples' Congress v Zaire*,<sup>35</sup> the Katangese Peoples' Congress brought an application under Article 20(1) of the ACHPR. The application requested the recognition of the Katangese Peoples' Congress as a pro-independence movement. The application further solicited support for the independence of the Katangese people and the removal of the administration of Zaire<sup>36</sup> from Katanga.<sup>37</sup> The Commission found that no specific rights were alleged to have been abused apart from a claim of denial of the right to self-determination. The Commission held that all peoples are entitled to self-determination and went on to state the various ways of exercising self-determination. These include independence, self-government, local government, federalism, confederation, unitary or any other form of relations that not only accord with the wishes of the people but also in full cognizance of other recognized principles like sovereignty and territorial integrity. It went further to state that the Commission is obligated to uphold the sovereignty and territorial integrity of Zaire. The Commission concluded that for the complaint of the Katangese people to justify an alteration of the territorial

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<sup>25</sup>Constitution of the Federal Republic of Nigeria, 1999 as amended.

<sup>26</sup> CFRN 1999, Section 2(1).

<sup>27</sup>*Dokubo-Asari v Federal Republic of Nigeria* [2007] 12 NWLR (Pt1048) 320 SC.

<sup>28</sup> 1999 CFRN, ss 39 and 40.

<sup>29</sup>Vienna Convention on the law of Treaties,1969 art 11.

<sup>30</sup> CFRN 1999, s 12 (1).

<sup>31</sup>e.g African Charter on Human and Peoples' Right 1981, International Covenant on Civil and Political Rights 1966, Universal Declaration of Human Rights 1948 and the International Covenant on Economic, Social and Cultural Rights 1966. AS Aladekomo, Nigerian Separatist Movements ,Growing Secession, Agitations and the Stand of International Human Rights Law <<https://ssrn.com/abstract=3869141>> accessed 30 December 2023.

<sup>32</sup>*Ogugu&4 ors v The State* [1994] 9 NWLR (Pt.366) I SC.

<sup>33</sup>*Abacha&ors v Fawehinmi* [2000] 6 NWLR (Pt. 660) 228 SC.

<sup>34</sup> ACPGR, Article 20.

<sup>35</sup> 85 Comm. 75/92, 8th ACHPR AAR Annex VI (1994-1995).

<sup>36</sup> now Democratic of Congo.

<sup>37</sup> *Ibid*.

integrity of Zaire by way of secession, there must be evidence of their denial of the right to participate in the government of their country as provided for by Article 13 of the African Charter. There being no evidence of such deprivation, the people of Katanga must exercise their right to self-determination within the constitutional framework of Zaire.

### **7. The Conflict between Terrorism and Right to Self-Determination in Nigeria**

The conflict between terrorism and the right to self-determination in Nigeria is a complex and multi-faceted issue. On the one hand, there are groups such as Boko Haram that use violence to further their political goals, which can be seen as a violation of the right to self-determination of people they are targeting. On the other hand, there are groups that are seeking self-determination through non-violent means, but who are being repressed. Nigerian state's repressive nature is therefore linked to its colonial and political experience, which relied on repression to subjugate anti-colonial movements in maintaining order<sup>38</sup> This repressive behavior was imported into post-colonial administration and has since become the country's mode of operation for maintaining law and order. The IPOB and Yoruba nation's self-determination frontiers have experienced state repression, which includes invasion, killings, shooting of unarmed protesters, and illegal detention of separatist frontiers, their members, associates, and supporters.<sup>39</sup> Indeed, the government's actions have often been heavy-handed and have not addressed the root causes of the conflict. Perhaps, one of the logics that legitimize state repression is the proscription of separatist groups by national anti-terrorism legislation. While conflicts associated with separatism are often characterized as terrorism by state authorities. A similar tactic was adopted in proscribing IPOB as a terrorist group. In 2011, Nigeria's anti-terrorism law was enacted, particularly regarding the activities of the Boko haram insurgency in northern Nigeria. Section 1(1) of Nigeria's Terrorism Prevention Act 2011 and the amendment Act 2013 defines an act of terrorism as an act which is deliberately done with malice, aforethought and which: (a) may seriously harm or damage a country or an international organization (c) involves or causes, as the case may be (i) kidnapping of a person; (ii) destruction to a government or public facility or private property and likely to endanger human life or result in major economic loss.<sup>40</sup> Under Section 2 of the Terrorism Prevention Act, the Attorney General of the Federation, in collaboration with the National Security Adviser and the Inspector General of Police, is empowered to designate terrorist organizations. The state therefore becomes the sole framer of what terrorism should connote, such an opportunity provides an enabling environment to subjugate the agitation of minority ethnic groups that may experience injustice and marginalization in a political union characterized by democratic tenets, by tagging them as terrorist organizations. In this context, counter-terrorism operations and the use of force are justifiably adopted as a response to the self-determination struggle, leaving little or no room for political dialogue. Therefore, the absence of a UN definition of what terrorism is all about empowers decentralized framing systems fostering a variety of proscription regimes, leaving individual states to define and apply terrorist phenomena within their national jurisdictions.<sup>41</sup> Though, the state possesses a monopoly of power to determine whose activities can be classified as terrorism. However, the politicization of framing terrorism has continued to transform peaceful movements into armed struggles. In the absence of a global agreement on a terrorism definition, states have exploited this vulnerability to classify diverse crimes as terrorism. In a generic sense, such crimes cannot be included in terror-related activities. As a result, the manipulation of terrorism has been utilized to suppress ethnic-nationalist movements through defensible methods.<sup>42</sup> Perhaps, the proscription of self-determination struggles, and the adoption of counter-terrorism as a repressive instrument in curtailing the activities of the separatists, often reinforce the

<sup>38</sup> P Mbah, and C Nwangwu, 'The Counter-insurgency Operations of the Joint Task Force and Human rights Abuses in Northern Nigeria', (2011–2013.) 4(5) *Journal of Educational and Social Research*, 67.

<sup>39</sup>M Nwankpa, Labelling Conflict Groups in Nigeria: A Comparative Study of Boko Haram, Niger Delta, IPOB and Fulani militia. In *Armed non-state actors and the politics of recognition* (pp. 49–69). (Manchester: Manchester University Press, 2021). 49.

<sup>40</sup>Ibid.

<sup>41</sup>M Scheinin, *Report of the Special Rapporteur on the Promotion and Protection of Human Rights and Fundamental Freedoms While Countering Terrorism*. UN Commission on Human Rights.

<sup>42</sup> E Pokalova, 'Framing separatism as terrorism: Lessons from Kosovo, (2010) 33 (5) *Studies in Conflict & Terrorism*, 429.

radicalization of the groups and promote local and international support for the cause. This is evident in the case of IPOB which was subjected to the formation of the armed group following the proscription of the organization by the Nigerian state, and the local and international support received by the Yoruba nations. Empowering the state as the sole determinant of terrorist organizations provides an oppressive environment for minority groups asserting their rights to self-determination, resulting from economic, cultural, and political injustices. Such organizations are vulnerable to state political and legal manipulations in labeling them, “terrorists”. It is pertinent to recognize that not all separatist movements employ terrorism in achieving their aims, and not all terrorists are separatists. While several separatist groups are engrained in nationalism, mobilizing support to promote their goals<sup>43</sup> some separatist movements employ violence (and occasionally terrorism) to achieve their objectives. Although, separatist groups often employ terrorism to intimidate the government in power to achieve their aims. However, not all separatist movements adopted terrorism in their liberation struggles. The secessions of Hungary from Austria in 1867, Singapore from Malaysia on 9 August 1965, and Norway from Sweden in 1905 are some of the separatist movements that adopted peaceful strategies in achieving independence from their parent states. Despite these living examples where separatism followed a peaceful approach in promoting their liberation movement, the government often used the tactic of labeling secessionists as terrorists toward indivisibility and indissoluble political union of the state.<sup>44</sup>

## **8 Mitigating the Conflict between Terrorism and Right to Self-determination in Nigeria**

The following are some of the measures to be adopted to reduce if not completely eradicate terrorism and agitations for the right of self-determination in Nigeria.

### **8.1 Peace building/Negotiation Strategy**

Peace building addresses issues of equality, economic and socio-cultural rights especially where these are deprived of the holders of these rights. This approach will remove underlying causes of violent conflicts like terrorism ensure reconstruction of conflict-ridden societies, lead to national integration and unity. Finally some scholars are of the position that it is wrong to view negotiation, mediation, and dialogue with terrorist groups like Boko Haram as a sign of weakness or compromise. They further argued that refusing to talk with them (terrorists) and over reliance on military force are defective responses which has often escalated conflicts, as terrorist activities are founded on real or imagined grievances, demands, or deprivations, and dialoguing with them will not only provide opportunity to fully understand the basis of the terrorism but also convey a sense of achievement on the part of the terrorist group that they have successfully drawn attention of the state to their plight. Therefore, peace building and negotiation should not be completely ignored as an approach to resolving contending issues like terrorism.<sup>45</sup>

### **8.2 Implementation of Federal Character Principle**

This was adopted to address equal representation of all regions in accessing government resources, equality of access in public service and equal representation to curb dominance by one or few sections. It is because this policy is not seen to be practiced that has caused a lot of agitations for the exercise of their right to self-determination or even result to terrorism by groups who feel that they are not represented in the polity of the Nigerian government.

### **8.3 Restructuring of the Nation**

This will involve a transition from a lopsided federal political structure to what a true federalism should be in Nigeria. This involves political inclusiveness, people-oriented constitutional amendments, resource control and even distribution of same, fair electoral process, equal political representation, citizens’ right protection and lots more. When these are sincerely carried out by the Nigerian

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<sup>43</sup> Y Ryabinin, ‘The basic causes of the contemporary separatism (2017) 7 (1) *Journal of Geography, Politics and Society*, 5–9.

<sup>44</sup> Pokalova, (no. 42).

<sup>45</sup> J Mbagwuaet al ‘Nonviolent Approach: Alternative to Military Strategy for Curbing Terrorism in Nigeria’, (2016) 26 (3) *American Scientific Research Journal for Engineering, Technology, and Sciences (ASRJETS)*.



government, it is the belief of the writers that terrorism will reasonably reduce while those agitating for self-determination will not see need for such protest again.

#### **8.4 Constitutional Amendment**

A constitutional amendment is a modification of the Constitution of a polity. Constitutions are usually amended to adapt to the current realities of lives of the citizens. When these realities are not captured in the Constitutional amendment and as well implemented, there is a likelihood of terrorism and agitations for rights to self-determination to be on the increase. In Nigeria, there is lack of proper public awareness, insensitivity to the needs of people like socio-economic, cultural and political needs which are rights in the strict usage of the word and lack of genuine intentions to amend the constitution.

#### **8.5 Issue of Marginalization and Exclusion**

Another possible way to mitigate the conflict between terrorism and self-determination in Nigeria is to address the issue of marginalization and exclusion. This could be done through policies that promote inclusion and participation of all groups in the political, economic, and social life of the country. For example, more inclusive policies regarding language and education could help to reduce the feelings of marginalization among certain groups. In addition, policies that promote economic development and job creation in all regions of the country could also help to reduce the appeal of terrorist group including the agitation for right to self-determination.

#### **9. Conclusion and Recommendations**

The right of secession is therefore one mode of implementing the realization of the right to self-determination of peoples and nations. Thus, the right of secession is one of the elements of the right to self-determination of the peoples and the nations. However, this right is often contradicted by those who do not understand it and who illegally deny it.<sup>46</sup> However, the lack of global coordination and lack of global agreement on terrorism also poses a threat to armed struggles and dissident groups since each state has the power to define who is a terrorist. Thus, the absence of a universally accepted definition of terrorism and the inherent sovereign power of states to enact anti-terrorism legislation will allow the conflation of terrorism.

The exercise of the right to self-determination and the commission of the offence of terrorism are separate and different in nature and in identity especially as the offence of terrorism has been described by the Terrorism Prevention and Prohibition Act and its elements and related offences spelt out and therefore should not be mixed up. The writers therefore recommended that Nigerian government should adopt peace building measures in handling ethnic agitations for right to self-determination and should not be quick to tag unarmed groups who are only exercising their right to self-determination terrorists. The use of force should be the last resort of the Nigerian government while combating terrorism. Moreover, Nigerian government should ensure the sincere implementation of the constitutional rights of its citizens as failure to comply with the constitutional rights of the citizens has shown to be one of the causes of terrorism and leading factor for the agitations for self-determination.

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<sup>46</sup>Przetacznik (n 1).