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The Role of the State in Curbing Insecurity in Nigeria and South Africa

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Abstract

The role of the State in maintaining internal peace and curbing insecurity is paramount. This essay seeks to evaluate the role of the State in addressing and mitigating insecurity in Nigeria and in South Africa. In NigeriaTerrorism orchestrated by boko haram, Iswap, violent crimes demonstrated through the acts of armed bandits, farmers/herders clashes and extra-judicial activities of law enforcement officers, kidnapping are challenges plaguing the State. The situation is not palatable in South Africa as crime is the immediate threat to State security in South Africa. Crime manifest itself in a wide range of activities which include murder, rape, xenophobia car hijacking, theft, armed robbery, kidnapping etcetera. The findings in this essay is that these challenges causedeprivation of Fundamental Rights, leaves a negative impact on the health of victims, has a negative impact on the Economy, erodes confidence, and Excesses of Security Operatives,Unemployment,Money Laundering Threat. It is further recommended that the State act proactively inensuring that victims of injustices get justice,declare a state of emergency in Nigeria and South Africa, decentralization of policing in Nigeria, trial of security officers who violate the standard of the use of force and firearms among others.

Key words: Insecurity, Nigeria, South Africa, Role, Impact.

1. Introduction

The foremost and sacrosanct duty of the State is to protect the lives of its citizens. This basic responsibility of the State is to ensure that there is peace and order. And that the security and welfare of the people is maintained.[1]

Akinade[2]described security as being free from danger, risk, harm, doubt and anxiety. It is the absence of danger to the fundamental values of any nation. Security is a process of providing protective services to all citizen of a State to ensure that they do not suffer under undue hardship of any kind and defending the State or nation from her enemies[3]

Edward-Ekpo, *et al*[4] defined Physical Securityas the protection of person or population against inhuman acts which include torture, genocide, aggression, willful killing, rape, war-crimes, hostage taking, willful attack on historic monuments or place of work.

Security has been described as an all-encompassing condition which suggests that a territory must be secured by a network of armed forces; that the sovereignty and patriotic government, which in turn must be protected by the military, police and the people themselves; that the people must not only be secured from external attacks but also from devastating consequences of internal upheavals such as unemployment, hunger, starvation, diseases, ignorance, homelessness, environmental degradation and pollution cum socio-economic injustices.[5]

As laudable as these definitions above are, the role of government in providing security for the population or citizens has being overlooked. The State has a duty to ensure that the right to life is protected. But recent happenings in the State has shown that the State has fallen short of the obligation placed on it to secure life.

A citizen deserves to be safe, free from danger, harm, risk, intimidation, fear, anxiety, must have total freedom and peace of mind, freedom from poverty and total assurance by the government of a safe livelihood

The State has the responsibility of safe guarding the citizens and everything that pertains to the citizen from every form of encroachment, harm and insecurity generally. The State is described as an organized entity where law thrives and there is promotion and development. The citizens are the subjects of the States. Without citizens the State cannot exist.

Security can be viewed from two perspective (a)external security and (b) internal security. External security is security which focuses on the nations territorial borders and the protection of the State from external aggression. Internal security focuses on providing personal or human protection of all individuals and communities from the acts and violence

[1] See section 14 (2)(b) of the Constitution of the Federal Republic of Nigeria 1999(as amended). (Herein after mentioned as CFRN 1999). See also Chapter 3 of the Constitution of the Republic of South Africa No 108 1996. (herein after mentioned as the CRSA Act 108 1996) which provides for cooperative government, that all spheres of government must preserve peace, national unity and the indivisibility of the republic and secure the wellbeing of the people of the Republic. See also section 10.

[2]Akinade, A. *Public Private and Community Security Systems: Toward Sustainable Cooperation, Partnership and Professionalism. (University* of LagosPress and Workshop. 2016) 1.

[3]*Ibid* at 34.

[4]Edward-Ekpo, C.F. and Wali, C.N. *Environmental Law.Human Rights and Globalization Development & Dynamic*.(Multi-Intelligence Development Company 2010) 363.

[5]Onifade,C. Imhonopi,D. and UrimU.M 'Addressing The Insecurity Challenge in Nigeria*:* The Imperative of Moral Values and Virtue Ethics' [2013] *Global Journal of Human Social Science Political Science* Vol. 13.

of others by the State. This can also be described as physical security.[6] The discuss of this research is more on internal security

Several factors shape security challenges in Nigeria and in South Africa which includes poverty, unemployment, failed government policies, proliferation of firearms[7], corruption of government, inefficient and defective security agencies. The economy is also a contributory factor. About 30.6% of South African youths are unemployed. Poverty which is also a root cause in South Africa and in Nigeria reflects in the people not able to meet their basic needs because of lack of income, insufficient income, lack of jobs.

South Africa has one of the highest alcohol consuming levels per drinker in the world. It is no surprise that domestic violence, gender abuse is predominant in the country. This acts of violence to life are fueled by problems related with alcohol and drug abuse.[8]

Gender norms contribute to gender based violence, and murder, in South Africa. The identification of the masculine gender as been superior to the female gender is another problem. There is the belief that men are superior to women, men are meant to be daily providers and women meant to sit at home and work. This high dependence factor puts the women at risk of being assaulted.[9]

These violent acts pose a grave threat to corporate existence in these States. The increase in violence and challenges experienced in Nigeria and South Africa is an impediment to foreign trade and investment. Osumah[10] observes in his work that violent crimes plaques the State.

The violence, kidnappings, bomb explosions, killings, rapings etcetera caused by violators to life have exposed and stretched security officers to their limits.

For instance, the acts of Boko Haram have caused serious harm than is recorded in Nigeria. In the year 2021, Boko Haram insurgents were involved in a number of attacks targeting police stations, prisons, defense academy in Nigeria. The resultant effects, left a number of people dead and kidnapped. Arms and ammunitions were stolen in the process. More than 526,000 people were murdered in South Africa from 1994 to 2019[11].Sadly the incidence of crime increases every year.[12]

2. Security Challenges in Nigeria and South Africa

There are serious violations of the right to life in Nigeria and in South Africa. There is no end to human rights abuses in Nigeria. It is not a hidden fact that the interface between right to life and State security has been very cumbersome in Nigeria and in South Africa.

[6] See section 14(2)(b) CFRN 1999.
[7] See Pienaar, L.E. 'Serious Crime as a National Security Threat in South Africa Since 1994' 2014 Department of Political Science, Faculty of Humanities University of Pretoria. 133.
[8] See Dartnall, E. Gender-Based Violence in South Africa. Safer Spaces.<safersapces.org.za> 2021 accessed 19 May 2021.<www.saferspaces.org.za> accessed 27 January, 2022.
[9]Mogale S. R, and Burns K.K. and Richter, S. 'Violence Against Women' (2012) 18 (5) SAGE Publication. 582.
[10] See Osumah, O. 'Boko Haram Insurgency in Northern Nigeria and The Vicious Cycle of Internal Insecurity' *SmallWarsandInsurgencies* 2013, (24) (3).
[11]See Gibson, D. South Africa Murder Rate is worse than the Coronavirus Mortality Rate' 2020.<https://en.m.wikipedia> accessed 28 April 2022.
[12] See Bheki, C. 'Minister BhekiCele: Annual Crime Statistics' 2019/2020. <www.gov.za> accessed 28 April 2022.

There are heinous acts of crimes which violates the right to life in these States. There are lots of human rights abuses in the State. These acts are so numerous and so widespread in various parts of these States. These acts pose serious and damming challenges to security in these States. These are physical and human threat.

It is practically impossible to identify and discuss fully all criminal acts that persist in these States. However, there are some peculiar violent acts that are pressing and endangering State security and right to life of citizens that needs urgent attention. In Nigeria these acts have been classified in this research into acts of terrorism and violent crimes.

i. Terrorism: the acts of terrorism in the State includes the acts of (i) Boko Haram and (ii) Islamic State of West Africa Province.

ii. Violent Crimes includes: (i) the acts of Armed Bandits (ii) the acts that occur in Farmers/Herders Clashes (iii) Extra-judicial activities of law enforcement officers. (iv) kidnapping

The threat to State security in South Africa are national or domestic in nature.[13] Crime is the immediate threat to State security in South Africa. Crime manifest itself in a wide range of activities which include murder, rape, xenophobia car hijacking, theft, armed robbery, kidnapping and *etcetera*[14]The citizens no longer feel safe in the State. Although statistic shown may not give the actual figure of crime rate in the country, but these crimes are violent and are serious challenge to the enjoyment of the right to life.

Existing crimes can be categorized into: i Organized crime, such as kidnapping, extra judicial acts by security officers, gender based crimes, which includes, rape, sexual assault, and xenophobia.

ii. Contact crimes which include car theft and hijacking, armed robbery.[15] Pienaar[16] opined that violent crimes are referred to as contact crimes, that there is physical contact between criminals' elements and their victims when these crimes are committed. These threat to State security are more of internal threats than external.[17] The instant cause of threats to State security revolve around poverty, underdevelopment, governance and crime.

Crime such as murder and rape has 60.6% increase compared to the year 2019/2020. Murder rate increased by 2294 people in the year 2019/2020. 10,006 people were raped between March and April, 2021, this shows a 72:4% increase compared to the previous year of the lockdown. 487 rape cases among the 10,006 were violent cases[18]. The challenges are religious, political, social and economical in nature. The aims, agitation driven behind the acts of the perpetrators are more selfish than patriotic. The reason behind these heinous acts which violates the right to life cannot be legally justified.

[13]Aeby, M. 'Peace and Security Challenges in Southern Africa: Governance Deficits and Lackluster Regional Conflict Management'. (2018) (4) *Nordic Africa Institute* (*NAI*) 4.
[14] See Cawthra, G. 'Southern Africa: Threats and Capabilities, Africa Program Working Paper Series. (2008). *International Peace Institute. 4.*
[15] See National Crime Prevention Strategy: Summary. <www.gov.za> accessed 2 September 2021.
[16]Pienaar, L.E. Serious Crime as a National Security Threat in South Africa Since 1994' 2014 Department of Political Science, Faculty of Humanities University of Pretoria. 85.
[17]*Ibid*. 5
[18]Bheki.*C* 'Quarter One Crime Statistics 2021/2022. 2021. <www.allafrica.com> accessed 21 August 2022.

3. Impact of Insecurity in Nigeria and South Africa

i. Deprivation of the Fundamental Rights

Banditry in Nigeria for instance has led to great injuries and loss of lives, loss of properties, properties worth millions of naira and with great history surrounding them. During bomb explosion, lives are lost, many people are wounded, properties are lost. This is a total violation and deprivation of section 33 CFRN.[19]

When an innocent person is kidnapped or when a person is hneld against his will this amounts to deprivation of the right to personal liberty and his security as provided in section 35 and a violation of the right to dignity of human person as provided in section 34 CFRN.[20] Section 14(2)(b) of CFRN[21] has placed an onus on the State to provide security for the people. Constant happenings are clear indications that the State has undermined this section. For section 33 to 35 of the Constitution to be properly implemented section 14 must be given full effect by the State.

When bombings, killings, and willful destruction of private property occurs it results in citizens fleeing for safety. They evacuate their place of abode. They even seek refuge in neighboring communities and sometimes become Internally Displaced Persons (IDPs). They are forced to stay indoors, restrict their movement, or even self-imprison. The result is a total violation of the right to move freely, thus section 41[22] is being breached by violators.

Also there is a limitation to Section 21(1) of the CRSA[23] which provides for the right to freedom of movement. The wave of violent crimes in South Africa produces a climate of fear in the people which limits the exercise of the right to freedom of movement. The act of violence is a serious challenge to association in the State. This has a toll on the development and life of the citizens. Self-isolation sets in as people are unwilling to participate in public life and state development. The fear of being killed, kidnapped or assaulted limits participation, limits freedom of movement.

The act of terrorism is geared towards the deprivation of human life. Terrorism defeats the working of the constitution, treaties and international laws that are applicable in the State. Violence has led to a total disregard of the fundamental human rights and its principles. It affects the total enjoyment of fundamental human rights in the State. The right to life is affected of which rubs off on other rights like the right to liberty as emphasized above. Terrorism threatens the dignity and security of human beings, endangers innocent lives, destroys freedom of the people and destroys human rights.[24]

Persons have been displaced from their homes, and place of business. Many persons have fled their homes to places of survival as a result of the acts of armed bandits, boko haram insurgents, societal crisis etc. many children have become orphans, many women have been

[19]Section 33 of the CFRN 1999.
[20]Section 34 and 35 CFRN 1999. In the just concluded case against ChukwudimemeOnwuamadike also known as Evans, the High Court was right to have passed a sentence of life imprisonment on him after finding him guilty of kidnap and possession of illegal firearm. See Olabimtan, B. 'Evans gets 21 Years Imprisonment for Kidnap. 6 Months After Bagging Life Sentence' The Cable <www.thecable.ng> accessed 30 September 2022.
[21]*Ibid.* Section 14(2)(b).
[22] Section 41 CFRN 1999 is to the effect that every citizen of Nigeria is entitled to move and reside freely in any part thereof.
[23]See section 21 of the Constitution of the Republic of South Africa No 108 1996. (herein after mentioned as the CRSA Act 108 1996).
[24] See Adamu,B. 'Human Rights and Terrorism' 2021. Arewa Center for Regional Development (ACRD) <www.arewaonline.ng.com> accessed 21 August 2022.

made untimely widows. Presently Nigeria has internally displaced persons (IDP) camps**.** Some of the IDP camps are in deplorable state. The shelter is inadequate, poor food structure, poor drinking water, there is the high risk of the displaced persons getting communicable and fatal diseases. Overcrowding and exposure to poor sanitary conditions. Unfortunately, women and children stand the risk of being abused and victimized, harassed and assaulted in these camps.[25] The effect is incalculable.

Security challenges causes a complete change of one's existence, loss of sense of life, which has a negative impact in the families, communities and the society. It leads to devaluation of life. Such displacement of life, source of livelihood, can make a person a destitute, and vulnerable to drug use, sexual abuse and violence.[26]

All forms of violent acts that render people homeless and force the state of internally displaced person on innocent citizens constitutes a violation of section 43 CFRN 1999 and section 21 CRSA[27].

The Constitutional Court in South Africa held in *K.v. Minister of Safety and Security*[28] that murderers violate the victim's right to life and deprives and denies the victim's family the right to maintenance and support. Supporting this view, is the decision in *Steenkamp NO.* v *Provincial Tender Board, Eastern Cape*[29] that the crime of murder entails a direct violation of the constitutional right to life. When death occurs from a violent act, it means a termination of a person's existence and an interruption of a person's purpose.

ii. Negative Impact on the Health of Victims of Gender Based Violence

Gender violence, for instance has a great negative impact on the rights and future wellbeing of victims especially women and children. Women's vulnerability to violence increases their exposure to terminal diseases like HIV/AIDS, Corona virus *etcetera*. Jwekes[30] observed that Gender Based Violence in South Africa has placed a heavy burden on the State's health sector, as about 1.75 million people seek health care services for injuries resulting from violence.

Gender Based Violence have physical, psychological and social effects. There is a heavy negative impact on victims who suffer gender abuse. Disability may set in, they are injured, chronic health problems for instance irritable/bowel syndrome, gastro intestinal disorders, hypertension etcetera results, HIV/AIDS.

Fear, emotional pain, mistrust of others, loneliness, inability to socialize, depression, disorder eventually suicide, withdrawal, drug and alcohol abuse.[31] These women are discriminated against, abandoned, neglected, assaulted, mocked and even sacked from employment and most time murdered, or suicide is committed. The fear of reporting these heinous crime sets

[25]Olawale, A. 'Confronting the IDP's Crisis in Nigeria. <www.cdnamproject.org>accessed 21 August 2022.
[26] See Osumah, O, *Ibid* 551.
[27] Section 43 CFRN 1999 provides that 'every citizen of Nigeria shall have the right to acquire and own immovable property anywhere in Nigeria' See also section 21(3) CRSA Act 108 1996.
[28]*K v. Minister of Safety and Security* (CCT52/04) [2005] ZACC (8) 419 (cc) paragraph 10.
[29]*Steenkamp NO v Provincial Tender Board, Eastern Cape.*2007 (3) South Africa 122 (cc) paragraph 37.
[30]Jewkes R. *et al* 'Preventing Rape and Violence in South Africa. Call for Leadership in a New Agenda for Action' MRC policy brief 2009 <(www.saferspaces.org.za)> accessed 8 February 2022.
[31]Pickup F. Williams S, and Sweetman, C 'Ending Violence Against women!A challenge for development and humanitarian work, Oxfam GB 2001.<http://www/stopvlaw.org> accessed January 2022.

in and these can lead to the victims taking laws into their hands. Again unwanted pregnancy occurs, which can alter the programs or of victims.

iii. Effect on the Economy

No doubt the upsurge of violence in the state is bound to have negative effect on the economy of the State. Violence has discouraged both foreign and local investment. An environment tainted with violence and is not secured, scares foreign investors. Kidnappings, killings, bombings *etcetera* paralyze business in the State. Local investors have incurred serious losses of finances. These have negative impact on the economy of the State. This is evident in the rate of unemployment and poverty experienced in Nigeria.[32]

Population displacement have disrupted farming in some states in the country. In Benue, Nasarawa, Taraba, Adamawa, Plateau States particularly. Farmers are displaced, herders are unable to provide grazing lands for their livestock. Farmers are afraid of being attacked and kidnapped or killed. Herders are unable to fetch food for their cattle as no place exist for grazing. Food production dropped in these states. It has been noted that in the past years as a result of the violent acts in these food producing states in Nigeria, food production dropped. In Kebbi State for instance the country's rice growing hub, which is also the most consumed grain in the State, many farmers stopped going to their farms for fear of being attacked. This greatly affected the production of rice in the country.[33]

This poses a challenge to the entire nation. It breeds scarcity of food, hike in the prices of food and is an impediment to agricultural business. Nigeria's terrorism index show that terrorist activities have a significant effect on the growth of the economy with a value of 0.006974396.[34]

The high level of violence, abuse, crime which are challenges, to security are telling on the South African economy just like we have in Nigeria. Juneja[35] shared his view on the hardship faced by the country on money wasted when he considered the cost of running prisons, as the government spends about nine billion dollars on incarceration every year. He observed that the prisons are incarcerated and not productive. There is nothing a prisoner contributes to the nation's economy. Prisons and the State have to pay for and take care of the incarcerated persons. He viewed this as a loss of revenue. A point to note is that the purpose of prisons is not a profit making institution. It is for remanding defaulters of the law. However, despite huge cost spent by the State on prisons, there is overcrowding and this could incur more problems and risk for the State security, such problems increase violence, increase the spread of infectious diseases amongst the inmates.

Violence scares investors, whether foreign or local from South Africa. Xenophobia for instance puts a strain on the State's international relations with other States. South Africa has a questionable reputation, is a country that has a record of hostility for African nationals.

[32]Umego, C. D. 'Offence of Kidnapping: A Counter to National Security and Development' Faculty of Law NnamdiAzikiwe University Awka. 2019.
[33] See Olorounbi, R. and Agnieszka de Sousa, Clowes,W. and Adamu, M. 'Bandits Target Nigeria's Farmers and Threaten Food Security' <www.bloomberg.com> accessed 19 April 2022.
[34] See Gylych, J. Ozden, K.and Briggs, S.O 'Impact of Insecurity on Investment in Nigeria' *Journal of Management Economics and Industrial Organisation.* 2018(2) (3) 41-46.54.
[35]Juneja, P. 'Impact of Crime on South African Economy'. Management Study Crude Content Team <(www.managementstudyguide.com)> accessed 27th January, 2022.

The threat to life and challenges to State security has threatened the continued existence of foreign investors.

To violate human life is to deny individual their fundamental moral benefits. It means to treat them as if they are less human and do not deserve respect, dignity. Maiese[36] opined that violations may lead to further violence. There is a breakdown of infrastructure and damage caused to civil institutions, which undermines citizen's rights. When damage is done to for instance hospitals and schools, the right to adequate health and right to education are threatened. The breakdown of government institutions leads to denials of basic civil rights for example freedom of movement. When extreme violations of human right to life have occurred, reconciliation, rehabilitation may prove difficult in the society. Thus, herdsmen, unknown gunmen, Boko Haram insurgents, Kidnappers, *etcetera*, deprive victims of their right to life through their acts, which is a violation of section 33 of the Constitution. And same section 33 has provided instances where a person's right to life can be withheld from him. This further implies that the reestablishment, reintegration or rehabilitation of ex-Boko Haram insurgents is unconstitutional.[37]

Alsothe challenges to state security and protection of life has a negative influence on business activities. For a business to thrive in the country, there must be a conducive environment. It is obvious that Nigerian security situation has damning consequences on investment and business. Foreign firms, entrepreneurs are scared of investing. The environments are considered risky, even for investment. There is a decline in Foreign Direct Investment in the state. Foreign investors who aim at building new factories, companies, whereby locals will be employed have been scared off. The results of this grave violence has a consequence in production, marketing, finance and human resources of business.

Aluta,[38] observes that the inability of firms, industries, companies to get access to raw materials for producing goods, means such goods cannot be produced. When these goods are even produced, it cannot be marketable. The restrictions of movement placed on areas of the States that are prone to violence, limits products from being marketed. Also the heavy cost used by firms to secure the firms and its workers is enough to generate more produce for the companies. Commenting on Insecurity and Foreign Direct Investment (FDI), Ayoola[39] established that the loss of foreign investors' confidence as a result of security challenges, there existed in the country large outflows of capital. It makes such country less attractive to Foreign Direct Investment (FDI). This does not change the fact that FDI, does not thrive in sentiment. There still exist countries that terrorism, violence, insurgency, crime etcetera does not affect their FDI.[40]

iv. Increase in the Inflow of Small Arms and Ammunition into the State

Small arms industries have sustained their business as a result of the persistent conflict, crisis and violence and security challenges in the country. The use of small arms and light weapons

[36]Maiese, M. 'Human Rights Violations' Beyond Intractability eds. Burgess G. and Burgess.Conflict Information Consortium, University of Colorado, Boulder.2003 <http://www.beyondintractability.org/essay/human-rights-violation> accessed 9 February 2022.
[37] See Milnes, N. 'Demobilization Disassociation, Reintegration and Reconciliation (DDRR) in Northeast NIGERIA' 2021.United States Agency International Development.1-56.
[38] See Aluta, C. 'Security Challenges in Nigeria and the Implications' 2021. <(www.nsacc.org.ng)> accessed January 21 2022.
[39]Ayoola, A.O. 'Insecurity and Patterns of Foreign Direct Investment (FDI) in Nigeria' (1999-2014) *Open Journal of Political* Science 2022(12),28-45.
[40]*Ibid.* 33.

has resulted to killings and injury of more civilians than the use of any other technology.[41] The frequent increase of violence has attracted frequent circulation of weapons. Easy access to small arms, like pistol, which comes from various sources, whether locally or black market. The increasing prevalent of weapons has caused an increase in the breach of life.

v. Eroded Confidence

The inability of the state to prevent and curb such challenge by critically arresting, detaining and trying such persons who violate the laws of the country has created distrust in the minds of the civilians on the ability of the State to protect them, with the end result being citizens taking laws into their hands.[42] One major cause of this is the lack of policing intelligence, skills and technique in dealing with the threats to security in the state by security agencies.

Again the poor management of victims of terrorism by the state manifests itself in the weakness created by security forces. The insurgent and counter-insurgent activities have caused displacement of persons.

Again there is lack of confidence of customers on financial institutions. Where a financial institution is involved in economic crimes and becomes of public knowledge the confidence that exist between the institutions and its principal members will likely be affected.[43]

vi. Excesses of Security Operatives ;

The security situation in the State seems overbearing for the security operatives. During the incessant attacks by insurgents, the constant kidnappings, for instance, they are unable to maintain law and order. It appears that the more the security officers intervene the more the people are violated. For instance, in Adamawa State, when air force was deployed in December 2017, the Bachama and Bwatiye who met serious exchange of gunfire with the Fulani herders, ended up firing rockets at the villagers. Although their claim was denied by the Air Force, but it all happened that the villagers were fired at in error.[44]

Again, the Nigeria Military has been accused of burning down villages in a bid to curb security challenge, in fight against insurgents in the North East. These acts by the military is in their pursuit of insurgents. This leaves civilians caught between insurgents and the Nigerian Army.[45]In his work, Odomovon[46] is of the view that the intervention of the security forces in some states resulted in more fatalities. The army have been involved in acts like burning down villages, displacing innocent civilians in a bid to fight insurgents in the north east. The military may be performing its duties in accordance with the law, but while doing so, respect should be given to human lives. While attempting to curtail insurgents security operatives have been left on the defensive side.[47]

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[41] See Ailey, R. 'Small Arms and Light Weapons. The Disjunction Problem (2019) Conflict *Security and Development* (19) (2) 144.

[42]Adekunle, G. 'Bandits, Local Authorities and the Self Defence Campaign' <sunnewsonline.com> accessed 22 August 2022.

[43] See Okolie, A.O *Techniques of Financial Investigations. A Practical Guide* 2006 Agbor.

[44]Malley, R. 'Stopping Nigeria's Spiralling Farmer-Herder Violence' (2018) *InternationalCrisisGroup*. 2018.1-38.<www.crisisgroup.org> accessed 24 April 2022.

[45]See Duerksen, M. 'Nigeria Diverse Security Threats' 2021 (www.africacenter.org) accessed 21 January 2022.

[46]Odomovon, A.S. 'Killings by the Security Forces in Nigeria, Mapping and Trend Analysis (June 2006 – May 2014)'. in Perouse de Montclos Marc, A. *ViolenceinNigeria*. A *QualitativeandQuantitativeAnalysis* IFRA Nigeria, 2016. 112 – 140.

[47]Carsten,P. Nigeria's Military 'Destroyed' Villages in Fight Against Islamist Insurgent 2020'

vii. Unemployment

Insecurity in the State has contributed to unemployment in the country. Kidnapping for instance has a negative effect in the labour market or sector. The threat of being kidnapped in the state worsens the current situation of unemployment in the country. Record shows many companies are leaving States dominated by kidnapping. This in turn leads to displacement of workers which results in unemployment.[48]The environment becomes unsafe for companies to invest in. The migration of people from States where there is violence leads to dearth of skilled labor. The shortage of manpower for the firm affects the success of a business.

viii. Money Laundering Threat. Proceeds generated from crimes committed within and outside Nigeria are laundered through financial and non-financial business in Nigeria. For instance money from the proceeds of crimes are laundered through the purchase of illegal arms and ammunition. This makes it difficult for investigators and prosecutors to trace and recover such moneys. Such untraced and unidentified proceeds strengthen the economic and financial powers of the perpetrators of this crime. Crimes such as illicit arms trafficking, murder, grievous bodily harm, kidnapping, terrorism, terrorist financing which contravenes section 15(6) Money Laundering (Prevention and Prohibition) Act[49] of which criminal groups are involved in the crime as business and their source of living. Terrorist Financiers also kidnap for ransom to raise funds for their terrorist activities. Money laundering is done through financial institutions like banking sector and other financial institutions.[50]

For instance, the use of the bank by criminal group, or individuals of crime has been made easy by the current modernization on banking system in the country. For instance, the use of electronic means for bank transaction as opposed to the former face to face contact for transaction in the bank, or the availability of products like bonds, securities, insurance scheme offered by the bank, which is open to customers, can be used to conceal proceeds of crimes. This has given criminals opportunity to launder their proceeds of crime.

4. The Role of the State in Protecting Lives and Curbing Insecurity in Nigeria

i. The State bears a significant mandate for investigating and prosecuting crime. The investigative role of the government centers primarily around safeguarding citizens' rights, maintaining law and order, and instilling a sense of security in the country. The process is spearheaded by several agencies, viz. Nigerian Police Force, intelligence agencies,other regulatory bodies, the courts which operate according to strict legal guideline.Section 4 of The Nigerian Police Act[51] articulates the primary function of the policce elucidating their powers and duties. The Act stipulates that the Police Force shall prevent and detect crime and protect the rights and freedom of every personin Nigeria, maintain public safety,law and order, protect the lives and properties of all persons in Nigeria.[52] Section 31[53] confers on the police, the fundamental responsibility of crime investigation, as part of their role in maintaining public peace. Moreso, the Nigerian courts, by interpreting the law and adhering to the constitution's guidelines, providing legal resolutions, and essentially maintaining law and order play an essential role in curbing insecurity.It is the duty of the courts to conduct

<(www.independent.co.uk)> accessed 22 February 2022.

[48] See Umego, C. D. 'Offence of Kidnapping: A Counter to National Security and Development' Faculty of Law NnamdiAzikiwe University Awka. 2019.

[49]Section 15(6) Money Laundering (Prevention and Prohibition) Act 2022.

[50] See section 2,3 of the MLPA 2022

[51]Section 4 (a-i) Nigeria Police Act 2020.

[52] Section 4 (a-i) Nigeria Police Act 2020.

[53] Section 31 Nigeria Police Act 2020

trails, to determine the guilt of the accused and to ensure that the guilty face the requisite punishment for the offence commited.[54]

ii. Security operatives have a duty of compliance and responsibility in accordance with the law.

While using lethal force law enforcement officials shall not use firearms against persons. However, exceptions follow that limits situation where the use of lethal force will not be a breach of the right to life. For instance, when used in self-defense or to defend others against imminent threat of death or serious injury or to prevent the perpetration of a particular serious crime involving grave threat to life or to arrest a person presenting such a danger and resisting their authority or to prevent his or her escape. And only when less extreme means is insufficient to achieve these objectives. Intentional use of lethal firearms may only be made when strictly unavoidable in order to protect life.[55] The court was right to hold in the case of *Makaratzis v Greece*[56] when the European Court of Human Rights held the use of a potentially lethal force against the applicant by the Police was a violation of his right to life, not withstanding that he survived the injuries for which the Greek government was liable.

There is a heavy obligation placed on the State security operatives to guard against the misuse of firearms or lethal force.[57] While relying on this international obligation placed on the state to prevent misuse of firearms or lethal force, the International Court in the case of Inter-American Court of Human Rights, *Montero-aranguren et al* v *Venezuela*[58], admitted the acknowledgement of responsibility made by the State for the excessive use of force against the detainees, which resulted in the violation of the rights to life during a violent incident between law enforcement forces and prisoners at the Detention Centre of Catia on 27th November, 1992, in which detainees died.

For instance, the NPF has clearly defined when officers may use force, and that force is to be used to achieve a legal or lawful objective or that force must be in accordance with the law.[59]

iii. The State, through the security forces, and through the court must consider the law, necessity, proportionality, reasonableness, fairness, due process while interpreting and implementing the law. It is the duty of the Courts to conduct trials in fairness. In the case of *International Pen and others (on behalf of Ken Saro-Wiwa)* v *Nigerian Commission*[60], late Ken Saro-Wiwa was arrested, detained and tortured by the military in Nigeria. His hands and feet were chained, he was denied any form of medical attention, and access to his lawyers

[54] Section 6 of the CFRN 1999 Establishes the Courts in Nigeria.
[55] See section 33(2)(c) CFRN 1999
[56][2004] ECHR 694.
[57] Article 3 of the United Nations Code of Conduct for Law Enforcement officials provides that Law Enforcement Officers may use force only when necessary and in accordance with law for the performance of their duty. See Principle 9 of the Basic Principles on the Use of Force and Firearms by Law Enforcement Officials. Eight United Nations Congress on the prevention of Crime and the Treatment of offenders, Havana, Cuba, 27 Aug. 1990. See also Otto, A.*et al* Resource Book on the Use of Force and Firearms in Law Enforcement (United Nations 2017) 1-180.
[58]5 July 2005, IACHR Ser. C No. 150 Paragraph 68-69.
[59] See the Nigeria Police Force Reviewed Force Order 237, Manual of Guidance on the use of force and firearms by Police Officer 2019.
[60]*InternationalPenandothers* (*onBehalfofKenSaro-Wiwa*) v *NigeriaCommunication* 48/90, 50/91.89/93, 13th Annual Activity Report 1999 – 200 AHRCR 297.

which was against Article 7(1) of the Charter[61]. He was later killed by hanging. The African Commission found a violation of article 4 of the Charter on the grounds that the execution rendered the deprivation of life arbitrary because the trial of Saro –Wiwa violated article 7 of the African Charter on human and People's Rights.[62]

In the case of *Amnesty International and others v Sudan*, the African Commission[63] found the execution of prisoners after summary trials to be in violation of Article 4 of the African Charter on Human and People's Right[64]. Similar decision was reached in *Forum of Conscience* v *Sierra Leone*[65] the execution after a trial that was in violation of the due process of the law as provided in article 7 (1) (a) of the ACHPR, was found to be in breach of Article 4 of the ACHPR and an arbitrary deprivation of the right to life.

Okon,[66] argues that although Article 4 of the Charter provides that no one may be arbitrarily deprived of his life, it does not define what constitutes the arbitrary taking of life. That extra-judicial killing is the general understanding of arbitral deprivation of life.

iv. It is the duty of the State to protect a person from violence that may threaten his life. The State has a responsibility to provide security and welfare for the people,[67] this is achieved through the security agencies. It is the duty of the State to protect inmates or prisoners. The State should not just enact laws but must justify, implement and execute the laws. The security agencies have the responsibility of maintaining law and order and protecting lives and properties[68]. But rather than perform their duties the security agents have being found wanting. For instance the Police, and Army have gone contrary to this provision of the Law and have being involved in Extra-judicial acts. The court found a Police sergeant guilty of murder for using lethal force on the deceased in the case of *Adegboye Ibikunle* v *the State*[69] The Supreme Court in the case of *Adiele Ndubisi* v *The State*[70] found the accused guilty of murder, as inflicting deadly injury on the deceased was aimed at killing the deceased rather than the defence of arrest as claimed by the accused. The security officers are instruments in the effective realization of State security. It is the duty of the State to protect and improve the environment and safeguard the water, air, land, forest and wild life of Nigeria.[71]

v. The State must equip the security agencies with better weapons, intelligence, must engage in constant training[72] of security agents. The security agents should be adequately funded.

The State must put in place structures to check indiscipline in security agents. Security officers must not be controlled by political office holders. The State must ensure that there is no abuse of the function of security agents. It is well settled that a public officer should not be

[61] The African Charter on Human and People's Right 1986.
[62] *Ibid.*
[63] The Commission is the main executive organ of the African Charter responsible for the supervision and enforcement of the provisions of the African Charter. See Okon, E. Protection of Human Rights Under the African Charter: Are Foreigners Protected? *Journal of Contemporary Legal and Allied Issues. IFJR* 2015 (1) 109-110.
[64] African Charter on Human and People's Rights 1986.
[65] (2000) AHRLR 393 ACHPR 20.
[66] *Ibid.* Okon, E.
[67] See section 14(2)(b),13,17(2)(a)(b) CFRN 1999.
[68] See section 4(a-i) of the Nigeria Police Act 2020. Herein after mentioned NPA 2020.
[69] (2007) JELR 53822 (SC).
[70] (2018) 16 NWLR9 (Pt 1644) 24.
[71] See sec. 20 CFRN 1999.
[72] See section 19 of the NPA 2020.

used by an individual or agency to fulfill any purpose of illegality that results in damages or a breach of fundamental human rights.[73] All forms of corruption, indiscipline, inefficiency named among the officer providing security in the State must be exposed and such officers must be sanctioned appropriately.

vi. The State has both a negative and positive obligation on the citizens, the negative duty is to refrain from taking life outside of circumstance of the law.[74] The positive obligation[75] on the States is to prevent persons from being attacked from violence, to prevent the loss of life, to prevent injury to life.[76]While realizing that to understand the right to life is a mammoth task, Serfontein[77] takes the view that the positive responsibilities of the States includes the duty to ensure that all reasonable measures should be done to make a citizen realize life opportunities and all should be able to live a worth full life economically, socially and culturally.

The State must evolve into that public service for the purpose of ensuring State security.

vii. The State must ensure that victims of violations, families or beneficiaries of victims have access to a justified remedy and good justice.[78] The court held in the case of *SERAP vs Federal Republic of Nigeria and anor*[79] that where the direct victim of a violation cannot exercise his rights for being irreversibly incapacitated or died as a result of the violation, the closest family members can exercise such a right while assuming the status of a direct victim. The court of appeal affirmed same principle when it held that the effect of the CFRN, the African Charter and the Universal Declaration of Human Rights is that the right of a dead person can be litigated upon in court by the family members.[80]

In *Shobayo .v. C.O.P Lagos State*[81] Oyewole J, thus held insisting that only the citizen subject of an infringement can approach the court when such right is violated would create an absurdity. This would imply the non-realization of a fundamental right expressly created by the constitution. This is more so in relation to the right to life when already contravened, for in this case, the citizen victim of the deprivation would have been dead. The next of kin of such deceased citizen would be permitted to enforce the right so allegedly deprived.[82]

viii. The duty of the state to declare a State of Emergency. Section 305 CFRN.[83]

Declaration of a state of emergency is premised on the occurrence of challenging security situations that threatens public order, safety of lives and property. It is understood that where

[73] See Anogwe and others v. Odom and others OW 337 [2016] NGCA
[74] See section 33 CFRN 1999.
[75] This is done through the security officers, like the Police, the Armed Forces, the Immigration service, etcetera.
[76] See European Convention on Human Rights Toolkit 'Right to Life'<(www.coe.int)> accessed 12 February, 2022.
[77] See Serfontein, M. 'The Mammoth Task of Realizing The Right to Life: A South Africa Perspective' (2017) 166-167.<www.intec.hopen.com> accessed 18 August 9 2019.
[78] See section 17(2)(e)
[79]*SERAP vs Federal Republic of Nigeria and anor* ECW/CCJ/RUL/03/14.;9
[80]*GaniatAmope Dilly v Inspector General of Police &Ors*.(2016) LCN/9321 (CA).
[81]in Suit No. ID/760M/2008 delivered on 15/1/2010.
[82] See also *Abdullahi& AMP Orsv. Federal Republic of Nigeria & AMP Ors* (ECW/CCJ/JUD/18/16) [2016].
[83]Section 305 of the CRSA 1999.

a state of emergency is declared in a particular State it is to forestall peace, order and tranquility.[84]

Going by the provision as stated in section 305 CFRN[85], the meaning of a state of emergency was not provided rather what we have is the procedures for the declaration of State of Emergency. However, section 305(3)(c)(d)(f)[86] is to the effect that where there is actual breakdown of public order and public safety in the Federation or any part thereof to such extent as to require extraordinary measures to restore peace and security.

A declaration of a State of emergency in Nigeria will be timely given regard to the alarming security situations in the countries. The state must make all effort to curb violence.

ix. The State must facilitate the individual's right to self-defense. Section 33 (2)(a) CFRN[87] gives a person the right to use reasonable force to defend himself from unlawful violence or for the defence of property. It is the duty of the state to put policies in place that will achieve the principles of self-defense as enunciated in section 33(2). To deal with the acts of banditry, terrorism, kidnapping, armed robbery *etcetera* the government must deal decisively with thesechallenges by encouraging the people to obtain guns and firearm in accordance with the provision of the law. A cursory look at Part II of the Firearms Act[88], it contains a list of firearm which can only be obtained with a license granted by the Inspector General of Police in accordance with the process laid down by law. examples of such firearm are shotguns, sporting riffles, air-guns, air-riffles, Dane-guns, flint-lock guns, cap-guns *etcetera.* This law appears not to have being repealed or expunged. Until the Law is repealed or expunged, it is the duty of the State to prevent the abuse of the right to possess firearm. Thus licenses should be made easily accessible. Also this research recommends stricter control for legally possessed firearm.

x. Any person having in his possession or in his control a firearm in contravention of the law, the onus is on the State to prosecute such a person. The law is trite as it provides the punishment for illegal possession of firearm.[89] This research recommends a stiffer punishment for illegal possession of fire arm.

xi. It is imperative on the State to involve the community in the fight against these security challenges in Nigeria. This is amplified by Part XIV of the NPA[90] which provide for the establishment of Community Policing Committee.[91] This section supports the agitation for State Policing.

[84]Oniha, B.E. Legality of the Presidential Declaration of a State of Emergency in Some States in Nigeria and its Implication on State Government Functionaries <.www.edojudiciary.gov.ng> accessed 23 February 2022.
[85]*Ibid.* Section 305.
[86]*Ibid.*
[87] See section 33(2)(a) CFRN 1999.
[88] Part II, sections 3,4,5,8 of the Firearm Act Cap F28 1959.
[89] See section 2(1) of the Robbery and Firearms (Special Provisions Act) LFN 2004 CAP R11.Upon conviction under the Act the person is sentenced to a fine of Twenty Thousand Naira or to imprisonment for a period of not less than ten years or to both. In reality this provision is far from being realized. If this provision is not undermined it will check the acts of bandits, kidnappers, insurgents etc.
[90] See section Part XIV Section 113 to 119 of the NPA 2020 Act No 2.
[91] The establishment of the community policing committee will support and maintain partnership, promote cooperation and facilitate communication between the police and the community in the fight against insecurity.

xii. The state must adjust to constant shifts and development for effective security system. Section 16 CFRN[92] provides for social wellbeing of the people. To secure the social wellbeing of the people there must be development in the State. This research amplifies the view of Adebayo[93] in his work, that security encompasses development. A developed society among other things provides employment for the people, protects lives, is food secured, has a flourishing economy. It is the responsibility of the State to ensure that the people do not suffer undue hardship of any kind.[94]

xiii. To defeat terrorism for instance it is imperative on State to understand it. The sources of funding of terrorism, the networking, interest, whether collective or personal must be known by the State. There should be a close tracking of terrorist and their activities in the State. Firoz[95] suggests that ransom from kidnapping, smuggling, extortions by criminals, collection of taxes from civilians by insurgents, are some mediums of financing by insurgents in Nigeria.

xiv**.** Prevention of human rights abuse. It is imperative on the State to protect human rights at any stage of investigation, prosecution and trial. This duty is discharged by the court the security agencies and every law enforcement agency. For instance, freedom of movement, privacy, expression, assembly *etcetera* can be compromised during trial of cases bordering on insurgency, banditry, kidnapping, gender based violence, xenophobia etc

The rights of victims of insurgency, kidnapping, terrorism, xenophobia, gender based violence, the rights of persons who will be affected by the criminal process of trial, the rights of suspects, the rights of defendants, must be taken into cognizance by the court.

It is trite that a person charged with a criminal offence shall be presumed to be innocent until proven guilty, a suspect of insurgency has a right to defend himself.[96] The courts are duty bound to interpret the provisions of the Witness Protection and Management Act 2022[97] which establishes a legal and institutional framework to protect witnesses and related persons in prosecution of specific criminal offences like terrorism, money laundering prevention and prohibition *etcetera.* There is the responsibility of the court and security enforcement agencies to protect witnesses during investigation, and prosecution of offences. It is well established in the proviso of section 36(4)[98] that for the interest of defense, public safety, public order and for the protection of private life, the court may exclude from the proceedings the general public, who do not have any interest in the cases.[99]

[92] See section 16 CFRN 1999.
[93]Akinade, A. *Public Private and Community Security Systems: Towards Sustainable Cooperation, Partnership and Professionalism.(*Institute of Security, Nigeria 2016) 17.
[94] In *SERAP V. FRN and Ors* suit No ECW/CCJ/APP/08/09 the court frowned against the violation of right to an adequate standard of living including the right to food, work, health, water, human dignity economic and social development and healthy environment.
[95]Igwe, U. 'We must Understand Terrorist Financing to Defeat Boko haram and Nigeria's Insurgents. FirozLaji Institute 2021.
[96] See section 36(6)(c) CFRN 1999.
[97] See section 1,2,7 of the Witness Protection Act 2022.
[98]Section36(4)(a)(b) CFRN 1999.
[99] Similar provision exists in section 34(1) of the Terrorism (Prevention) (Amendment) Act (TPPA) 2013, Where the courts may provide protection for witnesses from intimidation. In this circumstance the court allows the use of pseudonyms, undisclosed location, protective mechanism which protect the identity of the individual, like wearing of face mask in the court. See also sections 71,72 of the Terrorism (Prevention and Prohibition) Act 2022.

The law must be enforced without discrimination, the rights of both the suspect and the victim must not be undermined by the Court. The suspects must have access to a legal representative.[100]

xv. The State must embrace International Cooperation it is effective to combat insecurity in the State. For instance, The US department of the treasury's Office of Foreign Asset Control(OFAC) convicted and sentenced 6 individuals connected to Boko Haram cell in the United Arab Emirate(UAE). They were found guilty of raising funds for and providing material assistance to Boko Haram insurgents in Nigeria.[101]

xii. The state must reduce the ability of Boko haram insurgents for instance from recruiting children, youths, young persons into the insurgencies. By creating employments[102]This will cripple their heinous acts.

xiii. The law provides that proceeds of crime must be traced, freezed, confiscated. This law must be implemented by the State.[103]

xiv. Terrorist financing can be prosecuted independently by the courts there need not be a pending case of terrorism in court for it to be established.

5. The Role of the State in Protecting Lives and Curbing Insecurity in South Africa

i. The security of lives is necessary to human right existence, the onus is on the State to protect lives[104]. Section 7(2)of the South African Constitution[105] provides that the State is obliged to respect, protect, promote and fulfill the rights of the Constitution. The sanctity of human person shall be recognized and human dignity shall be maintained and enhanced.[106]

ii. In South Africa for instance, the National Development Plan (NDP) is a program provided by the State to ensure security of lives. The NDP program put forth a plan to reduce contact crimes like car theft and hijacking, armed robbery *etcetera* in the state. It should be pointed out that there are laws which prohibits crimes in South Africa.[107] Why then should a program be created to reduce contact crimes? The laws put in place by the Constitution, the Criminal Code should be enforced and implemented by the Executives through the Security operatives and by the Judiciary through the court. The laws on security of the states, for protecting the people must be given full flesh and meaning.

The NDP has a vision of building a safe place for South African communities. The main goal of the NDP is safety as a core human right that is the absence of violence and crime in South Africa. Again physical security, employment, education and health are inclusive to state

[100] See section 36(6)(c) CFRN 1999.
[101] 'Treasury Sanctions Six Individuals for Raising funds in the United Arab Emirates to Support Nigeria's Boko Haram Terrorist Group' <www.home.treasury.gov> accessed 12 December 2022. See section 6(f) Terrorism (Prevention and Prohibition) Act 2022.
[102] This role of the state is provided in section 17 CFRN 1999.
[103] See sections 54,61,77-81. Terrorism (Prevention and Prohibition) Act 2022.
[104]Section 12 CRSA Act 108 1996.
[105]Section 7 CRSA Act 108 1996.
[106]Section 12(1), of CRSA Act 108.
[107] See sections 12(1)(a), 25 of the CRSA Act No 108 1996, sections 256 and 270 of the Criminal Procedure Act 51 of 1977. Section 25 CRSA Act No 108 1996, prohibits robbery. The court further went to find in the case of *Minister of Justice and Constitutional Development and Another* v*Masingili and others* (CCT 4413) (2013) ZACC 41 (Nov. 28 2013), that robbery with aggravated circumstances is one offence which the law prohibits. Thus where there exist all the element of robbery and if proved, it is sufficient to convict an accused.

security and the fulfillment of life in the State. In this regard, the State government must interact with all states actors alike, the local government, municipalities, the communities to provide safety for people.

iii. The States are obligated to give full regard to the right to life.[108]The state is to amplify the meaning of the right to life more positively and more proactively. The State is to take deliberate, concrete and clearly targeted steps in protecting the peoples' life. The state has a duty to protect the people's life against violation from others. The role of the state to investigate where death occurs. Where death results from violence, extra judicial killing by security officers, robbery, theft, xenophobia, terrorism *etcetera*, there is an obligation on the state to carry out proper investigation. and must prosecute all defaulters of the law.

v. The state must prioritize the prevention of violence. It is the duty of the State to protect a person from violence that may threaten his life[109], this is achieved through the security agencies. It is the duty of the State to protect inmates or prisoners. The State should not just enact laws but must justify, implement and execute the laws. The security agencies have the responsibility of maintaining law and order and protecting lives and properties. They are instruments in the effective realization of State security.

vi. The State has both a negative and positive obligation on the citizens, the negative duty is to refrain from taking life outside of circumstance of the law. The positive obligation[110] on the States is to prevent persons from violence, to prevent the loss of life, to prevent injury to life.[111]While realizing that to understand the right to life is a mammoth task, Serfontein[112] takes the view that the positive responsibilities of the States includes the duty to ensure that all reasonable measures should be done to make a citizen realize life opportunities and all should be able to live a worth full life economically, socially and culturally.

vii. Promulgation of programs, schemes, campaign that educates the people. In S.A for instance, the department of Basic Education launched the bill of responsibilities in 2011. This is to outline the responsibilities that are contained in the Bill of Right in chapter 2 of the Constitution, this is to guide learners in schools.

viii. The duty of the state to declare a State of Emergency. Section 37 CRSA.[113]Declaration of a state of emergency is premised on the occurrence of challenging security situations that threatens public order, safety of lives and property. The state must tackle the root cause of violence which are poverty, unemployment, drug abuse, alcohol intake, possession of illegal weapons.

ix. Cooperation among security agencies in south Africa. The state must ensure all security agent collaborate towards maintaining law and order and protection of life in the state.

[108]Section 11 CRSA Act 108 1996.
[109] See Section 12(1)(c) (2)(b) CRSA Act 108 1996.
[110] This is done through the security officers, like the Police, the Armed Forces, the Immigration service, etcetera.
[111] See European Convention on Human Rights Toolkit 'Right to Life'<(www.coe.int)> accessed 12 February, 2022.
[112] See Serfontein, M. 'The Mammoth Task of Realizing The Right to Life: A South Africa Perspective' (2017) 166-167 <www.intec.hopen.com> accessed 18 August 9 2019.
[113]Section 37 of the CRSA Act 108 1996.

The President may authorize the defence force to act in cooperation with the South African Police in defence of the State[114]

x. The state should build community trust. There is a heavy responsibility on the state to build trust this will make the people's confidence restored by the compliance to the law, reporting crimes, providing information to the police and all security agents, serving as witness in court, feeding the security agents with necessary information and in return getting protection[115]

xi. Prevention of human rights abuse. It is imperative on the State to protect human rights at any stage of investigation, prosecution and trial. This duty is discharged by the court the security agencies and every law enforcement agency. For instance, freedom of movement, privacy, expression, assembly *etcetera* can be compromised during trial of cases bordering on insurgency, kidnapping, gender based violence, xenophobia *etcetera.*

The rights of Victims of insurgency kidnapping, terrorism, xenophobia, gender based violence, the rights of persons who will be affected by the criminal process of trial, the rights of suspects, the rights of defendants, must be taken into cognizance by the court.

It is trite that a person charged with a criminal offence has rights which must be recognized. For instance a suspect of kidnapping has a right to defend himself.[116] Has a right to a fair trial[117] The State are duty bound to interpret the provisions of the Witness Protection Act 1998[118] which establishes a legal and institutional framework to protect witnesses and related persons in prosecution of criminal offences.

xiii. The State must guide against excessive use of force by law enforcement officers. Section 49(2) 1977 Criminal Procedure Actas amended provides that if any arrestor attempts to arrest a suspects or and the suspects resist the attempt or flees or resist the attempts and flees and the suspects cannot be arrested without the use of force the arrestor may use such force necessary reasonable and proportional to effect arrest.

The arrestor may use deadly force only if (a) the suspect poses a threat of serious violence to the arrestor or any person

(b) if the suspect is suspected of having committed a crime involving the infliction or threatened infliction of serious bodily harm. This provision gives the police too wide powers. It is prone to abuse. This provision violates international Standard on the use of force and

[114] Section 201(1-3) CRSA Act No 108 1996. For instance, sections 18-20 of the South African National Defense Act No 42 2002 provides in effect that the SANDF may be deployed to perform its duties in collaboration with the SAP in the following manner to wit a. to defend the State for the protection of the sovereignty and territorial integrity, for service in compliance with the international obligation of the Republic with regard to international bodies and other States, for service in the preservation of life, health or property, for service in the provision or maintenance of essential services, for service in the upholding of law and order in the republic in cooperation within the SAPS under circumstances set out in the law where the Police service is unable to maintain law and order on its own .

[115] See Potts J. 2021 'Law Enforcement Strategies to Reduce Violence. <www.police1.com> accessed 23 August 2022.

[116] See section 35(2)(c) CRSA 1996.

[117] Section 35(3) (a-o) CRSA 1996.

[118] See section 7 of the Witness Protection Act 1998.

firearm by law enforcement agents[119]. If these suspect only attempts to resist or flee or resist and flee, it is not enough to use force and arm on him. Section 49(2) is a violation of law hence should be derogated from.

xiv. Freezing of funds of identified and designated terrorist organizations or groups as provided by law. This will curb terrorist financing in the State.

6. **Summary from Nigeria and South Africa**

1.In South Africa security is clearly provided for in the bill of rights of the CRSA.[120]This makes it easily enforceable[121] in instances where there is breach of the section. Unlike the situation in Nigeria the security and welfare of the people is the primary duty of the State.[122] It is a provision that is not included in the fundamental human rights of the Constitution as provided in Chapter 4. In instances of insecurity in the State, the citizens cannot bring an action in court for Government's inability to provide security for them.

2. To further avoid human right abuse and ensure security the State must take advantage of every information to prosecute all violators. There is risk involved in gathering information or securing the attendance of witnesses in court. In the light of the above both South Africa and Nigeria have detailed legislations which protects witnesses and every related person during criminal trial. For instance, while the Witness Protection Act of South Africa makes no restriction for the particular offences prosecuted in court which will warrant protection of a witness, the Witness Protection Management Act in Nigeria restricted witness protection to some specific offences like Money laundering, terrorism *etcetera*.

3. In Nigeria although crimes persist in the State, but it is not the major threat to State security. The major threat to State security are those acts which cause direct violation to the right to life for instance crimes committed by Boko haram insurgents, ISWAP, Armed Bandits, extrajudicial acts by security personnel, etcetera. In South Africa threats to State security includes organized and violent crimes which have direct contact with the people for instance xenophobia, armed robbery, gender based offences, *etcetera*.

4. Both jurisdictions have a wide range of laws permitting the security agencies wide range of powers to use force and firearm. Note, a suspect has rights protecting them and any law providing for the use of force and firearm may infringe on the rights of a suspects. However, in both jurisdictions since their Constitution allows the derogation of such rights, a balance must be set for the security agents, the suspects, the entire citizens, and the people. Not forgetting that in the effecting of arrest, the duty of the police is to protect life, to make the State and the people secured and to maintain law and order.

[119] Article 3 of the United Nations Code of Conduct for Law Enforcement officials provides that Law Enforcement Officers may use force only when necessary and in accordance with law for the performance of their duty. See Principle 9 of the Basic Principles on the Use of Force and Firearms by Law Enforcement Officials. Eight United Nations Congress on the prevention of Crime and the Treatment of offenders, Havana, Cuba, 27 Aug. 1990. See also Otto, A.*et al* Resource Book on the Use of Force and Firearms in Law Enforcement (United Nations 2017) 1-180.

[120] Section 12 CRSA 1996.
[121] See Section 38 CRSA 1996.
[122] Section 14 CFRN 1999.

7. Conclusion.

The impact of security challenges in Nigeria and South Africa is devastating on fundamental human right particularly on the right to life. The challenges have affected every sector in these States. The causes of these heinous acts as mentioned in this research cannot justify the number of killings that is recorded daily. The effects of these challenges are so numerous Until these challenges are addressed the State is bound to deteriorate in development and the perpetrators will continue with their heinous acts. Until the laws put in place are properly implemented these effects will remain. It should be a priority for the State to proffer solutions to these security challenges.

8. Recommendations

1. Victims of violations, families or dependents of victims must have access tos justice. This can be achieved by the court permitting the dependents to enforce the allegedly deprived rights of a victim, in an instance, where the direct victim of a violation cannot exercise his rights for being irreversibly incapacitated or died as a result of the violation, the closest family members can exercise such a right while assuming the status of a direct victim.

2. Security Operatives involved in the misuse of firearms or lethal force must face the full weight of the law by being tried before the appropriate court .[123]

3. The declaration of a State of emergency in certain parts of Nigeria will be timely given regard to the alarming security situations in the country.

4. Security should be given a top priority in the States. And just as it is in South Africa where security is provided for in the Bill of Right[124], security should be provided for in in chapter 4 of the Constitution of Nigeria.

5. General awareness. There is the need to enlighten the people on security. Education can be done through the communities, civil societal groups, public service groups like the local government or municipalities, the public primary, secondary and tertiary institutions or the security agencies who have direct relations with the people. The people should be educated on what security is, the challenges that are prevalent in the state, the causes, how to prevent it, how to protect themselves from these security challenges. This can go a long way in eliminating these security challenges or reducing.

6. Decentralization of policing. The State must see crime prevention as an issue of good governance. Although the security and welfare of the State is the paramount duty of the State, we must not rule out the fact that all levels of government are involved in maintaining security in the State. All levels of government must be involved in crime prevention. Decentralization of policing is recommended. Record shows that the State Government has not had its share of success in preventing and curbing security challenges in the States because of lack of proper understanding of these challenges. The involvement of local

[123] Article 3 of the United Nations Code of Conduct for Law Enforcement officials provides that Law Enforcement Officers may use force only when necessary and in accordance with law for the performance of their duty. See Principle 9 of the Basic Principles on the Use of Force and Firearms by Law Enforcement Officials. Eight United Nations Congress on the prevention of Crime and the Treatment of offenders, Havana, Cuba, 27 Aug. 1990. See also Otto, A.*et al* Resource Book on the Use of Force and Firearms in Law Enforcement (United Nations 2017) 1-180.

[124] See section 12 CRSA 1996 Act 108.

governments in the fight against insecurity in the Nigeria is needed. The local government should be involved in effective crime prevention and security in the community. These can be achieved through internal prevention of crimes in the community, Provision of developed projects for the community. Enforcement of local government bye-laws. Identifying criminals or suspects of crimes and handing over such suspects of crimes to the law enforcement officers for proper investigation and prosecution. assisting victims of crime and keeping a proper record of crime rate in the community.

7. Security should be included in the Exclusive Legislative List in the Constitution of Nigeria 1999.

8. Again this research recommends a special court to deal with offences relating to insecurity in Nigeria and in South Africa. This is suggested because such cases involve classified information and there is likelihood of the abuse of human rights of victims, defendants, and all persons involved in the criminal process of trial when trial is done in the regular court. This is to ensure a secured investigation and prosecution.

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