

## INSECURITY; THE CHALLENGES TO THE ENFORCEMENT OF LEGAL FRAMEWORKS ON SECURITY IN NIGERIA

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### Abstract

Nigeria's security situation appears to have defiled all efforts to nip it in the bud. In recent times, Nigeria has been faced with unprecedented myriad of security challenges ranging from kidnapping, boko-haram insurgency, armed robbery, banditry, herders/farmers clashes, political killings, crises, damage and looting of government and private property etc. No single day passes by without heart wrenching news and reports on incidents of insecurity in the country. As part of measures to address the security situation, there are already legal frameworks put in place by the government to ensure security and welfare of the citizens. Unfortunately, the implementation or enforcement of these laws has been fronted with challenges which appear to defeat the aim or purpose of the laws. This work therefore, analyzed the scourge of insecurity in Nigeria in recent times; the extant legal frameworks on security and the challenges to the enforcement of the legal frameworks on security with a view to proffering recommendations that will help the government address the challenges and menace of insecurity in Nigeria through effective implementation of the laws on security. The research adopted doctrinal method of research using primary, secondary and tertiary sources such as textbooks, journals, newspapers and internet materials. Findings show that, corruption, non-justiciability, undue political interference are some of the challenges to the implementation of the legal frameworks on insecurity in Nigeria. That, bad governance, lack of synergy among security personnel, porous borders are some of the underlying causes of insecurity in Nigeria. The paper recommended timely collective re-awakening and amendment or review of some of the legal frameworks where applicable, to ensure effective enforcement and implementation of the legal frameworks on security Nigeria.

**Key Words:** Insecurity, Governance, Insurgency, Law, Corruption

### 1. Introduction

Nigeria's security challenges became worse in the history of Nigeria in 2009 when boko - haram terror group emerged in the North -Eastern States of Nigeria such as Zamfara, Adamawa, Kaduna, Katsina etc and has since spread across other Northern States including the FCT<sup>1</sup>. Apart from boko-haram which has wasted millions of people, there have been new categories of insecurity such as kidnapping, armed robbery, bombing, militancy, herders/farmers clashes, political killings, and most recently kidnapping of travelers for

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<sup>1</sup> Adam Abu-Bashal, 'Nigeria Grappling with Security Challenges for Over a Decade' <<http://www.com>> accessed August 12th, 2024 by 3pm.

ransom and unknown gunmen in the Eastern States of the country such as Abia, Anambra, Imo, Enugu and Ebonyi<sup>2</sup>. Insecurity has made life a living day hell in Nigeria, such that, the citizens no longer go to farm, people are now afraid of travelling, several school children and university students have been abducted in the past decade and half<sup>3</sup>. Some are lucky to have been released while some have not been released till date. Traditional and religious leaders have been kidnapped and wasted like chickens<sup>4</sup>. The security personnel are not even spared.

One of the primary obligations government owes her citizens is welfare and safety as enshrined in the *Constitution of Federal Republic of Nigeria 1999* (as amended)<sup>5</sup>. Other laws such as the *Armed Forces Act, Fire Arm Act, Terrorism Act* etc are also geared towards the security, welfare and protection of Nigerian citizens<sup>6</sup>. Unfortunately, the application of these laws are grossly undermined or obstructed by corruption, undue political interference, ethnic bias etc. Just recently, it was reported that, the Nigeria Custom Service intercepted a container loaded with firearms and ammunition at the Tin Can Port in Lagos without any satisfactory explanation from the culprits<sup>7</sup>. Again, the Nigeria Military in March, 2024 declared that three hundred people suspected to be members of boko haram will be released after a court ruled that there was no evidence that they committed any crime<sup>8</sup>. Undoubtedly, the recent incidents of insecurity are clear indication that the government is not living up to its mandate as insecurity has jeopardized the security and wellbeing of Nigerians and have progressively deteriorated over the years.

Laws are made to be implemented without fear or favour and also to serve as a deterrent or punishment to offenders. However, in a situation where the enforcement or implementation of the laws are grossly distorted, the purpose or aim for which they are enacted will be defeated.

This article therefore intends to explore the legal frameworks on insecurity in Nigeria and the challenges to their enforcement or implementation. The article will also make some recommendations.

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2 Anayo Okoli, 'Why Insecurity is Rising in the South-East Region' <<https://www.vanguardngr.com>> accessed on August 16th, 2024. See also, I.A Nduka and B.N Ethel, 'Security Challenges in Nigeria and Sustainable Development: A Focus on the Southeast Geopolitical Zone' *African Journal of Politics and Administrative Studies* (AJOAS) (2022)15(2) 33-34.

3 Oluwale Ojewale, 'Nigerian Bandits Strategically Target School Children for Kidnappings Here's Why' <https://www.theconversation.com>) Accessed on August 15th, 2024 by 5pm. See also Jemilat Nasiru, 'Insight: Disturbing Abductions of Nigerian School Children -What are the Implications' <<https://www.the.cable.ng.com> accessed on August 18th ,2024 by 8:33pm. See also, Federick Ogbeide, ' School Children Abduction in Nigeria: Implication for Education Development in Northern Nigeria' *Journal of Review of Public Administration and management*(2022) 12(1) 82-83.

4 Victor Ayeni, 'Why Bandits are Killing Monarchs Cheaply Traditionalists' <<https://www.punding.com>> accessed on August 11th 2024 by 3:15am. See also persecution, 'Militia Kidnap Traditional Rulers and Kill Others in Nigeria' <<https://www.persecution.org>>accessed August 12th 2024 by 5.pm.

5 *Constitution of Federal Republic of Nigeria, 1999* (as amended) section 14(b) (2).

6 S.A Adewale, 'Appraisal of Legal Frameworks for Combating Insecurity in Nigeria' *Journal of Economics and Sustainable Development* (2013) 4 (2) 80.

7 Yusuf Babalola 'Customs Intercept Arms, Ammunition at Lagos Ports' <<https://www.leadership.com>>accessed on July 28th, 2024 by 8:15am.

8 Reuters, 'Nigeria to Free 313 Suspected Boko Haram Insurgents for Lack of Evidence' <<https://www.reuters.com>> accessed on August 2nd , 2024 by 9:5am. See also Redaction Africa news, 'Nigeria Army to Release Over 300 Suspects Cleared of Being Members of Boko Haram' <<https://www.africanews.com>>accessed on August 11th, 2024 by 8:30am.

## 2. The Rising Incidents of Insecurity in Nigeria

In recent years, Nigeria has been plagued with multifaceted issues of insecurity across the regions of the country<sup>9</sup>. The Northern part of the country is dominated by banditry and activities of the deadly boko haram<sup>10</sup>. The West is disturbed by agitations from separatist groups<sup>11</sup>. The South- South is ravaged by militancy and activities of Niger Delta Vigilante<sup>12</sup>. The Southeast is faced with the problem Biafra agitators, unknown gun men, kidnapers etc.<sup>13</sup>. No part of the country is safe for habitation or business. These ugly situations deter both foreign and local investors thereby undermining the implementation of developmental projects. Foreign companies operating in Nigeria have been forced to shut down and relocate from Nigeria as a result of insecurity<sup>14</sup>. The clashes between herders and farmers have created pervasive sense of fears among the farmers leading to decline in food production and supply all over the country. Militancy activities in the Niger Delta driven by grievances over environmental degradation and perceived neglect by government have led to attacks on oil infrastructures<sup>15</sup>. Even though, the intensity of these attacks has reduced due to amnesty programs, occasional or sporadic security incidents still occur, affecting the region's stability<sup>16</sup>. Insecurity has resulted to loss of thousands of lives. There has also been a displacement of over twenty thousand Nigerians rendering thousands homeless<sup>17</sup>. Children's and human rights have been grossly violated<sup>18</sup>. The economic displacement of individuals and communities has created a ripple effect, affecting local markets and economic productivity. In the South Eastern part of Nigeria, the scourge of insecurity has forced people of the zone to stop coming home for social activities such as traditional marriages, naming ceremony, house warming<sup>19</sup>. People no longer come home to bury their loved ones for the fear of being wasted by the dreaded unknown gun men and kidnapers. Travelling is now a deadly journey as travelers are waylaid and kidnapped on daily basis<sup>20</sup>. Only few have been lucky to reunite with their loved ones after paying heavy ransoms. Recently, it was reported that a man returned from Lagos to Anambra to do his traditional marriage, two days to the event he was kidnapped to an unknown destination. Luckily, he was released after paying thirty million naira as ransom<sup>21</sup>. Those who fail to raise ransoms timely or fail to pay ransoms are never lucky to tell their story alive. Seminars, workshops and conferences are no longer hosted in some parts of the country as a result of insecurity. Most worrisome is the kidnapping and killings of traditional rulers

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9S.A Adewale, 'Appraisal of Legal Frameworks for Combating Insecurity in Nigeria' *Journal of Economics and Sustainable Development* (2013) 4 (2) 80.

10O.M Atoyebi, 'The Potency of External Laws Regulating Security in Nigeria' <<https://Omaplex.com.ng>> accessed on August 9th, 2024 by 2:14pm.

11*Ibid.*

12*Ibid.*

13O.M Atoyebi, 'The Potency of External Laws Regulating Security in Nigeria' <<https://Omaplex.com.ng>> accessed on August 9th, 2024 by 2:14pm.

14bukundu James, 'Nigeria's Rising Insecurity: Implications for Nigeria Economy' <<https://www.budget.org>> accessed on August 13th, 2024 by 2am.

15A.A Adebanjoka, 'Towards Ending Conflict and Insecurity in the Nigeria Delta Region' <<https://www.reliefereing.com>> accessed on September 3rd, 2024 by 11 am.

16*Ibid.*

17Amnesty International, 'Human Rights in Nigeria Amnesty International' <<https://www.amnesty.org>> accessed on September 10th, 2024 by 4pm.

18*Ibid.*

19ZitaArah, 'Insecurity in the South East of Nigeria' <<https://www.lemaphrinternational.org>> accessed on August 30th, 2024 by 4:15am.

20*Ibid.*

21D. C Eleke 'Nigeria: Gunmen Abduct Man Two Days to Wedding' <<http://www.allafrica.com>> accessed on August 16th,2024 by 9:42am.

and religious leaders<sup>22</sup>. Regrettably, an assessment carried out by Institute of Economics and Peace (IEP) in 2023 to rate countries in terms of peaceful places to live shows that Nigeria is still a dangerous country to live or do business in<sup>23</sup>. Nigeria which was once a haven for both citizens and foreigners has become a danger zone such that, the United States and a few other countries have issued a red flag warning to their citizens about some parts of Nigeria<sup>24</sup>.

One cannot deny the fact that, Nigeria government has adopted measures to fight the menace of insecurity especially in the areas of enacting laws on security, for instance the enactments of *Anti- Terrorism Act, 2011*, *National Security Agencies Act* and various internal security laws enacted by some State Houses of Assembly to tackle insecurity in their respective states. However, just like every other issue in Nigeria, implementation or enforcement has always been a big problem in Nigeria. These legal frameworks on security are not allowed to operate smoothly due the factors espoused in this article.

### 3. Causes of Insecurity in Nigeria

One of the primary purpose of government as stated in Constitution is the provision of security and ensuring the welfare of the people. However, insecurity incidents in recent years have shown that government needs to intensify efforts on issues of security. This article has therefore identified some of the root causes of insecurity in Nigeria to include:

#### (a) Bad Governance

Since the return of democracy in 1999, Nigeria has had her fair share of bad governance<sup>25</sup>. Each administration would make promise to decimate insecurity in Nigeria but this promise has not been fulfilled as the security situation is going from bad to worse on daily basis, as a result of compromise and corruption among the government functionaries. Lack of social and basic amenities such as good roads, electricity, water, hospitals and schools and other infrastructure have further fueled insecurity in Nigeria as money mapped out for these amenities is hijacked or siphoned by the bad eggs in government while the people especially the youths are left to suffer<sup>26</sup>. Nigeria has enough resources to take adequate care of her citizens but corruption, unaccountability, mismanagement and ignorance have further strengthened the activities of criminals and restive youths who resort to crimes such as kidnapping for ransom, armed robbery, banditry etc. to make a living thereby leaving the country in desolation. It is only in Nigeria that those in government use the money

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22ChinagoromUgwu, 'Gunmen, Abduct, kill Traditional Ruler in South –East' <<https://www.premiumtaesag.com>> accessed on August 28th,2024 by 11:12am. See also James Eze, ' Gunmen Invade Ebonyi Community, Kill Monarch'<<https://www.premiumtimesng.com>> accessed on August 10th, 2024 by 6pm.

23Sahara Reporters, 'Nigeria Ranked One of the Least Peaceful Countries World-Wide' <<https://www.saharareporters.com>> accessed on August 29th, 2024 by 3pm.

24*Ibid*.

25 J. O Obaka, 'Bad Governance and Its Threat to Democratic Consolidation in Nigeria, 1999 – 2019 ESUT *Journal of Social Sciences* (2000) 5 (2) See also, D. A Yagboyaju and A. O Akintola, 'Nigeria State and the Crisis of Governance: A Critical Exposition' <<https://www.Journalsagepub.com>>accessed on August 19th, 2024 by 07:41am.

26AA Rosemary, 'Corruption and Economic Development in Nigeria; a Theoretical Review' *Journal of Contemporary Research* (2014) 11 (2) 34 -44.

meant for development and constituency projects to embark on frivolous oversea trips, luxurious lifestyle, pay the school fees for their children up to the 4<sup>th</sup> generation, build houses inside and outside Nigeria and other selfish desires at the detriment of poor and vulnerable citizens. Some of these citizens especially the youths resort to criminal activities in protest. For example, the militancy at the Nigeria Delta, the IPOB, unknown gunmen at the South East to mention but a few are the evil channels through which the youths vent their anger and frustration on government as a result of bad governance.

### **(b) Lack of Synergy among the Security Agencies**

Lack of collaboration and synergy among the security agencies is one of the underlying factors that have continued to fuel insecurity in Nigeria<sup>27</sup>. The fact that the fight against insecurity has not yielded any positive result in Nigeria is as a result of lack of synergy among the security agencies in operation and information management. The various security agencies such as Army, Police, Navy, Civil Defence etc. have failed to understand that the present security situation of the country is not what the Police or any other security agency can fight alone. Often times, the dichotomy and rivalry among the security agencies are attributed to mutual suspicion, superiority claim, disrespect, greed and selfishness<sup>28</sup>. The incessant clashes between the police and army remain a source of worry. Their situation or relationship is likened to that of cat and dog. The security agencies have forgotten the saying: “there is strength in unity” The disunity among the security agencies has further strengthened the activities of the criminals and insurgents.

Worthy of mention is the lack of synergy between the security agencies and the executive arm of the government of those states affected by insecurity. For example, there have been situations where the security personnel will be operating separately from the security measures already adopted by the governors to tackle insecurity in their states<sup>29</sup>. Again, there has also been a situation where divisional police officer will wait for approval of clearance from his superiors before carrying out the instruction or order of a state governor over security threat or breach in parts of the state involved<sup>30</sup>.

### **(c) Porous Border/Weapons Proliferation**

Insecurity in Nigeria has persisted as a result of porous borders and proliferation of small arms and light weapons. Nigeria has international land borders of about 4,470 kilometers, 2,513 miles and a coastline of 774 kilometers, 480 miles which are largely unmanned by security agencies<sup>31</sup>. The nefarious activities of the dreaded Boko Haram which has wasted

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27S. T Saulawa and O. T. Bidemi, ‘Interagency Collaboration and National Security Challenges: The Nigeria Experience’ *British International Security Challenges: the Nigeria Experience*’ *British International Journal of Education and Social Sciences*’ (2023) 10 (2) 4519 – 6511.

28*Ibid.*

29Agency Report, ‘Nigerians Lament Insecurity as Officials Discuss Steps Taken’ <<https://www.premiumtimesng.com>> accessed on August 19th, 2024 by 8:27am. See also, Abdullateef Aliyu, ‘Lack of Synergy Among Security Agents Worsening Insurgency Battle’ <<https://www.dailytrust.com>> accessed on August 20th, 2024 by 8:44am.

30*Ibid.*

31O. O. Favour and Osai Jason, ‘International Migration and National Security in Nigeria, 2011-2022’ *Journal of Political Science and Leadership Research* (2023) 9 (2) 31 -35. See also E. A. Abiodun, ‘Confronting Smuggling Along Seme-Border’ <<https://thisdaylive.com>> accessed on August 21st 2024 by 8pm.

thousands of lives and property in Nigeria could be attributed to the porosity of Nigerian borders resulting to unregulated influx of migrants and bandits from neighbouring countries such as Chads, Cameroun, Benin Republic, Republic of Niger etc.<sup>32</sup>. According to the former Chief of Army Staff Lieutenant General Tukur Buratai, sixty percent of the Boko Haram members terrorizing the North –East and other parts of Nigeria are foreigners<sup>33</sup>. Buratai’s reports were predicated on intelligence reports and the confessions of the captured and repentant Boko Haram Insurgents. The unchecked influx of these insurgents also enables the proliferation of small arms and light weapons in Nigeria. Proliferation of arms is also on the rise because of the existence of locally and small -scale factories which manufacture local arms without legal permit<sup>34</sup>.

It is worthy of mention that, Nigeria is the only country under ECOWAS where there are porous borders enabling the unregulated influx of foreigners<sup>35</sup>. The porosity of Nigerian borders has been attributed to the wide nature of the Nigerian borders which makes it difficult for the security officials to patrol and check the borders effectively<sup>36</sup>. Regrettably this reason is too lame for a government that has under taken to make security and welfare of her people a priority.

#### **(d) Value Chain Syndrome**

Over the past decade and half, insecurity in Nigeria has spiraled and thrived due to value chain syndrome. The atrocities of the terrorists, kidnappers, bandits etc. have been largely sustained by individuals, groups and politicians who provide them with goods and services, basic amenities and other necessities of life such as food, drinks, hard drugs, recharge cards, water, medicine, motorcycles, fuel etc<sup>37</sup>. These criminal minded groups live flamboyant life style in the forest or camp while maintaining a number of individuals in the villages, communities and towns, who serve as their informants, giving out information on their targets or victims in exchange for some amount of money by the criminals<sup>38</sup>. The collaboration between the criminals and some individuals in the various communities, towns and the country at large constitute one of the major reasons the activities of the terrorists, bandits and kidnapers have been facilitated and sustained over the years. The progression of activities from the manufacturers of these goods and services to the people who buy and supply to the criminal groups is one of the reasons the scourge of insecurity has not been erased. It is reported that helicopters from within and outside Nigeria fly into the forest to drop goods and services for the criminals<sup>39</sup>. This explains why these criminals are able to detain and sustain their captives until the demanded ransom is paid. It is

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<sup>32</sup>*Ibid.*

<sup>33</sup>Agency Report, '60 Percent of Boko Haram not Nigerians – Army Chief' <<https://www.premiumtimesng.com>> accessed on August 20th ,2024 by 11:5pm.

<sup>34</sup>*Ibid.*

<sup>35</sup>N. C Joseph and C. M Emeka, 'ECOWAS Regional Integration and Trans-Border Security Management in Nigeria' *Journal of Contemporary International Relations and Diplomacy (JCRID)* (2022) 3 (1) 382 -385.

<sup>36</sup>*Ibid.*

<sup>37</sup>Daily Trust 'Dining with the Devil: How Villagers Co-Habit with Bandits' <<http://dailytrust.com>> accessed on August 20th,2024 by 9:14am.

<sup>38</sup>*Ibid.*

<sup>39</sup>Daily Trust, 'Mysterious Helicopter Raises Security Concerns in Bauchi' <<https://www.daily trust.com>> accessed on August 21st 2024 by 6pm.

unfortunate that greed, selfishness and lack of patriotism have made some people to mortgage their conscience to the devil.

**(e) Lack of fear of God**

According to a recent report released by Pew Research Center, Nigeria is 50% Muslims and 48.1% Christians, while approximately 2% belong to other or no religious groups<sup>40</sup>. These major religions in Nigeria advocate and preach the supremacy of God and love for one's neighbor. Again, these major religions are comprised of people who go to their various places of worship to worship God. Unfortunately, from the recent incidents of insecurity and other social vices, it appears that the whole essence of God is lip service. This is because, the rate of atrocities such as killings, bombing, kidnapping etc, keep rising on daily basis perpetrated by the same people who profess God and love. Security crimes are on the rise as a result of lack of fear of God. Anyone who truly acknowledges or reverences God will never indulge in killings or inflicting excruciating pains on his neighbours or brethren. In Nigeria, the whole essence of religion has been bastardized, there is no longer love for one another or fear of God. People go about committing all forms of atrocities with impunity, brazenly burning places of worship, kidnapping and killing religious leaders, kidnapping and killing traditional rulers, slaughtering women and children, Abducting travelers, extortion etc. Is it until God comes down from heaven that the religious people of Nigeria will start to fear Him?

**4. Legal Frameworks on Security in Nigeria**

**(a) *The Constitution of the Federal Republic of Nigeria, 1999***

The *Constitution of the Federal Republic of Nigeria, 1999* (as amended) makes elaborate provisions on security and welfare of the Nigerian people<sup>41</sup>. According to the Constitution, the security and welfare of the people shall be the primary purpose of government<sup>42</sup>. The implication of this constitutional provision is that, the security and welfare of Nigerian citizens is paramount. Failure to uphold and ensure the security of the people will impliedly affect the economic, political, religious, educational situation of the country. Since the citizens of Nigeria do not have another country aside Nigeria, it is therefore the sole responsibility of the government to ensure that the security and welfare of its citizens are prioritized. It is also the duty of the government to secure and safeguard its sovereignty, independence, territory and government using every available apparatus, resources and facilities<sup>43</sup>. To this effect, the Constitution in *section 214(1)* provides for the establishment of and composition of security agencies such as: Military, Custom Service, Immigration Service, Correctional Service Center and Nigeria Police Force.

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40U. S Department of State, '2023 Report on International Religions Freedom: Nigeria' <<https://www.state.gov.com>> accessed on August 20th, 2024 by 8:30am .See also Springer Link, 'Christians, Muslims and Traditional Worshipers in Nigeria Estimating the Relative Proportions from Eleven Nationally Representative Social Surveys' <<https://www.inkspringer.com>> accessed on August 30th, 2024 by 11:01pm.

41The *Constitution of Federal Republic of Nigeria 1999*(as amended) *section 14(2) (b)*.

42*Ibid*.

43Femi Falana, 'Insecurity in Nigeria, A Menace to National Development'. *Premium Times* (2015) 17th July.

The Constitution in order to ensure security of lives and property empowers the President of Federal Republic of Nigeria to take certain proactive actions to ensure peace and security in the country<sup>44</sup>. An example of such powers is the constitutional power to declare a state of emergency where there is a breakdown of law and order in any part of the country. In addition, the Constitution makes it a duty for the National Assembly and State Houses of Assembly where applicable to enact laws with respect to the maintenance and security of public safety and public order<sup>45</sup>. It is consequent upon this mandate that, security agencies such as Armed Forces of the Federation, the Nigerian Security and Civil Defense and other state security apparatuses were formed.

**(b) *The Armed Forces Act, 2014***

The *Armed Forces Act* was enacted by the National Assembly in 2014<sup>46</sup>. The Act provides for the establishment and functions of the Armed Forces of Nigeria which is comprised of the Military, Navy and Air Force<sup>47</sup>. Under the Act, the Air Force is charged with the responsibilities of:

- a) Defending Nigeria from external aggression
- b) Maintaining Nigeria's territorial integrity and security of its borders from violation on land, sea or air.
- c) Suppressing insurrection and acting in aid of civil authorities to restore order when called upon to do so by the president<sup>48</sup>.

On the other hand, the Navy is charged with the responsibilities of:

- a) Enforcing and assisting in coordinating the enforcement of all customs, Laws, including anti-bunkering, fishery and immigration laws of Nigeria at sea,
- b) Enforcing and assisting in coordinating the enforcement of National and International maritime laws ascribed or acceded to by Nigeria.
- c) Making of charts and coordinating the enforcement of all national hydrographic surveys and
- d) Promoting, coordinating and enforcing safety regulations in the territorial waters and exclusive economic zones of Nigeria<sup>49</sup>.

The Act further empowers the Armed forces of Nigeria to enforce and assist in enforcing laws against any act capable of undermining peace and security in Nigeria emanating from seas, air, land etc<sup>50</sup>.

**(c) *The Firearms Act, 2014***

The *Firearms Act* was enacted by the National Assembly in 2014 with the primary purpose of regulating the possession of fire arms and to prevent proliferation of illegal arms in the

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<sup>44</sup>The Constitution of Federal Republic of Nigeria (as amended) section 305(3)

<sup>45</sup>*Ibid.* section 11(1).

<sup>46</sup>Law of the Federation of Nigeria, 2024 Cap A 20

<sup>47</sup>*Armed Forces Act, 2014, section 1 (3).*

<sup>48</sup>*Ibid.* Section 4.

<sup>49</sup>*Ibid.* Section 4.

<sup>50</sup>*Ibid.*

society as it threatens public peace and security<sup>51</sup>. The Act targets addressing security challenges posed by the proliferation of illegal small arms and light weapons<sup>52</sup>. Under the Act, the license for possession of firearms is not granted as of right because no person is entitled to have in his possession or under his control firearms except in accordance with a license granted by the president or any official acting on his discretion<sup>53</sup>. The grant of rights to own arms is based solely on the discretion of the President or the Inspector General of Police<sup>54</sup>. The Act allows ownership or possession of arms such as dane-gun, un-rifled and muzzle loading, flint-lock guns etc. only to the extent that it is not specifically prohibited by the Inspector General of Police<sup>55</sup>.

**(d) *The Police Act, 2020***

The Constitution makes provision for the establishment of the Nigerian Police Force, the Police Council and the Police Service Commission. Emphatically the Constitution provides that:

“There shall be a police force for Nigeria, which shall be known as the Nigerian police force and subject to the provisions of this section no other police force shall be established for the Federation or any part thereof”<sup>56</sup>

The *Nigerian Police Act* was enacted in 2020 to repeal the Police Act of 1943<sup>57</sup>. Under the Act, the police are charged with the following responsibilities:

1. To prevent and detect crimes, protect the rights and freedom of every person in Nigeria as provided in the Constitution, the African Charter on Human and People’s Rights and any other law;
2. To collaborate with other agencies to take any necessary action and provide the required assistance or support to persons in distress including victims of road accidents, fire disasters, earthquakes and flood.
3. To facilitate the free passage and movement on highways, roads and streets open to the public.
4. To adopt community partnership in the discharge of its responsibilities under this Act or under any law.
5. To vet and approve the registration of private detective schools and private investigative outfits<sup>58</sup>

On security, the Act specifically provides that the police are responsible for the prevention and detection of crime, the apprehension of offenders, the preservation of law and order,

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<sup>51</sup>*Firearms Act, 2014, section 1.*

<sup>52</sup>*Ibid.*

<sup>53</sup>*Ibid. Section 3.*

<sup>54</sup>*Ibid.*

<sup>55</sup>*Firearms Act, 2014 Part III.*

<sup>56</sup>*The Constitution of the Federal Republic of Nigeria, 1999(as amended) section 214 (1).*

<sup>57</sup>*LFN 2014, Cap p19.*

<sup>58</sup>*Police Act, 2020 section 4.*

the protection of life and property and the enforcement of all laws and regulations<sup>59</sup>. The police Act, section 33, grants extensive powers to the Inspector General of Police, including the power to issue lawful orders for the maintenance and securing of public safety and public order as was demonstrated in the recent ‘**endbadgovernance**’ protest in Nigeria when the IGP Kayode Egbetokun vowed to defend Nigeria’s democracy against the protesters.

In addition, the Act makes provision for the establishment of community policing committees in consonance with public demands<sup>60</sup>. The Act adopts community partnership in combating crime and ensuring peace and security<sup>61</sup>.

***(e) National Security Agencies Act, 2010***

This Act was enacted to create three agencies to compliment the functions of the armed forces and to charge each of the three agencies with the conduct of the relevant aspect of the national security and other related matters<sup>62</sup>. The three agencies established under the Act are:

- a) The Defense Intelligence Agency;
- b) The National Intelligence Agency
- c) The State Security Service<sup>63</sup>

On the specific duties of each of the Agencies, the Act provides that, the Defense Intelligence Agency is saddled with the duty of the prevention and detection of crime of a military nature against the security of Nigeria’ the protection and preservation of all military classified matters concerning the security of Nigeria, both within and outside Nigeria and such other responsibilities affecting defense intelligence of a military nature within and outside Nigeria as the Chief of Defense Staff or President may deem necessary<sup>64</sup>.

The National Intelligence Agency is charged with the responsibility of maintaining the security of Nigeria, outside Nigeria concerning matters that are not related to military issues and such other responsibilities affecting national intelligence outside Nigeria as the National Defense Council or the President as the case may be, may deem necessary<sup>65</sup>.

The State Security Service has the following roles;

- i. The prevention and detection within Nigeria of any crime against the internal security of Nigeria.
- ii. The protection and preservation of all non-military classified matters concerning the internal security of Nigeria

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<sup>59</sup>*Ibid.*

<sup>60</sup>*Ibid.* Section 4 (h)

<sup>61</sup>*Ibid.* Section 113.

<sup>62</sup>LFN 2014 Cap N 74.

<sup>63</sup>*Ibid.*

<sup>64</sup>National Security Agency Act 2010, section 2(1).

<sup>65</sup>*Ibid.*, section 2(2).

- iii. Such other responsibilities effecting internal security within Nigeria as the National Assembly or the President as the case may be, may deem necessary<sup>66</sup>. It is instructive to state that, all the agencies are saddled with the responsibility of provision of security within and outside Nigeria.

**(f) *Terrorism Prevention and Prohibition Act, 2022***

The main aim of this Act is to provide for effective, unified and comprehensive legal, regulatory and institutional framework for the detection, prevention, prohibition, prosecution and punishments of acts of terrorism, financing of terrorism, proliferation and financing the proliferation of weapons of mass destruction in Nigeria<sup>67</sup>. Under the Act, all acts of terrorism and financing of terrorism by either anybody or corporate body within and outside Nigeria are highly prohibited<sup>68</sup>. The Act also lists the roles of the National Security Advisors and other enforcing security agencies in combating acts of terrorism in Nigeria<sup>69</sup>. It is an offence under the Act for anyone to solicit and give support to terrorist groups for the purpose of committing the acts of terrorism<sup>70</sup>. The Act prescribes twenty years imprisonment or even life imprisonment for anyone found guilty of supporting terrorist groups. Harboursing terrorists or hindering the arrest of terrorists is also an offence under the Act<sup>71</sup>.

**(g) *Criminal Code Act, 2004***

The *Criminal Code Act sections 364 and 365* provide that any person who unlawfully imprisons any person and takes him outside Nigeria without his consent or who unlawfully imprisons any person within Nigeria in such a manner as to prevent him from applying to a court for his release or from disclosing to any other person the place where he is imprisoned or in such a manner as to prevent any person entitled to have access to him or from discovering the place where he is imprisoned is guilty of a felony and is liable on conviction to imprisonment for ten years.

**5. Challenges to the Implementation of Legal Frameworks on Security in Nigeria.**

**(1) Non – justiciability:** The constitutional provision on security falls within Chapter Two of the Constitution, under the heading “**Fundamental Objectives and Directive Principles of State Policy**”. Unfortunately, matters provided under this chapter two are not enforceable in courts<sup>72</sup>. What this simply means is that, Nigeria citizens cannot sue the government for breach of the constitutional provisions on security. The courts relying on the provisions of *section 6(6) of the Constitution* have refused to enforce the provisions on the State Objective and Directive Principles. The section specifically provides that

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<sup>66</sup>*Ibid*, section 2(3)

<sup>67</sup>*Terrorism Prevention and Prohibition Act, 2022, Section 1 (a) – (h).*

<sup>68</sup>*Ibid*, section 2 (1) (2).

<sup>69</sup>*Ibid*, section 4.

<sup>70</sup>*Ibid*, sections 15,21.

<sup>71</sup>*Ibid*, sections 11,12,15.

<sup>72</sup>*CFRN, 1999 (as amended) section 6(6)(c).*

Chapter Two of Constitution is not justiciable, thereby robbing the court off the jurisdiction to entertain matters on breach of security by the government. Non –justiceability of this section makes it impracticable for the citizens to hold the government accountable and responsible on issues of security through court actions. For instance, in case of *Anthony Olubunmi Okogie v AG Lagos State*<sup>73</sup>. The Supreme Court declined jurisdiction on the grounds of non –justiciability of the provisions of the chapter two of the Constitution. This could be one of the reasons Nigerian government is not living up to expectation on issues of security in Nigeria.

**(b) Limitation clauses:** Another challenge to the implementation of the laws on security is limitation clauses. A clear example is the constitutional provision on state of emergency. The Constitution empowers the President to take proactive steps in issues of security by declaring state of emergency when there is a security threat or breach in Nigeria or in any of the State or part of Nigeria<sup>74</sup>. Unfortunately, this constitutional power cannot be fully implemented by the President without recourse to the *Siracusa Principles on Limitation and Derogation Provisions in the International Covenant on Civil and Political Rights*<sup>75</sup>, an internationally recognized set of rules which Nigeria has ratified<sup>76</sup>. These rules set out limits to restrictions on rights in situations of state of emergency. One of the principles is that, any decision about an emergency must be done in good faith on the basis of an objective assessment of the situation<sup>77</sup>. The question therefore is, what is an objective assessment as it relates to Nigeria security situation? This question or concern is one of the reasons the federal government of Nigeria was harshly criticized in 2021 when the then President Muhammed Buhari wanted to declare a state of emergency in Anambra State on the grounds of rising insecurity<sup>78</sup>. Some people argued that the state of insecurity in Anambra State then, was not in any way qualified for the proclamation of state of emergency simply because of few cases of arson, killings, destruction of public and private property which did not threaten the survival of national security in Nigeria<sup>79</sup>. The *Siracua Principle* is therefore one of the clogs to the enforcement of constitutional provisions on peace and security in Nigeria.

**(c) Corruption:** Corruption in Nigeria is endemic and hinders the implementation of laws on security. Corruption manifests in every sphere of the nation and thus, has truncated the implementation of the laws made to curb insecurity in Nigeria<sup>80</sup>. For example, the Firearm

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73(1981) 2NCLR 350.

74CFRN, section 305.

75United Nations Document E/CN4/1985)4 of 1985.

76Ibid.

77S.A Adealale, 'Appraisals of Legal Frameworks for Combating Insecurity in Nigeria' <<https://www.researchgate.net>> accessed on August 22nd, 2024 by 10:04am.

78Ibid.

79S. Uchenna, 'When Can Nigeria Declare a State of Emergency; the Conversation' <<https://theconversation.com>> accessed on August 22nd 2024 by 10:8am.

80O. B. Ijwerene, 'Anatomy of Corruption in the Nigerian Public Sector Empirical Explanations' <<https://www.journalsagepub.com>> accessed on August 23rd, 2024 by 11am.

Act provides that, the right to own arms in Nigeria is based solely on the discretion of the President or the Inspector General of Police and the grant can be refused without any reasons<sup>81</sup>. Unfortunately, this discretion has been grossly abused in Nigeria as a result of corruption. It is no longer news that there has been indiscriminate issuance of license to people who don't deserve to own fire arms. If not, why should miscreants such as political things, motor park touts, kidnappers, street urchins use guns to torment the citizens on daily basis. No question is asked as to how they got the license to own guns and when they are apprehended or arrested, the endemic corruption in the justice system will not allow the full enforcement of the punishments for illegal possession of firearms as enshrined in the Firearms Act. As a result of the endemic corruption which has eaten deep into every sector in Nigeria, those who sponsor the activities of boko haram, kidnappers and other security crimes are easily let off the hook or freed after they are arrested or apprehended<sup>82</sup>. Once calls are made or money exchanges hands among those in authority, nothing will be heard about the arrest again.

**(d) Undue Political Interference:** Laws are made to be implemented or enforced without fear or favour and without any form of political interference. In Nigeria, the laws on security are targeted at arresting the security situation by apprehending, prosecuting and punishing offenders to serve as a deterrent to others<sup>83</sup>. Unfortunately, politicians and political office holders unduly interfere with the justice process thereby making it difficult for those whose duty it is to implement the laws, to effectively discharge their duties. When political interference occurs, the prosecution of those involved in security breach is dropped. Most times because some of the political office holders are the sponsors of these security crimes, they can go to any length to shield the criminals from prosecution and punishments<sup>84</sup>. Undue political interference can also influence the direction of criminal investigations, the law enforcement agencies such as the Police, DSS etc. may be pressured to drop charges or down play evidence against those in their custody<sup>85</sup>. Undue political interference can also make judges or juries to drop cases or release culprits out of pressure or intimidation just to satisfy the desire of the government in power. Undue political interference therefore, has been one of the major challenges to the implementation of laws on insecurity in Nigeria as it thwarts the purpose for which the laws are made.

**(e) Some of the laws on security have been in operation for years and already obsolete.** Over the years a lot of changes have taken place in the area of insecurity in Nigeria beyond the anticipation of the laws when they were first enacted. Most of the punishments and fines provided in the laws are now so ridiculous when compared to the enormity of the crimes involved. The punishments and fines no longer serve as deterrence. Such that, once

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<sup>81</sup>Firearms Act, 2014, section 3.

<sup>82</sup>JideforAdible, 'Should Nigeria Have Released Boko Haram Suspects' <<https://www.thecaversion.com>> accessed on August 23rd, 2024 by 11:30am.

<sup>83</sup>S. AAdealale, 'Appraisals of Legal Frameworks for Combating Insecurity in Nigeria' <<https://www.researchgate.net>> accessed on August 22nd, 2024 by 10:04am.

<sup>84</sup>U. C Azu, 'Judiciary Battles Political Interference, Corruption, Poor Funding' <<https://www.dailytrust.com>> accessed on August 3rd, 2024 by 12pm.

<sup>85</sup>*Ibid.*

a sentence is handed to a convict by a court, he will be comfortable or unbothered to serve the jail term or pay fine. Once he is released or discharged he gladly comes out to continue in unleashing mayhem on the innocent citizens.

## **6. Conclusion and Recommendations**

The problem of insecurity in Nigeria requires a holistic approach that entails an effective and operational legal framework which will serve as one of the measures to address the menace of insecurity in the country. One of the primary purposes of law in every society is to maintain peace and order while providing punishments to serve as a deterrent to offenders and intending offenders. In Nigeria, they are already extant laws on security and welfare of the people. However, the implementation or enforcement of these laws is laced with challenges which appear to be defeating the aims and objectives of the laws with regards to curbing insecurity in Nigeria. To address these challenges and to further fortify the legal frameworks on insecurity, the government needs to adopt the following recommendations:

- 1) There should be a comprehensive and thorough review of Nigeria's extant security legal frameworks especially the punishment sections to ensure that the punishments and fines are in consonance or commiserate with the modern security crimes. More stringent punishments and heavier fines should be made for security crimes. This will serve as deterrence to those who intend to engage in security breach.
- 2) It is a common knowledge that legal or judicial enforcement gives force, adherence and obedience to every law, such that when such force is absent, it renders such a law ridiculous or a toothless bull dog. To this effect, section 16 (b) of the Constitution should be amended to be justiciable. This will enable the citizens to directly enforce and hold government accountable for the fulfillment of government's mandate on security and welfare of the citizens of Nigeria.
- 3) The criminal justice system should be further strengthened to be independent in order to eschew any form of political interference or influence. Instead, those who try to interfere in the arrest, prosecution and punishments of the security saboteurs should be exposed and severely punished to serve as a deterrent to others.
- 4) There should be synergy among the security agencies and criminal justice system in the arrest, prosecution and punishments of security criminals.
- 5) There should be timely collective re-awakening and attitudinal change by Nigerians to enable us fight the problem of insecurity in Nigeria.