

THE CONSTITUTIONAL DEMOCRATIC STATE, RULE OF LAW, AND THE  
RISE OF TERRORISM: NIGERIA

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## **ABSTRACT**

The world over, the rise of radical terrorist attacks and groups in democracies has raised a lot of concern for the safety and continuity of democracies. Nigeria as a newly emerging democracy is no exception. This thesis sets as its main aim to answer the question why people or groups rebel against the constitutional democratic state by resorting to Terrorism. Using primarily secondary sources, inculcating mainly the descriptive methodology, the thesis shows that deprivation of constitutional rights and violation of fundamental human rights can lead to the radicalization of groups. Bokoharam as a radical terrorist group tested against this hypothesis falls into the category of a terrorist group who, although associated with a barbaric ideology, but against the background of poverty find appealing to join, especially in the North Eastern part of Nigeria.

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## INTRODUCTION

Constitutional democracy as a norm and a form of social reality has enjoyed a lot of success. This is occasioned also by the struggle of the newly democratized or democratizing constitutional democratic states in the same category. Essentially constitutional democracy involves the concept of the limited state that caters and respects the constitutional and human rights of its citizens.<sup>1</sup> This accounts for its source of legitimacy.

The rise of radical terrorist groups in some of the above democratizing or struggling constitutional democracies raises the question why the escalation of such groups takes place and for what purpose? Is there a causal link between the failure of constitutional democracy and the rise of terrorism in a particular country? This can be explained by exploring the role of the constitutional and human rights record of the state, to find whether a disconnect or disparity develops between citizens expected reality of their rights, and what is actually realized. This way, if the civil and human rights of the citizenry as written constitutionally are equally recognized, upheld and protected, then terrorism is less likely to arise. And if these rights are denied to groups and individuals in the political system, the more likely such groups would radicalize and hence terrorism is more likely.

I will explore this causal link by analyzing the case of Nigeria as a constitutional democracy, and its confrontation with terrorism. Since 2009 Boko Haram, the radical terrorist group Boko Haram has been on a vengeful rampage against the Nigerian state in its attempts to establish a twisted brand of ideology, linked to Islam. In a nutshell, the group's ideology is plainly barbarous and counter to any constitutional norms. To this group the Nigerian state is illegitimate and corrupt, and thus must be replaced with a twisted un-Islamic statehood.

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<sup>1</sup> See section 1.1 on constitutional democracy for further elaboration.

The Nigerian government launched a counter-terrorist campaign against Boko Haram which has claimed thousands of lives.<sup>2</sup> It remains the constitutional duty of the Nigerian state to provide the social and infrastructural means for its citizens and even more important, protect its innocent citizens against this barbarism in the form of terrorism. In the latter case, the Nigerian government has been tackling the Boko Haram terrorists with brute force.<sup>3</sup> Such heavy reliance on force, combined with the relative inadequacy of tackling terrorism, leads to human rights abuses. The questioning of the legitimacy of state actions arises, discontents develop and avenues pointing to the failure to protect constitutional rights abound.

With the above considerations in mind, I argue that the result of the failure to provide social amenities and protect guaranteed democratic rights of citizens can lead to radicalization against the protector state and the resort to terrorism. The term that comes into the picture is '*relative deprivation*'. When groups and individuals feel deprived or their expectations relative to what they have got is not realized, there arise demands and agitations for their fulfillment.<sup>4</sup> When these demands over an extended period are not satisfied, discontent with the government and its ideal arises, radicalization festers and eventually terrorism becomes the means of expressing the unrealized demands.

Boko Haram is a product of the relative failure of the Nigerian state to protect constitutional and human rights. This constitutes the failure of rule of law. Excessive state reliance on brute force triggered feelings of deprivation in terms of the mentioned constitutional rights. The result is their radicalization, and then terrorism. Boko Haram seems to fit into this

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<sup>2</sup> Africa Check. "Have over 13,000 people been killed in Nigeria's Insurgency? The claim is broadly correct." At <https://africacheck.org/reports/have-13000-people-been-killed-in-nigerias-insurgency-the-claim-is-broadly-correct/>. Last accessed 10<sup>th</sup> of April, 2016

<sup>3</sup> Marc-Antoine P rouse de Montclos. "Islamism, politics, security and the state in Nigeria," In west Africa Politics and Society series Vol.2. Published by: African Studies Centre, 2014. Leiden.

<sup>4</sup> See Chapter 2 the theory chapter for expanded explanation

hypothesis, because it was only after the extra-judicial killing of its leader in 2009, that reprisals in the form of terrorism were launched by the group. The thesis is an attempt to substantiate this hypothesis.

Bokoharam started as a peaceful movement.<sup>5</sup> It was the end result of the split of its increasingly radicalized leader, Mohammed Yusuf, from normal Islamic norms and etiquettes. Before 2009 Bokoharam was committed to proselytisation (Religious preaching) of its barbarous ideology that did not conform to any constitutional mechanism and challenged both traditional and modern notions of secular constitutional democratic governance.<sup>6</sup> It was through subtle and open harassment (by the state) that Bokoharam was provoked into an open confrontation with the Nigerian state and was violently suppressed in July 2009.<sup>7</sup> Since this has happened, it is the duty of the Nigerian state to protect its territorial integrity and, on the other hand, maintain the safety of its innocent law abiding citizens.

Bearing in mind the Nigerian constitutional provisions that guarantee equality in rights<sup>8</sup>, *this thesis will seek to answer the question why Bokoharam has evolved into a terrorist group. A sub-question connected to this is how has the Nigerian state performed in protecting the constitutional and human rights enshrined in its constitution and has the failure to protect such rights and obligations led to the radicalization of a group of the Nigerian peoples against it?* My hypothesis is that this link matters. Nigeria recognizes freedom of religion. I argue as well that in the event groups feel their religious freedoms are being infringed upon or denied, there could emerge feelings of deprivation, leading to their radicalization against the constitutional order.

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<sup>5</sup> Kyari Mohammed. “The message and methods of Bokoharam”, in: *Islamism, politics, security and the state in Nigeria*. African Studies Centre, 2014. Leiden. P 9-10

<sup>6</sup> Ibid

<sup>7</sup> Ibid.

<sup>8</sup> Nigeria world. “Nigerian Constitution Chapter 4”. At <http://nigeriaworld.com/focus/constitution/chapter4.html>. Last accessed 21<sup>st</sup> of march 2016

The thesis bases its analysis mainly on the descriptive study supplemented by discourse analysis. The sources will be predominantly secondary. The study puts as its objective to offer a perspective through which Nigerian democracy can be evaluated. Has the democratic culture been entrenched? How far has Nigeria come from the military/autocratic rule that was in effect sixteen years ago? Another objective this research will achieve is to see whether the Nigerian state belongs in the ever growing community of democratic states.

Regarding the significance of the study, the democratic transitions witnessed across the world have generated new areas of interest in the democratic literature. Amongst these is democratization in Africa. With its population at approximately 170 million, and growing, Nigeria has been predicted to be amongst the 20 best world economies by 2030. The country has enjoyed its fourth democratic regime since the end of military rule in 1999. This transition has come with a lot of progress as well as its problems for a country that has been under military dictatorship for most of its political history since independence.

How has the socio-political well-being of the Nigerian citizen been protected since the transition to civilian rule? Specifically, with the current spate of terrorism, how has the state served to protect the citizen from the enemies of peace and prosperity?

In the above perspective, this research will constitute a meaningful contribution to the democratization literature, especially on the African continent. Also in this connection, it will be very interesting for political analysts, commentators and people who have an interest in African studies to have a real feel on constitutionalism and state response to terrorism on the subject under study.

By way of structure, **Chapter one** is divided into three parts, looks into and defines the concepts of constitutional democracy, the rule of law, radicalization, and the rise of terrorism.



**Chapter two's** purpose is essentially Theory. It sets out to outline the theory of relative deprivation and how this can lead to the radicalization of groups and subsequently terrorism. It does this in 3 parts. The chapter departs from two rival explanations of how terrorism in the case of Bokoharam evolves from class politics and how this can lead to terrorism, then gives an account of how the over intoxication with politics and the politics of divide and rule, on the one hand, can lead to terrorism. The chapter shows the utility of these theories before elaborating the main thesis on deprivation leading to terrorism.

**Chapter three** explores the main tenets of Nigerian constitutional design on constitutional and human rights. This will inform the reader about what Nigerians expect from their protector state and whether these are protected or not. The section focuses on and elaborates on the constitutional provision that caters *for the human right to life, legal procedures for persons under the cusp of arrest, innocence until proven guilty and the recognition of religious freedom*. It concludes with a recent anti-terror law passed and how the government might proceed constitutionally in prosecuting its fight against terrorism. Nigerian constitutional design regarding the subject under study is elaborated and then a brief overview of the Nigerian constitutional experience is elaborated as a guide to human rights included into its constitution. A brief overview of contemporary Nigerian experience with constitutional democracy is elaborated. The chapter then looks into the evolution of the Bokoharam conflict in Nigeria.

Also important, the case of Maitatsine is looked at and linked to Bokoharam in comparison. The link between the two is the twisting of ideology for unleashing terror albeit having different paths to radicalization. Regarding radicalization of groups in society the Maitatsine uprising of 1980 in Nigeria is a good example of how an individual can twist the narrative of a religion and exploit historic discontents. This will be an important causal link to

look at Bokoharam. This will also be the prelude to the data analysis chapter that will confirm relative deprivation in terms of human and constitutional rights which had fuelled radicalization in the case of Bokoharam and their subsequent resort to terrorism.

**Chapter four** looks into the Nigerian situation to confirm if Bokoharam confirms the hypothesis of deprivation leading to terrorism. It takes a critical look into the Nigerian constitutional democratic state and to see if its failure to facilitate the goods of constitutional and limited government explains the Bokoharam uprising. The language is through the prism of constitutional and human rights, especially those guaranteed to be protected by the Nigerian constitution and to see if the rule of law has been a guiding principle in state action, in the pursuit of its duties towards groups and individuals in society. This way a test of the hypothesis will be adduced were, the failure to ensure the above mentioned democratic rights and privileges to groups such as youths lead to their radicalization and resort to terrorism and the success of which will not result in the later. This will constitute the main thesis chapter of the analysis so far and all conclusions and possible recommendations will be adduced from the results garnered here.

The thesis then concludes with results, recommends ideas and possible ways to check the excesses in terms of constitutional and human rights, and how these may be avoided in the future. It then assesses Nigeria as a constitutional democracy based on the thesis discussion.

# 1. CHAPTER ONE - Basic Concepts

## 1.1 Constitutional Democracy

**Constitutional democracy** as an institution ensures the limitation of state power in view of the legitimacy given to it by the people. It also ensures the protection of certain inalienable rights of the citizen, as well as enforcement of certain constitutionally ingrained laws. What precisely is a constitutional democracy? This term has varying definitions based on varying experiences with the two separate phenomena that constitute the term. The term '*constitutional democracy*' should not be confused with representative democracy, not with constitutions and constitutionalism. But rather to understand the term we need to understand democracy and constitutionalism separately.<sup>9</sup>

In this way, democratic theory emphasizes the notion of human dignity, respect and the protection of certain agreed human rights and principles.<sup>10</sup> Constitutionalism on its part is not too dissimilar with democratic principles of respect for humans and protection of their dignity.<sup>11</sup> The clear distinction between the two terms is constitutionalism provides the framework through which these protections are engrained. Thus constitutionalism is a term that refers to checks and balances that seek to limit the state against abusing the powers vested in it by the people. In other words, it checks the arbitrariness of political power.<sup>12</sup>

Thus the nexus between the two terms produces a term that refers to the protection of **equal rights** by the state, as well as limiting such freedom against its abuse by the exploitation

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<sup>9</sup>Douglas Greenberg, et al (Eds). "*Constitutionalism and Democracy Transitions in the Contemporary world American Council of Learned Societies*"(Oxford: Oxford University Press, 1993) P 1

<sup>10</sup>Ibid

<sup>11</sup>Ibid

<sup>12</sup> Nwabueze Ben. "*Constitutional Democracy in Africa (Structures, powers and organizing principles of government)*". (Ibadan. Spectrum books Limited, 2003). Vol 1. P 2

and domination of one man by the other.<sup>13</sup> In the words of Peter Haberle, the constitution and by extension **the constitutional democratic state** “... is also, but not only, the limiting of power, it is also “a stimulus and a barrier” (smend), “norm and duty” (scheuner), “public process” and culture (Haberle).”<sup>14</sup> In this way, a state that professes to run a constitutional democracy will have to act as a stimulus to its constitutional powers, yet limiting its powers to that, apply its duties according to the democratic principles, and ensure public conduct conforms to the democratic process and culture.

To add to the above, if the democratic culture is to be ensured, some substantive conditions will have to be satisfied for a regime to be termed democratic. This way, Tilly observed the conditions of life and politics the regime promotes are highlighted: Does this regime promote human welfare, individual freedom, security, equity, public deliberation, and *peaceful conflict resolution*?<sup>15</sup> Tilly asserts that if the outlined goods are satisfied, then the regime or state is inclined to be referred to as democratic.<sup>16</sup> This I completely agree with, since democratic principles are based on the notion of human dignity and respect for constitutional rights.

Constitutional democracies of the world have varying experiences and successes with the above painted state picture. There are varying explanations for why such has been the case. There exist older and newer constitutional democracies. The former generally seem to fare better due to their perfection and understanding of the system, and by extension, it has become a civic culture, while the latter ones are still struggling to comprehend and implement such principles in

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<sup>13</sup>Ibid

<sup>14</sup> Peter Haberle. “*The Constitutional State and Its Reform Requirements*”. *Ratio Juris* Vol. 13 (2000). P 80

<sup>15</sup> Charles Tilly. “*Democracy*”. (New York: Cambridge University Press, 2007). P7

<sup>16</sup> All six indices Tilly espoused are important for constitutionalism as well, which this thesis has stressed in assessing Nigerian democracy and the rise of terrorists within its political landscape.

their administrations and daily lives. Nigeria belongs to the latter part and it is this country I shall assess in terms of its implementation of its constitutional duty of protecting its territorial integrity and more importantly, protecting the rights of Nigerians in its pursuit of the former.

## 1.2 The Rule of Law

Instrumentally, the constitutional democratic state cannot function without some Principle that guides its actions **by preventing the abuse** of powers. This institution is *the rule of law*. At the core of the concept are three general principles. That people should be ruled by the objective determination of general laws; that nobody should stand above the law and that ordinary citizens can find redress against the more powerful for any act which involves a breach of the law; and that nobody should fall outside the protection of the law.<sup>17</sup> At the same time, democracy with the freedom it confers on men cannot function without guiding principles that shape the attitudes and actions of men against one another.<sup>18</sup> In this way, rule of law essentially means acting constitutionally and any state action that acts contrary to such is hence on contrary to the notion of rule of law. Rule of law is also very important for human rights, which focuses on the right of individual citizens, and non-citizens, and to a lesser extent group rights. Some of the characteristics of the rule of law as espoused by A.P Dicey are as follows:

- Common ethics: An underlying moral value orientation (e.g. towards equality and fairness) of all laws;
- The supremacy of the law: all persons are subject to the law (i.e. those holding state power are also bound by a common law or constitution).
- Restraint of arbitrary power; No power can be exercised except according to procedures, principles and constraints contained in the law;
- Separation of powers: parliament exercises legislative power; there are restrictions on the exercise of legislative power by the executive.

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<sup>17</sup> Wolfgang Benedek and Alice Yotoupoulos-Marangopoulos (Eds.). *Antiterrorist measures and Human rights*. Leiden/Boston. Martinus Nijhoff Publishers, 2004. PP 56-57

<sup>18</sup> Martin Krieger. “*Rule of law and the Rechtsstaat*”. (Switzerland: Springer International Publishing, 2014). P 1

- *The principle of habeas corpus: arbitrary or preventive detention is prohibited;*
- *The principle nulla poena sine lege (no punishment without a law): legislation should be prospective and not retroactive;*
- Judicial independence: an independent and impartial judiciary, with no special courts;
- Equality before the law: redress for breaches of the law must in principle be open to any citizen and against any other citizen or officer of state;
- State protection for all: just as nobody should be above the law, nobody should be outside the protection of the laws of the land;
- Supremacy of civilian authority: military and police forces must be subject to civilian control or oversight;
- Prohibition of summary justice: crimes are viewed as individual acts; there must be no collective punishment of a group for acts of individuals;
- *The principle of proportionality: only minimum force should be used to stop law-breakers; punishment must be relative to the seriousness of the offense.*<sup>19</sup>

Thus, for the purpose of this thesis, the rule of law in the constitutional democratic state is also meant to ensure the adherence to and implementation of constitutional rights without favoring any group, interest or worldview. That is in terms of delivering the goods of democracy to the citizenry. The right to safety, family life, and the good life, equality before the law, basic human freedoms and special recognized rights in the constitution come into the frame. These are basic to the actualization of the goals of the democratic ideal of equality, freedom, and prosperity.

The failure or inability of the state to provide the goods mentioned above calls the legitimacy of the constitutional democratic state into question. In other words, the state cannot and should not fail to protect the constitutionally ordained rights of the people. This would be the failure of the rule of law. In this way, I argue that these failures could constitute a fertile ground for the emergence of radical terrorist groups, against the background of grievances of human

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<sup>19</sup> Ibid

rights violation, failure of the democratic ideals of equality, freedom, and prosperity, and the failure of the rule of law in state action.<sup>20</sup>

### 1.3 Radicalization, Terrorism, and Rise of terrorism

Radicalization for the purpose of this thesis is defined as the process by which an individual or group comes to adopt increasingly extreme political, social, or religious ideals and aspirations that reject or undermine the established order.<sup>21</sup> Radicalization can be both violent and nonviolent.<sup>22</sup> This thesis will focus on the violent form of radicalization, which leads us to the term terrorism.

What is Terrorism? Defining the concept has proved to be a difficult venture; due to the subjectivity of the activity that constitutes its design.<sup>23</sup> Terrorism can be defined as the exploitation or evocation of fear for the purpose of achieving some political end. Put differently, terrorism constitutes the use of *violence* and *threats* to *intimidate* or *coerce*, especially for political purposes.<sup>24</sup> Similarly, it can be defined as “...*the surprise threat or use of seemingly random violence against innocents for political ends by a non-state actor.*”<sup>25</sup> This second definition seems more encompassing and will be used. It identifies a threat to innocents, and by non-state actors, of which groups like Boko Haram are particularly peculiar with.

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<sup>20</sup> See an analysis chapter

<sup>21</sup> Alex s. Wilner and Claire –Jehanne Dubouloz. “*Homegrown and transformative learning: An interdisciplinary approach to understanding radicalization*” In *Global Change, Peace, and Security*, 2010). Vol 22:1 P 38

<sup>22</sup> Borum Randy. *Radicalization into Violent Extremism I: A Review of Social Science Theories*. Journal of Strategic Security (2011). Vol. 4 Issue 4. PP 7-36

<sup>23</sup> Audrey Kurth Cronin et al. “*Attacking Terrorism*”. (Washington D.C: Georgetown University Press, 2004). P 3

<sup>24</sup> Dictionary.com at <http://dictionary.reference.com/browse/>. Last accessed 28<sup>th</sup> of January 2016

<sup>25</sup> Opcit. P4

There are several types of terrorism. For instance, Moghadam identifies four forms of terrorism. For the purpose of this thesis three are mentioned. We have the ethno-nationalist/separatist terrorism, revolutionary terrorism, and state sponsored terrorism.<sup>26</sup> Nationalist/separatist terrorist groups seek autonomy by seceding from the state using coercive means.<sup>27</sup> Revolutionary terrorists, as their name implies, rise against the ideals of their states, which otherwise is seen as authoritarian or even fascist.<sup>28</sup>

State sponsored terrorism refers to the use of terror by the state against foreign and domestic enemies.<sup>29</sup> Central to all of these definitions of terrorism is violent conduct in the pursuit of political ends. To this extent, none of the above definitions of terrorism conform to the theme of this thesis that is the Bokoharam terrorist group of Nigeria. This is because the aim of Bokoharam is to take over the realm of the state which it sees as illegitimate and corrupt. In this way the original definition of terrorism will be used to operationalize Bokoharam as a terrorist group, evoking fear to achieve political ends.

Thus, with the above definitions and underpinnings in mind, effectively establishing terrorism or acts of terrorism vis-à-vis radicalization, the extent to which there is an escalation of the former in any political system, in the pursuit of any phenomena, ***the term rise of terrorism holds***. This will be the concept that will refer to radicalization/terrorism simultaneously in this thesis.

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<sup>26</sup> Moghadam Assaf. “*The Roots of Terrorism*”. (New York: Chelsea house publishers, 2006). PP 55-60

<sup>27</sup> Ibid

<sup>28</sup> Ibid

<sup>29</sup> Ibid



## 2. CHAPTER TWO: Theoretical Framework: Towards the Theory of Relative Deprivation

### 2.1 Class Analysis of terrorism in Nigeria and Africa At Large

Ayodeji Bayo Ogunderifa in his class analysis of terrorism provides an analogy of discontents from the masses ending up in terrorism.<sup>30</sup> Ogunderifa stipulates his theoretical explanation of terrorism and by extension the Bokoharam crises thus that both

“...are expressions of unending class struggle implicit in the hidden structures of oppression and structured contradictions of the global capitalist system. The antagonistic class relations between the ruling class and the lumpen class translate into state and individual terrorism that has featured prominently in recent times.”<sup>31</sup>

Understood this way, Ogunderifa uses Karl Marx’s historical materialism as the basis of his explanation and understanding of the Bokoharam crises.<sup>32</sup> Karl Marx developing and departing from the work of his inalienable partner Hegel stipulates

“...It is not the consciousness of men that determines their being, but, on the contrary, their social being that determines their consciousness”.<sup>33</sup>

Thus to Marx, it is the struggle between two classes at a particular stage of history that eventually lead to progressive change by the defeat of the exploitative ruling class by the proletariat or the peasants.<sup>34</sup> The state was and remains an instrument of class rule, and serves to protect the dominance and interests of the ruling class. This by extension describes the drifting and contradictory African state described by Peter Ekeh, which has been captured by sectional elites to foster selfish means in the pursuit of power and capitalist accumulation.

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<sup>30</sup> Discontent here refers to the role of deprivation leading to radicalization

<sup>31</sup>Ekeh, Peter. “*Nigeria’s Emergent Political Culture*,” in P. Ekeh et al (Eds). *Nigeria since Independence in the Last 25 years*, Vol. V, Politics and Constitution. (Ibadan: Heinemann Educational Books Inc, 1989). P5

<sup>32</sup>Ibid. P 28

<sup>33</sup>Ibid.

<sup>34</sup>Ibid. P 28

In the above formulation, to Ogunderifa, the Bokoharam uprising is an embodiment of the rise of the lumpen class against the oppressive Nigerian state.<sup>35</sup> The disconnect described by Ekeh and by extension Ogunderifa's class analysis of terrorism points to the analysis between the elitist state and the citizen, which can essentially mean the inadequacy of the protection of the constitutionally engrained rights for the 'good life' of the citizen as the democratic ideal has promised. And it is this that subsequently leads to frustration, growing contradictions and antagonisms between the poor citizens and the state and eventually terrorism becomes the only option for the poor citizen for self-determination and the dislodgement of the exploitative capitalist order. It must be mentioned here that Ogunderifa's elaboration does not acknowledge that constitutional and human rights are important for the rise of the lumpen class against the ruling class, but rather economic means, hence my departure.

This way, deprivation in terms of economic surplus is the catalyst for revolt by the serf in an attempt at self-determination and social justice. It can be seen that the main underpinning idea behind this Marxian analogy is Gurr's relative deprivation theory of unrealized expectations leading to terrorism, which will be seen later. This way, Ogunderifa's analysis of the Nigerian state, is that it is an instrument of 'state Terrorism'. Instead of serving to limit the excesses of the powers of the state for capitalist accumulation, it rather favors, protects and even empowers the ruling elite or bourgeoisie, to the detriment of the working class or commoners.

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<sup>35</sup>Ibid. P 47

## 2.2 The Intoxication with Politics and the Politics of Divide and Rule

The elite feud/conflict perspective further explains how terrorism develops, particularly Bokoharam. Professor Claude Ake aptly captured the meaning of this perspective when he says

“The crux of the problem is the over-politicization of social life [...] we are intoxicated with politics: the premium on political power is so high that we are prone to take the most extreme measures to win and to maintain political power.”<sup>36</sup>

By this, it means African politicians in order to further their strategic political interests, create atmospheres of chaos and disharmony in order to perpetrate some selfish political motifs. This has been successfully used to explain the Bokoharam phenomenon and by doing so effectively makes it a necessary Machiavellian tool for achieving political gains within recent Nigerian political happenings.<sup>37</sup>

In the above formulation, terrorist groups like Bokoharam are creations of elites in government, in their attempts to further some political end. The result is the goading of opposition parties and enemies of the administration. People of different ethnic and religious affiliations are funneled with the propaganda of hate and disdain by one section of the nation over the other. The end is the attainment of favors from the misled section for electoral gains and the circle goes around.

Thus, the premium on political power as captured by Ake is analogous to the failures of democracy and elite egoism. To conclude, Bokoharam members were indeed used for political thuggery in the 2003 elections by the then governor of Borno state Modu Sheriff. In fact, he has been named as one of the de-facto sponsors of the terrorist organization. This explanation in itself is not complete for the purpose of analyzing the arguments of this thesis as it neglects the

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<sup>36</sup> Claude Ake. “*Presidential address to the Nigerian political science association*,” West Africa (May 25, 1981) PP 1162-63

<sup>37</sup> See Ali Modu sheriff episode in chapter one ‘Evolution of Bokoharam’, and how Modu sheriff sponsored Bokoharam members to intimidate opposition and win election in Borno state of Nigeria.

human and constitutional rights perspective. Next is the exposition of the main theoretical argument.

### **2.3 The Failure of Democracy Radicalization: the Theory of Relative Deprivation**

Martha Crenshaw acknowledged that terrorism arises when concrete grievances exist among an identifiable sub-group amongst a larger population.<sup>38</sup> In addition to Crenshaw's claim, it can be established that there is a causal relationship between marginalization and grievances on the one hand, and these leading to the radicalization of groups and individuals in the society. The variables are usually two, between the powerful and the less powerful, the state and its citizens. Usually in democratic settings the powerful are meant to protect the less powerful from abuse by others, not excluding themselves. The failure of the former could lead to radicalization by the weak.

Crenshaw has also adduced that terrorism is more likely to occur where mass passivity and elite dissatisfaction coincide.<sup>39</sup> She continues, discontent is not generalized or severe enough to provoke the majority of the populace to action against the regime, yet a small minority without access to the bases of power that would permit the overthrow of the government through coup d'état or subversion seeks radical change.<sup>40</sup> For instance, it can be established that in the constitutional state, where the human rights and dignities of the individual are established, understood, and expected to be protected, and they are not, then that groups will feel aggrieved are entirely logical. Passivity for the regime arises side by side discontents for the regime as

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<sup>38</sup> Martha Crenshaw. *Explaining Terrorism: Causes, Processes and Consequences*. (London and New York: Routledge Taylor and Francis group, 2011). P 41

<sup>39</sup> Ibid. P 39

<sup>40</sup> Ibid.

Crenshaw has claimed above. The overall effect is the protest of these groups, especially those without access to the corridors of power against the state apparatus, which can take either the form of peaceful means or violent means. In the latter case, it can be claimed that the aggrieved groups have resorted to terrorism in the pursuit of their rights or improvement of their situation. This brief elaboration will form the focus of this theory chapter on the failure of democracy leading to radicalization and subsequently terrorism.

In this view, constitutional rights in the frame of, basic amenities, access to good and proper education, human rights such as the right to life and association, right to peaceful protest, right to practice religion and also the enjoyment of freedom and equality ought to be protected by the state against itself. This also against the encroachment of breach by other groups or individuals within the state is usually guaranteed by democratic constitutions.<sup>41</sup> This is especially in the constitutional democratic states. In this way, the state in its capacity as provider as well as protector of these rights is obliged to protect these constitutional rights of its citizenry at all costs within the limits of its constitutional powers.<sup>42</sup> In times of emergency, it can invoke clauses provided in the constitution in order to return normalcy of guaranteeing the constitutional rights.

Constitutional democracies with their acceptance of the constitutional norm and duty to implement them have been deemed the best and safest social reality. In cases where a particular segment of the society rebel against such establishment, the question why arises.<sup>43</sup> Thus follow up to Crenshaw's claims above, *the relative deprivation theory* can be used to explain this predicament. Gurr in his analysis of instability defines *relative deprivation as the discrepancy*

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<sup>41</sup>See section 1.1 on Constitutional democracy.

<sup>42</sup>Ibid

<sup>43</sup>Precisely why they resort to terrorism against the state apparatus that protects and guarantees its citizens rights.

*between what people feel they are entitled to have and what they have in reality.*<sup>44</sup> When this discrepancy becomes large between expected and real political power, social and economic entitlements, frustrations start to grow. He continues, it is through these political, social or economic frustrations also known as grievances that violence is born.<sup>45</sup> To him, Long run value improvements of individuals generate expectations of continued improvements.<sup>46</sup> And these should continue. Gurr explains why men resort to rebellion. Thus, terrorists are not different from rebels as their actions are acts of rebellion against the state.

Thus, in the light of the relative deprivation theory, when the state or central authority in Nigeria fails to protect its constitutional provision of secularity for instance, it can be claimed that it has failed its democratic mandate.<sup>47</sup> This coupled with when groups or individuals feel aggrieved the result is a violent eruption of groups in the pursuit of the attainment of deprived rights. This can be termed the failure of the constitutional state in limiting itself against the abuse of its powers within the constitution and by extension protecting its citizen's human rights.

Deprivation can also take the form of marginalization. Marginalization refers to the recognition of the rights of one group in the stead of the other. It can also take the form of disparity in terms of resource sharing, that is when there is unequal sharing of the goods in society in the favor of one over the other. In a study, it was found that "the idea of justice or fairness maybe more centrally related to attitudes towards violence than are feelings of deprivation."<sup>48</sup> What drives the motifs are the perceptions of injustice that underlie deprivation

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<sup>44</sup>This can be equated to the radicalization hypothesis of this thesis, hence the propellant of terrorist engagements.

<sup>45</sup>Robert Ted Gurr. *"Why Men Rebel"*. (Princeton, NJ: Princeton University Press, 1970). P 6

<sup>46</sup> Ibid

<sup>47</sup> As will be seen later in Daniel Agbiboa's analysis and analysis chapter.

<sup>48</sup> Martha Crenshaw (2011). Op.cit P 38

that give rise to anger or frustration.<sup>49</sup> Plus in addition, the government must be singled out for blame.<sup>50</sup>

Thus in this way terrorist organizations or radical groups can be put into this category especially if the reason for their uprisings is associated with state marginalization or perhaps systematic nepotism socially, politically or economically. In this view, Bokoharam as a terrorist organization arose out of relative frustrations from a system that was meant to protect them in terms of constitutional as well as basic human rights.<sup>51</sup> In the event, people in this category, feel aggrieved first on the one hand that their local constituencies have been subjected to increasing resource rights marginalization or ever increasing military/police brutality without access to due process, or access to appropriate law-based justice mechanisms, guaranteed by the constitution, there emerges grievances and increasing radicalization, leading to their engagement in terror attacks against state apparatus.<sup>52</sup>

If the above case is true, situating this in the failure of democracy leading to terrorism paradigm, when there is the excess use of force in the pursuit of maximum security, for instance, there could arise victims of the exchange of gunfire. In this way, in the event innocent lives are lost in the crossfire; there appear avenues for the aggrieved to feel the need to be compensated on the side of the families of the victim. If these compensations are not given or guaranteed, family members will feel deprived of the right to be compensated were necessary.<sup>53</sup> This hypothesis

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<sup>49</sup> Ibid.

<sup>50</sup> To be seen in analysis chapter (4)

<sup>51</sup> See analysis chapter (4).

<sup>52</sup> This will be further argued in the analysis chapter (4) with empirics.

<sup>53</sup> This could constitute the beginning of feelings of deprivation by the state and evokes negative emotions towards it by those affected.

perhaps can be argued in this vein as the catalyst to radicalization and terrorism.<sup>54</sup> The result of which is from state violations or deprivations of the right to life amongst others.

Further, Galtung seems to agree with Gurr, when he argues that the situation most likely to provoke aggressive behavior is one in which individuals find themselves in a state of disequilibrium along various socio-political dimensions of status.<sup>55</sup> This way, his idea attempts to look at the political dimension of relative deprivation, in attempting to explain radicalization and resort to overt terrorism.<sup>56</sup>

In addition to the above, the theory of relative deprivation leading to terrorism can also be seen in the context of state legitimacy. When a state enjoys popular legitimacy amongst its population, such state is bound to witness fewer levels of radicalization, and by extension terrorism. The loss of such state legitimacy leads to domestic and civil violence subsequently. Forsythe identifies that some of the sources of state legitimacy are in legal traditions such as established norms and morals, history, ideology, personal characteristics, and in functional characters like efficient rule and satisfaction of needs.<sup>57</sup> This means the character of the state (in legal traditions, norms, history...) and individuals that occupy its administration will determine the attitudes of the citizenry towards it. To me, this can be applied to the constitutional democratic state as well and the matter at hand is if it protects its citizen's constitutional rights without deprivation of one group over the other, the result of which if the former, the state retains its legitimacy and immunity from radicalization and .

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<sup>54</sup> For instance, anytime there were cases of excessive use of force by the Nigerian army in its fight against terrorism, there emerged even more radicalization of people. See analysis chapter.

<sup>55</sup> Johan Galtung. "A Structural Theory of Aggression". *Journal of Peace Research*, (June 1964). 1 (2), PP. 95-119.

<sup>56</sup> Bokoharam started as a peaceful movement, and then graduated into open terrorism especially since 2009.

<sup>57</sup> Forsythe, David P. *Human Rights and Peace* (Lincoln, NE: University of Nebraska Press, 1993). PP 60-71



## 2.4 A look at Applications of RDT

Studies in the vein of relative deprivation theory include the civil rights movements of the 1950s, 60s, and 70s in the US, even though these did not translate into open terrorism but radicalization. For instance, Flynn argues that sociologists recognize that American civil rights movements were united by a common belief in inequality and access to resources. They framed their demands in the language of relative deprivation, democratic rights, and Christian universalism.<sup>58</sup> The demand for these constitutionally guaranteed rights fuelled the protests and albeit in a civil, democratic and mostly peaceful manner. Bokoharam (since 2009) and terrorist organizations in their ilk do not seem to fit into this categorization as their means are utterly violent, devoid of considerations of the human rights and dignities of others and against any constitutional provisions of peaceful and democratic protest.

The Bokoharam uprising against the Nigerian state also developed out of the circumstantial exploitation of a dire situation. In addition, the claim of what should constitute the right form of state rule, in this case socially, politically and economically, as well as a sharia implementation fiasco is paramount in the narrative. To this group the Nigerian constitutional democratic state has no legitimacy whatsoever and anything western leaning including the education system is haram or forbidden. Coupled with its twisted ideology and due to subsequent government crackdowns by the Nigerian police and the army, the killing of its leader albeit extra-judicially, to them they found as a last resort for revenge after being denied fair human rights or hearing. Relative deprivation in this instant plays a central role.

The situation here shows abuses on both sides of the divide. In the light of Nigeria as a secular state as constitutionally guaranteed, no religion shall be the state religion and civic

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<sup>58</sup>Simone I. Flynn. "*Theories of social movements*". In sociology Reference Guide. Pasadena California, Hackensack New Jersey, 2011). PP100-106

engagements are not devoid.<sup>59</sup> Bokoharam as a group denying other Nigerians the right to express their rights to freedom of religion, and the Nigerian state exerting human rights abuses, especially their leader denied access to fair hearing and court proceedings.

Daniel Agbiboa identifies relative deprivation as one of the main catalysts for Bokoharam terrorism especially through the lens of, human rights violation and religion as a potent mobilizer, citing the implementation of sharia law as a factor.<sup>60</sup> The perils of a state that has witnessed a recent transition to democracy after decades of military rule at hand, coupled with it being a divided society. Deprivation and its feeling arise whenever there is a new law that contradicts the beliefs of a segment of the Nigerian body politic. This way, Daniel observed in Nigeria that

...The transition from northern-dominated military rule to a southern-led civilian regime in 1999 revived fierce debates on what the status of Sharia should be in an independent state. Sharia proponents argued that it was their constitutional right to practice their religion within the tenets of the Sharia legal code.<sup>61</sup>

These arguments by extension were followed with human rights language, in an attempt to justify the implementation of sharia law, and which the constitution of Nigeria guaranteed religious freedoms.<sup>62</sup> The problem that arises out of this for a religiously, ethnically and politically diverse country like Nigeria at this point in time was the fear of relative deprivation of legal constitutional rights of what the right legal mechanism to be used for non-Muslims, especially in states where sharia law was extended into the criminal law system.<sup>63</sup> The result of this was serious riots in religiously and ethnically heterogeneous states like Kaduna, Zamfara,

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<sup>59</sup>See section 3 of the Nigerian constitution, which states that "...if any other law is inconsistent with the provisions of this Constitution, this Constitution shall prevail, and that other law shall, to the extent of the inconsistency, be void" (Constitution of Nigeria, 1999). Since this section of the Nigerian Constitution proscribes any State religion, it would seem that introducing religious rules as State laws will essentially contradict this section. "

<sup>60</sup>Daniel E. Agbiboa. *"The Social Dynamics of Nigeria's Bokoharam Insurgency: Fresh Insights from the Social Identity Theory"*. (University of Oxford, Department of International Development (ODID), 2015. P3

<sup>61</sup>Ibid. P10

<sup>62</sup>Ibid P9

<sup>63</sup>Ibid

Kano, Borno, Bauchi and Sokoto amongst others. This goes on to explain the central importance of religion as a potent tool for social mobilization in the political system in Nigeria. The deprivation of the right to express or be judged based on one's religious beliefs is met with huge derision due to mutual suspicion of religious marginalization/domination by one group over the other. Even the perception of being judged based on the wrong legal code; either by the state or the courts brings about the conflict we see above.

Thus, in the light of the above, it can be adduced that the relative deprivation theory can be used to explain why individuals and groups could resort to terrorism against their states. The state which is meant to be the guarantor of the constitutional rights and obligations of its citizens, devoid of religion, ethnicity, race or tribe. A real account of the road to the Bokoharam terrorist group's radicalization will need to be made in order to confirm the just enumerated theory as right or wrong. But we have seen the world over that groups from the American civil rights movements, ETA, and the Tamil Tiger Rebels, for instance, have resorted to in the pursuit of legal rights whether religious or otherwise. The next stage is an attempt to situate Bokoharam in this Paradigm.

### **3. CHAPTER THREE: Ambiguities of Nigerian Constitutionalism and the Emergence of Bokoharam**

#### **3.1 Nigerian Constitutional Development**

Like most African states at independence, the notion of modern constitutional democracy in Nigeria was a new phenomenon. Traditional Systems of rule existed and there on followed by direct and indirect rule in colonial times. Unwritten traditional constitutions existed and thereafter the introduction of modern constitutions.<sup>64</sup> At independence, Nigeria witnessed its first written constitution known as the independence constitution of 1960 making Nigeria a federal republic of nations.<sup>65</sup> Thereafter there existed all the necessary functions of the modern constitutional state in place. The public system was efficient with a prime minister, and a president at the helm of affairs.

The constitution of 1960 was replaced with that of 1963, making Nigeria a republic and further entrenching self -rule.<sup>66</sup> Both constitutional texts recognized Nigeria as a three region enclave, North, East, and West, thereby granting each considerable autonomy. By 1966, the first military coup d'état by the military was staged and the constitution was set aside. This marked the beginning of a series of military subversions of constitutionalism in Nigeria. This is why some scholars refer to Nigerian constitutionalism as 'historically problematic'.<sup>67</sup> The explanation for the subversions was that democracy and rule of law were at their nadir and the

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<sup>64</sup> Morris Kiwinda Mbondenyei and Tom Ojienda. *"Constitutionalism and Democratic governance in Africa: Contemporary perspectives from Sub-Saharan Africa"*. (Pretoria University Law Press, 2013).

<sup>65</sup> Diala Anthony Chima. *"The Dawn Of constitutionalism in Nigeria"* In Constitutionalism and Democratic Governance in Africa: Contemporary perspectives from Sub-Saharan Africa. (Pretoria. Pretoria University Law Press, 2013).

<sup>66</sup> Sahara Reporters. *"Constitutionalism and the re-invention of the Nigerian State"*. (2009) at <http://saharareporters.com/2009/01/14/constitutionalism-and-re-invention-nigerian-state>. (Last accessed 25th June, 2016).

<sup>67</sup> Ibid.

Nigerian elites of then had become corrupt and had not the interest of the Nigerian state and its people at heart. This is true as the power relations granted to the regions ensured that the regions were more powerful than the center, thereby making it ineffective. Regional constitutions seemed to have primacy over the national constitution. And thus the elites within these regions acted and ruled based on tribal, regional and primordial interests.

The military this time under Yakubu Gowon (a Northern Christian), in its bid to eliminate divisions among the three regions created states starting from 1967 at the onset of the outbreak of the Nigerian civil war. By 1976, Nigeria had 19 states.<sup>68</sup> This, in essence, sought to weaken the regions, thereby strengthening the center. Allocation of resources also meant more for the central government than for the states, and in this case, none of these state creations/reforms conformed to democratic principles of participation. This form of authoritarian legislation has characterized Nigeria for most of its political history since independence.

In 1979, Olusegun Obasanjo of the army championed the re-introduction of civilian rule in Nigeria. The constitution was based on its predecessors that had been subverted, with few amendments.<sup>69</sup> The political engineering's by the military elite's decades before had created the desire and needs for a strong central government to hold all the political divisions of Nigeria together and ensure minimal conflicts and agitations. Thereto, a presidential system of government was introduced to the new constitution of 1979. As such and again there was little popular participation in the process of forming the contents of the new constitutions by the

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<sup>68</sup> Old Naija. "*How Nigeria Got to 36 states (timeline of state creation in Nigeria)*" (2015) <https://oldnaija.wordpress.com/2015/07/26/how-nigeria-got-to-36-statestimeline-of-state-creation-in-nigeria/>. Last accessed 25<sup>th</sup> July, 2016.

<sup>69</sup> African heritage. "*History of Constitutional Development in Nigeria, an Overview*" (2012) at <http://shinaalimi.blogspot.com.ng/2012/10/history-of-constitutional-development.html>. Last accessed 14th August, 2016.

military, and thus little or no accountability by the new civilian regime to its people.<sup>70</sup> This, in essence, meant the transfer of the authoritarian culture of the rule into the civilian regime. The worst concern was the issue of the power of the central government to legislate on matters that it otherwise would have left for the state governments, besides the matter of minorities.<sup>71</sup> There was also the issue of the concurrent list where in the case of conflict the federal government has prevalence over the states. This defers from the principles of constitutional democracy as the state has seemed to be unlimited in its approach, from military times until the current civilian regime.<sup>72</sup>

This episode of the civilian rule did not last either, as by 1984, the Shehu Shagari civilian regime was set aside yet again in another coup d' e-tat. Again the reason was that national politics had been tribalized and there had been gross allegations of corruption and waste by the regime.<sup>73</sup> Civilian rule returned briefly in 1993 after the stepping aside of General Ibrahim Badamasi Babangida, in an interim Government led by Ernest Shonekan, only for General Abacha to take over again. Civilian rule and constitutionalism returned to stay in 1999, after the death of Abacha in 1998 and his ascension by General Abdulsalami Abubakar. Abubakar championed the return of Civilian rule since then and former general Olusegun Obasanjo was elected the Nigeria's elected civilian president since 1979.

The lesson from this historical exposition on Nigerian constitutional development is the political engineering by the Nigerian Military using their own methods, which is contrary to

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<sup>70</sup> Ibid

<sup>71</sup> Ibid

<sup>72</sup> Ibid

<sup>73</sup> Naira Land. "*Buhari and the 1983 Coup: the Facts. - Politics – Naira land*". (2016) at <http://www.nairaland.com/2153199/buhari-1983-coup-facts>. Last accessed 15th August, 2016.

democratic principles. In other words, popular participation and rule of law were not in the picture as all attempts were made using military decrees. Another observation is the re-occurrence of former military personnel in current Nigerian democracy. The effect of this is the re-introduction of the military authoritarian culture into the democratic process. The extent to which this is entrenched can be evaluated through the current Nigerian constitutional process and from the perspective of protection of human rights. A good question to ask is how has the experience of the Constitutional process in Nigeria been?

In this connection, and look into Nigerian contemporary experience, since the democratic transition that has been in effect in central and Eastern Europe after the fall of the Berlin wall in 1989, there has been the emergence of new constitutional democratic states in other regions of the world. It was expected democracy has come to make the system of the rule more liberal and constitutional in these regions. However, the experience of authoritarian, semi-autocratic, military and closed systems of governments in these societies has meant the transfer of some of these cultural tendencies into the constitutional order, including Nigeria. Terms such as *'illiberal democracies'* and *'immature democracies'* come into the picture, as the democratic process and ideals, constitutional rights of citizens and obligations by the state has had limited effect, due to strong arm tendencies by elites in government.

In other African countries, Nwabueze acknowledged that at independence, with the exception of Algeria, Angola, Mozambique, Guinea-Bissau, Cape Verde and Sao Tome and Principe, which adopted socialist statehood or constitutions, all other states became constitutional democracies of one sort or another.<sup>74</sup> Some adopted the Westminster model, for

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<sup>74</sup> Nwabueze. Opcit P1

others, the American system, the French system, and others were inspired by Belgian and Italian constitutions respectively.<sup>75</sup> In South Africa Apartheid was replaced with a hybrid system.<sup>76</sup>

Nigeria Adopted the Westminster model at independence, but after recurring spates of military coup d'états, a brief return to civilian rule in 1979 and the final transition in 1999<sup>77</sup>, it is now modeled on the American federal constitutional system.<sup>78</sup> Specifically, the final transition of 1999 faced a triple challenge with constitutional democratic consolidation. These were the breaking of the alliance between the military, negative communalism and petro-business.<sup>79</sup>

The above essentially means the overall shift of the military state apparatus from the democratic ideal, entrenchment of corruption, leading to further inequalities within the state and the use of revenue from oil for personal corrupt and sectional gains. By extension, this period of constitutional democracy in Nigeria has seen mixed results in terms of delivering the goods in terms of social and political rights of citizens. It is this point especially that this thesis argues could lead to radicalization of individuals and groups in the country, while it fails to deliver.

As the IDEA group has observed that the

“...challenge facing democratic consolidation in Nigeria may be described as the task of delivering the “democracy dividend” equitably, in order to improve the quality of life of Nigerians and thus consolidate their optimism in democracy”.<sup>80</sup>

These problems with democracy have traditionally been attributed to factors such as endemic corruption as seen above, weak institutions, mismanagement, political instability and

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<sup>75</sup> Ibid

<sup>76</sup> WWSW “*South Africa after the release of Mandela*”. (2010) at <https://www.wsws.org/en/articles/2010/02/pers-f15.html>. Last accessed 2016.

<sup>77</sup> Ibid

<sup>78</sup> IDEA Group. “*Democracy in Nigeria: Continuing Dialogues for Nation Building*”. (Stockholm: IDEA group publishing, 2003). P 5-6

<sup>79</sup> Op.cit P9

<sup>80</sup> Op.cit P 10



lack of political will respectively.<sup>81</sup> The preponderance of these, have also contributed to the emergence and development of radicals within the political space.<sup>82</sup>

In recent times, especially since 2009, the Nigerian political scene has witnessed a plethora of disturbing socio-political problems. Most notably are the crisis brought about by the Boko Haram terrorism, which has threatened to derail the secular constitutional democracy in place in the country?<sup>83</sup> The cause can be linked to the above failures in the takeoff of democracy in Nigeria.

The elaboration commiserates with the hypothesis *about the lack of protection of human rights leading to further radicalization*. However, this is not the only explanation for individuals and groups rising against the state apparatus. There are various explanations for the upsurge in radicalization and by extension terrorism. Another explanation relies on the *grievance of marginalization against the constitutional state dimension*. In this sense, in the event the government of the day fails to provide basic amenities such as good education, jobs for the youths, lack of accountability amidst vast state resources, and general lack of well-being of a people in a *resource rich country like Nigeria, eventually leads to radicalization of such group or people against the state*.<sup>84</sup> This is especially true where there exists a large chunk of youths living below the poverty line of \$1 a day. This way, they find joining radical groups appealing, since their basic needs will be catered for in this instant.

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<sup>81</sup>Op.cit

<sup>82</sup> Human Rights Watch. “*Spiraling Violence; Boko Haram attacks and security force abuses in Nigeria*”. (2012). P 22

<sup>83</sup> BBC “*Who Are Nigeria’s Boko Haram Islamists?*” (May 2014) at <http://www.bbc.com/news/world-africa-13809501>. Last accessed 2016.

<sup>84</sup>Thesis hypothesis.

In furtherance, Perouse de Montclos in his paper identified that even though the terrorist organization sprang against the backdrop of poverty, it cannot be the only explanation.<sup>85</sup> Political manipulation by the former Borno state governor, Ali Modu sheriff, ensured the rapid rise of the group.<sup>86</sup> Modu sheriff employed the help of Bokoharam members albeit temporarily to win the 2003 gubernatorial elections in the Borno state of Nigeria.<sup>87</sup> This picture paints the power intoxication factor identified by Claude Ake<sup>88</sup>, where African politicians and the elite class create scenes of chaos in order to ensure an electoral win. This creates an elite citizen split, and by extension the constitutional state becomes a tale of drift as peter Ekeh observed.<sup>89</sup>

### **3.2 Contemporary Nigerian Constitution and Constitutional Rights**

The Nigerian Constitution of 1999 faced cases of being set aside by the military any time they intervene in governance. The constitution was set aside by military juntas first in 1966-1979. It then reverted to civilian constitutional democracy in 1979, and then the final military junta took over from 1983-1999. The Nigerian constitution recognizes the fundamental human rights and obligations of the state to its citizenry. Since independence, it has evolved to involve all basic declarations by the UN general assembly.

This way essentially, the Nigerian constitution in its second chapter from act 13-24 lays down and confirms the fundamental democratic objectives and directive principles of state

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<sup>85</sup>Pérouse de Montclos, Marc-Antoine. “*Nigeria’s Interminable Insurgency? Addressing the Bokoharam Crisis*,” *Chatham House Research Paper*”. (London: Chatham House, 2014).P9

<sup>86</sup>Ibid P9

<sup>87</sup>Op.cit

<sup>88</sup>See Chapter 3

<sup>89</sup>See Chapter 3

policy.<sup>90</sup> Act 17 of the Nigerian constitution stipulates that state social order will be founded on ideals of freedom, equality, and justice. It also provides for *equality of rights, obligations and opportunities before the law; the recognition, sanctity and enhancement of human dignity, and all governmental actions shall be humane.*<sup>91</sup>

The declaration of freedom, equality, and justice as the basis of state policy means that all-state actions must conform to such. Act 17(2a, b, c and d) are very important in understanding the subject of what constitutional democracy is and expectation from the reality. And in order to consolidate Nigerians optimism in democracy, its dividends must be shared equitably in order to improve their living standards regardless.<sup>92</sup>

Chapter 4 of the Nigerian constitution which is dedicated to the definition of the fundamental human rights of every citizen of the state lays down that; Every person has a right to life, and no one shall be deprived intentionally of his life, save in execution of the sentence of a court in respect of a criminal offense of which he has been found guilty in Nigeria.<sup>93</sup> It also provides that a person shall not be regarded as having been deprived of his life if he dies as a result of the use, to such extent that is permitted by law the use of force reasonably necessary for the purpose of suppressing a riot, insurrection or mutiny.<sup>94</sup> This can also include terrorism since it is another form of insurrection.<sup>95</sup> Clearly, the limits of the extent to which the state can use force have been defined. Lives unintentionally lost to the use of force by the Nigerian state will

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<sup>90</sup> World Intellectual Property Organization WIPO. “*Constitution of the Federal Republic of Nigeria 1999*” at [http://www.wipo.int/wipolex/en/text.jsp?file\\_id=179202](http://www.wipo.int/wipolex/en/text.jsp?file_id=179202). Last accessed 1<sup>st</sup> of June, 2015

<sup>91</sup> Ibid

<sup>92</sup> IDEA Group. “*Democracy in Nigeria: continuing dialogues for nation building*”. (Stockholm, 2003). PP 5-6

<sup>93</sup> Nigeria World (Nigerian Constitution Chapter 4) (2016) at <http://nigeriaworld.com/focus/constitution/chapter4.html>. Last accessed 21<sup>st</sup> of march 2016

<sup>94</sup> Ibid

<sup>95</sup> Bear in mind that terrorism as at the time of drafting the constitution in 1999 was not recognized and catered for in the constitution.

not be regarded as being extra-judicially killed in the above three circumstances. The court remains the only means of depriving the accused of livelihood, only after ascertaining evidence and proof of guilt, including for the crime of terrorism.

Even under the cusp of arrest, article 36 of the Nigerian constitution provides that; “the accused has the right to fair hearing within a reasonable time by an independent court or tribunal established by law open to the public, unless if deemed to be against the national interest or security; without prejudices the law is to cater for the civil rights and obligations of all citizens even if subject to change at any moment in time by appropriate authority; the accused will be treated without prejudices”.<sup>96</sup>

The above last article of the Nigerian constitution establishes the underlying circumstances through which people under legal arrest either under accusations of criminal intent, terrorist engagements or perhaps any legal arrest situation will have to go through in situations of either accusation or perhaps conviction. Thus even under states of emergency, when usually the state usurps some more powers and constitutional and human rights considerations are put aside, the human nature and constitutional democratic ideal of the respect for human rights of the person holds. In addition, Subsection 5 of article 36 also states:

(5) Every person who is charged with a criminal offense shall be presumed to be innocent until he is proved guilty;<sup>97</sup>

As for religious freedoms, Article 38 subsections 1, 2 and 3 lay down the constitutional provisions for religious freedom in the Nigerian constitution that; Every citizen is entitled to freedom of thought and religion or belief and has the right to change to any belief either alone or in communion, whether in public or in private; the right to propagate such religion or belief; and

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<sup>96</sup> Ibid

<sup>97</sup> Ibid

No person attending an educational institution will be required to receive religious instruction that does not conform to the person's religious belief or that is not approved by a parent or guardian.<sup>98</sup> The freedom to practice any of the religions of Islam, Christianity, Atheism or any other traditional/animist religion has thus been established and this is how Nigerians in their different ethnicities/races live their daily lives.

To conclude this section, in a bid to strengthen rule of law considerations, former Nigerian president Good luck Jonathan signed the terrorism (prevention) Act in 2011 into law, as amended in 2013.<sup>99</sup> Since previous versions of the constitution did not cater appropriately for the phenomenon of terrorism, this was meant to enable the Nigerian government to prosecute those who engage in terrorism as the act says

“...an act which is deliberately done with malice, afterthought and which may seriously harm or damage a country or an international organization and is intended or can reasonably be regarded as having been intended to unduly compel a government or international organization to perform or abstain from performing any act; seriously intimidate a population; and seriously destabilize or destroy the fundamental political, constitutional, economic or social structures of a country or an international organization.”<sup>100</sup>

This marked an important step in the entrenchment of rule of law in the countries' counter-insurgency efforts. The above enumerated constitutional provision apart from being the locus of the democratic ideal guides the Nigerian state in its actions. It shall constitute the basis for testing the relative deprivation of groups and individuals, who might have felt deprived of these rights. And has this led to their radicalization?

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<sup>98</sup> Ibid.

<sup>99</sup>Ref world “*Country Reports on terrorism 2011 – Nigeria*”. At <http://www.state.gov/documents/organization/195768.pdf>. (Last accessed 2016).

<sup>100</sup> UNODC “Terrorism (prevention) Act, 2011”. At [https://www.unodc.org/tldb/pdf/Nigeria/NIR\\_Terror\\_Prevent\\_2011.pdf](https://www.unodc.org/tldb/pdf/Nigeria/NIR_Terror_Prevent_2011.pdf). (last accessed 2016)

### 3.3 The Evolution of the Conflict: Bokoharam and the Nigerian State: An Evolving Threat

As earlier indicated, Bokoharam started as a peaceful movement. Bokoharam essentially means ‘*western education is forbidden*’, and to them, democracy as any phenomenon deemed western, is deemed un-Islamic.<sup>101</sup> Its preaching’s and understandings increasingly became radical and anti-state with the passage of the years since its inception in 2003. Its origins and beginnings have had differing accounts and dates for its inception. Some argue its origins can be traced to a similar insurgency in the 1980s by a certain Maitatsine, while others argue it started with another group known as the Nigerian Taliban.<sup>102</sup> In its earliest form, some saw it as a social movement. For it evolved from the radical preachings of a certain Mohammed Yusuf, who was known to be charismatic in his approach. He was mentored to a respected Islamic preacher known as sheik Jafar in the Northern Nigerian city of Kano.

At a point in time Yusuf increasingly disagreed with the teachings of Jafar, who married constitutional arrangements and understandings with Islamic teachings. *The breaking point was when during the 2007 elections period, Jafar called on followers to go out and vote in otherwise secular elections. Yusuf disagreed because to him elections as anything western leaning was haram (forbidden) and was tantamount to heresy.*<sup>103</sup> Due to these disagreements, Yusuf either split or was expelled by Jafar.<sup>104</sup> Yusuf moved to the North Eastern Nigerian city of Maiduguri to establish his own school where he preached his own twisted ideology to young and like minded people.<sup>105</sup> Sheik Jafar was killed in the city of Kano in 2007.<sup>106</sup>

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<sup>101</sup>BBC “Who Are Nigeria’s Bokoharam Islamists?” Ibid

<sup>102</sup> Kyari Mohammed. 2014. Op.cit

<sup>103</sup> Montclos Perouse IbidP8

<sup>104</sup> Ibid

<sup>105</sup> Ibid.

<sup>106</sup> Montclos. Op. cit

Perouse de Montclos observed that Bokoharam in its original form had a welfare system that attracted the poor, and in this way, Yusuf would organize cheap marriages to his followers in an otherwise costly environment.<sup>107</sup> The fact that the rural and urban poor's needs and aspirations are catered for by such an individual means they could be easily influenced and manipulated into radicalizing against the Nigerian state and the values it stands for. When actually the constitution and constitutional democratic character of the state mandates it to cater for these needs.

In actual contrast to the group's initial stance against western education and anything that had to do with leanings with the west, members do use technology amongst others, which contrasts it with an earlier movement in the 80s.<sup>108</sup> However, the groups preaching are strictly against such. This shows more the twisted nature of the movement besides.

Fast forward to the years 2008-2009, the Nigerian government engaged in crackdowns against Bokoharam. On the one hand, Mohammed Yusuf was arrested a couple of times by the Nigerian state security services who arrested him on numerous occasions without prosecution.<sup>109</sup> 11 reports were initially sent in on the assailant without serious considerations.<sup>110</sup> Second, the ouster of members of Bokoharam from mosques and other Islamic centers due to their misguidance and deviance from normal Islamic norms was another precipitant.<sup>111</sup> 67 Bokoharam members including its current leader Abubakar Shekau were arrested and locked in state prisons as conflicts seem to be around the corner. Conflicts ensued as Bokoharam under Mohammed

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<sup>107</sup> Ibid

<sup>108</sup> Montclos. Op.cit P8

<sup>109</sup> International Crisis Group. "*Curbing Violence in Nigeria (ii): The Bokoharam Insurgency*". Crisis group Africa Report N216, 3 April 2014. P 13

<sup>110</sup> Ibid.

<sup>111</sup> Mohammed Opcit. P (24)

Yusuf constantly sought to reclaim or take over mosques previously held.<sup>112</sup> This Yusuf initially sought to do through due process.

As Kyari Mohammed observed, on one such occasion, in attempts to retake mosques and other spots to offer religious proselytization, sixty-seven Bokoharam members were captured and placed in state prisons. To manage the situation, the Nigerian government set up a task force code named operation Flush II.<sup>113</sup> The force, from accounts, sought to draw Bokoharam out for a fight by intimidating its members. This was occasioned by intentional enforcement of a recent law for motorcycle peddlers to wear crash helmets or face the law. The final result was a skirmish between the two forces at Gwange cemetery when the Nigerian police force attacked and killed 17 Bokoharam members whom apparently were burying some of their dead from an initial car crash. This was seen by the group as a declaration of war.<sup>114</sup>

Bokoharam came out fighting which resulted in a bloody 2 weeks in the city of Maiduguri. The group was subdued and it went into hiding, only to come back with deadlier force this time under Abubakar Shekau.<sup>115</sup> As the international crises group observed, their attacks were “...originally directed mainly at security forces and government officials, eventually the campaign has expanded to include attacks on Christians, critical Muslim clerics, traditional leaders, suspected collaborators, UN agencies, bars, and schools.”<sup>116</sup> This on its own is unconstitutional and the Nigerian state has the constitutional duty and obligation to protect its citizens against the tyranny of other citizens as well as protect its territorial integrity. The efforts

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<sup>112</sup> Ibid

<sup>113</sup> Ibid

<sup>114</sup> YUSUF, M. (2009b), “*Budediya Wasika ga Gwamnatin Taraya*”, (Open Letter to the Federal Republic of Nigeria, recorded on VCD, 11 June)

<sup>115</sup> Ibid

<sup>116</sup> Ibid P14



to bring normalcy, understandably sometimes *under states of emergency*, state actions might not be as democratic as should be.

To conclude this section, 2009 saw the stepping up and beginning of military crackdowns by the Nigerian state against the group. Two of its prominent commanders, Buji Foi and Mohammed Yusuf were initially captured and handed over to the police, whom extra-judicially killed both.<sup>117</sup> The police officers who perpetrated the killings were neither arrested nor tried for such an illegitimate action. On this departure, the actions of the Nigerian police, Army, and all other law enforcement agencies must conform to the rule of law. In this wise, *these kinds of cases arguably show that such kind of failures of guaranteeing constitutionally ordained protection (of human rights) for suspected terrorists or criminals leads to the radicalization of such groups against the state*. If this is the case Bokoharam is a product of grievances arising from the lack of protection of the above constitutional rights.

The number of lives lost to the insurgents is very worrisome and alarming. Between the period July 2009 and until now, approximately 16,000 lives have been lost.<sup>118</sup> Until only recently, specifically, the February 2015 postponement of the presidential elections in Nigeria, and subsequent re-launch of a strong offensive in *asymmetric warfare* had the government and its armed wing been able to successfully reclaim most of the 14 local government areas under the control of Bokoharam. Has the insurgency come to an end come December 2015 as promised by the Buhari administration? The verdict is yes albeit technically and what remains is to mop up the remaining cells in the Sambisa forest of Northeastern Nigeria.

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<sup>117</sup>International Crisis Group. Ibid P14

<sup>118</sup>Test Tube. "How Many Wars Are Going On In Africa?" (November 7, 2015) At <https://www.youtube.com/watch?v=WXkMmdVb9uw>. Last accessed 2016

### 3.4 From Maitatsine Uprising of 1980 in Nigeria to Boko Haram. A Similar Recurrence

At independence in Nigeria, the integration of the different ethnic and religious nationalities was not at its strongest. The North and the Southern states had developed and modernized at different phases due to the earlier contact with the British in the South. The Northern enclave was administered indirectly and thus traditional and religious institutions were hardly tampered with as a matter of respect for democratic rights. However, even within the predominantly peaceful Muslim Northern states radicalization of certain individuals against the state was not entirely missing.

The Maitatsine uprising was one such story of radicalization where a Cameroonian national known as Mohammed Marwa came into cognizance and wreaked havoc in the city of Kano from 1945-1980.<sup>119</sup> His was a twisted ideology similar, albeit a bit different to the subject of this thesis Boko Haram, where he preached against anything western leaning and subsequently also denounced Islam and the teachings of the prophet Mohammed himself.<sup>120</sup>

Even during the British colonial period, Mohammed Marwa was deported more than once because of his twisted unislamic ideology and influence of the local poor students of Qur'anic schools known as the *Almajiris*.<sup>121</sup> The unemployed and people that found themselves on the wrong side of the law (criminals) also joined. The name Maitatsine in the local language of Nigeria emerged as a product of the continued cursed speeches by Marwa against the Nigerian

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<sup>119</sup>Valentine Odika Blog. "*Maitatsine Bloodbath; Nigeria's religious terror of the 80s (December, 2013)*". At <http://valentineodika.blogspot.hu/2013/12/maitatsine-bloodbath-nigerias-religious.html>. Last accessed 12<sup>th</sup> February, 2015.

<sup>120</sup>Ibid.

<sup>121</sup>The Almajiris are youths sent by their parents from other localities to teachers in faraway places. They are usually poorly catered for by these teachers and welfare from home is usually very poor. The only resort is to begging on the streets to make ends meet, and this makes them easy targets for indoctrination and brainwashing by terrorist groups amongst others.

state.<sup>122</sup> His popularity at some point soured amongst a section of Kano city and this way he became increasingly radical against local authority even more against the Nigerian government. He would curse “...*Whoever uses wristwatches, radios or rides bicycles...*”<sup>123</sup> confirming the low nature of his preaching’s.

Adding to the trouble created by Maitatsine, Marwa had an even more troublesome son called Kan’an whom he loved very much.<sup>124</sup> Kan’an was arrogant and rough, who fought on the average ten people a day. He would go on a bout of drinking and trouble making on most occasions. It was on one of such occasions after leaving on his motorcycle, that Kan’an met his death mysteriously. This provoked Maitatsine and called on it as an act of provocation. Maitatsine swore that every father must suffer the same pain and ordered the execution of other children in the same enclave indiscriminately.<sup>125</sup>

In addition, it was not abnormal for armed political thugs of one political party or the other to connive with the Nigerian Police to attack enemies. They used superstitious charms and an amulet, which Maitatsine himself was a master. It was on one such occasion a political thug from one political party called Garba single-handedly launched attacks on Maitatsine when he and his followers became unruly.<sup>126</sup> This led to retaliation from Maitatsine and his aides who swore to match action for action.<sup>127</sup>

The violent outbursts started as a result of these\* preachings and scrutiny against the authorities local and federal after several warnings from both the governor of Kano state and the federal government. One of such warnings from the then state governor Muhammadu Abubakar

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<sup>122</sup>Op.cit

<sup>123</sup>Op.cit

<sup>124</sup> Nasir B. Zahradeen. *The Maitatsine Saga*. (Zaria, Hudahuda publishing Co. LTD.1988). PP 26-29

<sup>125</sup> Ibid

<sup>126</sup> Ibid

<sup>127</sup> Ibid

Rimi, when in a letter informed Maitatsine of the government's awareness of the group's disturbance of peace and the erection of illegal structures.<sup>128</sup>

Maitatsine also wrote letters to his followers within and without Kano and directed them to take action on the 18<sup>th</sup> of December 1980 against the innocent people of Kano.<sup>129</sup> The movement was ended in 1985 via military intervention.<sup>130</sup>

Now the similarities of the above group with Bokoharam cannot be deemphasized. The ideology behind both terrorist groups can be said to be the same. The twisting of Islamic tenets and understandings for selfish purposes was the motif. For Marwa, anything that resembled modern technology is forbidden and the use of is tantamount to heresy. This counts for the same interpretation by Mohammed Yusuf. The hadith and the Sunnah to both terrorist leaders were virtually irrelevant for their interpretations of Islam. In fact for Maitatsine using both as religious interpreters were tantamount to paganism.<sup>131</sup>

Even worse, Maitatsine rejected the prophethood of Prophet Mohammed (S.A.W) and declared himself a prophet.<sup>132</sup> He attracted mostly the urban poor, denouncing the affluent elites deeming them infidels. He also opposed western influence and refused to recognize secular authority.<sup>133</sup> The genesis of the Bokoharam phenomenon started as a result of the rejection of the secular ideal as well.<sup>134</sup>

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<sup>128</sup> Ibid

<sup>129</sup> Report of Tribunal of Enquiry on Kano Disturbances (Maitatsine). Ref. No. KDTI/Gen/162. 1981. P 19-20

<sup>130</sup> Theo Brinkel and Soumia Ait-Hida. "*Bokoharam and Jihad in Nigeria*". In *Scientia Militaria*, South African Journal of Military Studies, Vol 40 (2012). PP 1-21.

<sup>131</sup> Nielsk Astfelt. "*Rumours of Maitatsine: A Note on Political Culture in Northern Nigeria*". In *African Affairs*, Vol. 88, No. 350 (Jan., 1989). Oxford University Press. PP 83-90

<sup>132</sup> Ibid.

<sup>133</sup> Human Rights Watch (HRW). "*Spiraling Violence: Boko Haram Attacks and Security Forces Abuses in Nigeria. Available*". At: [www.hrw.org/sites/default/files/reports/nigeria1012webwcover.pdf](http://www.hrw.org/sites/default/files/reports/nigeria1012webwcover.pdf).

<sup>134</sup> See section on the evolution of Bokoharam.

The major difference between Maitatsine and Bokoharam comes into cognizance in the realm of the size of their agendas. For Maitatsine, the aim is to dispel the Northern aristocracy and middle class first and foremost, then dismantle the Kano state government.<sup>135</sup> For Bokoharam, their twisted agenda is even more expansive, by taking on the Nigerian state as a whole. In addition, Bokoharam only turned to violence after the extrajudicial murder of its leader, while Maitatsine had resorted to violence without much unjust precipitant rather than the twisting of religion.<sup>136</sup>

Overall, Bokoharam seemed to be more organized, and the path to radicalization it followed is very similar to Maitatsine. The origins of both groups are in the twisting of religion in the favor of evil and disrespect for the secular constitutional democratic authority of the Nigerian state. The violation of rights and prerogatives of other Nigerians were not entirely missing either, as for the Maitatsine uprising from the inception of its violence had claimed at least 10,000 lives from the estimates.<sup>137</sup> For Bokoharam until now the lives lost had been placed at double the formers standing at 20,000 lives.

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<sup>135</sup> Nasir B. Zahradeen. Ibid

<sup>136</sup> Nielsk Ibid

<sup>137</sup> Ibid

## **4. CHAPTER FOUR: Analyzing the dynamic interplay: The Failure of Democracy, Deprivation and the Rise of Terrorism**

### **4.1 Critical Analysis of the Relationship between the Failure of the Rule of Law, Democracy and the Rise of Radical Terrorists in Contemporary Nigeria**

To build up the analysis thus far, Abimbola Adesoji in his paper recognized that the Bokoharam insurgency was a consequence of the blame for the Nigerian constitutional democratic state in its attempts to check violent extremism in its infancy.<sup>138</sup> This is in view of constitutional rights guarantee and by extension human rights record of the state in its attempts to trump violent extremism, of which the rule of law fails to inform state action, at least at the level of security forces. On the other hand, social and other economic amenities must be catered for to ensure due loyalty from the citizenry at large. The constitutional democratic state should exercise caution in its use of its powers as it remains a limited state according to principles enshrined in the constitution.

This way, the rule of law as a principle ensures that the law, democratic rights and extensively the constitution caters for the needs of all citizens within the invisible walls of the state without any form of discrimination. The question that arises out of this is what happens when, the loss of lives due to extrajudicial killings, unlawful detainment of suspects without fair trial, failure to provide basic social amenities such as schools and rural housing for the poor manifest in such a state. This could constitute even if partially a failure of its mandate. This way

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<sup>138</sup>Abimbola Adesoji. "The Bokoharam Uprising and Islamic Revivalism in Nigeria". *Africa Spectrum*. Vol 45, No.2 Institute of African Affairs (2010).

groups and individuals affected could fall into the trap of radicalization against a state that is meant to protect them in relation to those rights legally. State legitimacy becomes imperiled.

Thus as aforementioned, the analysis by Abimbola; has the Nigerian state in the course of battling radical groups encourage the festering of these groups or more radicalization? Before 2009, Bokoharam with its twisted ideology remained largely peaceful and confined to the suburbs of the North Eastern Capital of the Nigerian state Maiduguri.<sup>139</sup> Intelligence accounts adduce that Bokoharam had its earliest inception in 1995, when Abubakar Lawan established the Ahl Sunna Wal Jama ah hijra, or Shabaab group (Muslim Youth Organization), in Maiduguri, Borno state for the purpose of preaching the strict doctrines of Islam.<sup>140</sup>

In its current radical form and renaming as Bokoharam, the split by Mohammed Yusuf its former leader (until 2009) in 2002 from the moderate Islamic teacher Sheik Jafar Adam, in Kano, *led to its deviance*.<sup>141</sup> Jafar called for the mass participation of Muslims as part of the Nigerian social demographic in the 2007 elections, which could propel the entire nation on the path to prosperity. Yusuf disagreed, the consequence of which was his increasingly radical views and that a new order will have to be created were the *'wretched will inherit the earth'*. He was *expelled from the Mosques committee for his extremist ideology that contradicted Islamic principles*.<sup>142</sup>

The result of this is the movement of Yusuf to Maiduguri, where he established a school for the *purpose of exploiting the local poor and like-minded clerics to the cause of creating an order were his own twisted interpretation of the Shari 'a will become state religion, ignoring the*

<sup>139</sup> See section 3.3 on Bokoharam and the Nigerian State- An Evolving Threat (chapter one).

<sup>140</sup> See Julian Taiwo and Michael Olugbode, "Bokoharam Leader Killed," Thisday, July 31, 2009.

<sup>141</sup> Umar Mamodu. "Bokoharam - The Beginning" Lagos [2011].

<sup>142</sup> Ibid

*Nigerian state and any notions of constitutionalism in his considerations.*<sup>143</sup> The result was the exploitation of historic public outrage of the poor against government corruption and especially those who have fallen under the ambit of not getting a fair deal from the government.<sup>144</sup> This shows the weakness of the Nigerian state in the democratic mandate.

The last point places a marker for the origins of radicalization in relative deprivation of the goods of democracy especially for youths joining radical terrorists. This point also encouraged Chris Waja to see the fact that religion did not remain the main factor in the determination of the direction of the conflict, but also disenchantments and inequalities as important factors.<sup>145</sup> Perouse de Montclos did not fail to acknowledge the origins of socio-economic factors in determining the fate of the Bokoharam terrorism when he says

“...The movement grew out of socio-economic flux that came with a process of democratic transition, coupled with the consequences of decades of mismanagement resulting from military rule and corruption.”<sup>146</sup>

An article by Irin News also acknowledged the above considerations in its analysis of the root cause of the violence when it claimed as a certain Guttschuss asserts that

“...political solutions to the crisis might not be found unless the root causes driving membership to the group are addressed, these include poverty and unemployment, driven by poor governance and corruption...” he continues “...former leader Yusuf gained support by exploiting this factor by speaking out against the police and political corruption on behalf of the teeming unemployed youths, whom he was able to tap into for new recruits”.<sup>147</sup>

This is true as aforementioned that a large number of the youths in semi-urban parts of the North Eastern enclave of Nigeria are poor, unemployed and idle remaining easy targets for radical extremists in the pursuit of their twisted goals. This resulted from the failure of elites in

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<sup>143</sup> BBC. Opcit

<sup>144</sup> Opcit

<sup>145</sup> Chris Kwaja. *"Nigeria's Pernicious Drivers of Ethno-Religious Conflict"*, *Africa Security Brief* (Washington, DC: Africa Center for Strategic Studies (2011)).

<sup>146</sup> Montclos Perouse. *Nigeria's Interminable Insurgency? Addressing the Bokoharam Crisis*. Ibid P 10

<sup>147</sup> IRIN. *"Understanding Nigeria's Bokoharam Radicals"*. At <http://www.irinnews.org/report/93250/analysis-understanding-nigeria-s-boko-haram-radicals>. Last accessed 12th of February 2016.



government to live up to their democratic mandates of providing the goods and thus depriving this segment of their legal and constitutionally enshrined rights.

Pérouse De Montclos acknowledged the role of poor governance and frustrations emanating from the sense of social injustices and the pursuit of ameliorating the situation as important factors in attempts to push for the implementation of sharia by these groups especially youths in rural areas.<sup>148</sup> Thus to this group of people, anything that resembled a cause for the amelioration of their situation seemed appealing to join. The result of which most of fell into the trap of Mohammed Yusuf's manipulative ideology and cause.

In the above connections, we can see that the factor of relative deprivation especially in terms of the provision of social amenities and means of social mobility remains a huge factor in the radicalization of youths against the state that was meant to protect them as legally enshrined. Due to bad governance and corruption, they find joining terrorist groups appealing. The next three sections will substantiate these claims with more empirics.

## **4.2 Nigerian Human Rights Record, Deprivation, and Radicalization**

There have been allegations and accusations against the Nigerian state regarding its human rights record while responding to the Boko Haram terrorist activities. This is at the level of security forces which comprises the Nigerian army, Nigerian police, Navy and Civil defense respectively. These forces were combined to make what is now known as the joint task forces of Nigeria.<sup>149</sup> Assisting these are local vigilante paramilitary groups in the North Eastern Nigerian

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<sup>148</sup>Montclos. Ibid

<sup>149</sup> Serrano, Rafael and Zacharias Pieri. "By the Numbers: The Nigerian State's Efforts to Counter Boko Haram" in Pérouse de Montclos, Marc-Antoine (ed.), Boko Haram: Islamism, Politics, Security, and the State in Nigeria, (Ibadan, Leyden, IFRA-Nigeria, Leyden University Press 2014) Waposo Series, N°2. P 193

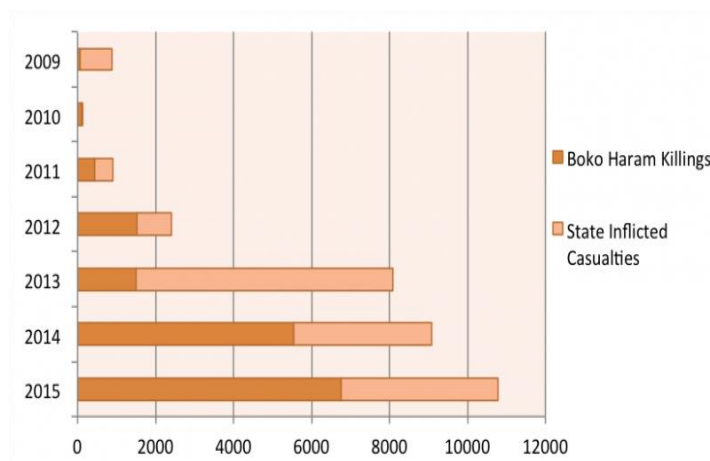


Figure 1. Showing deaths per 1000 by Nigerian army and Boko Haram. Source: Foreignaffairs.com

combat and in other cases engaging in asymmetric warfare. In some cases, prisoners of war are taken in by the mentioned government forces. Figure 1 above right shows death per 1000 by both and the Nigerian army.<sup>151</sup> The skew against the Nigerian army is alarming. This way, Amnesty international has accused both the Nigerian armed forces and the civilian joint task force of gross violation of human rights.<sup>152</sup>

In a report, Amnesty International insists that it is concerned about Nigerian army's record in terms of deaths of peoples in custody and on other levels, such as extrajudicial killings.<sup>153</sup> Other counts of human rights violation include arbitrary arrests, unlawful detention, torture and other cruel and degrading human treatment.<sup>154</sup> For instance, since 2009, reports have

enclave of Maiduguri, who are committed to seeking out known and suspected members of the group (Borno Youth association of Peace and Justice).<sup>150</sup>

The above forces combined together to fight the terrorist group by either physically confronting them in

<sup>150</sup> Aljazeera. "Nigerian Vigilantes aim to route out Boko Haram". At

<http://www.aljazeera.com/indepth/features/2014/05/nigerian-vigilantes-aim-rout-boko-haram-2014526123758444854.html>. last accessed 26th of April, 2016

<sup>151</sup> Foreign Affairs. "Unbroken Boko Haram" At <https://www.foreignaffairs.com/articles/nigeria/2016-03-21/unbroken-boko-haram>. Last accessed 17th of may 2016.

<sup>152</sup> Written statement\* submitted by Amnesty International, a non-governmental organization in special consultative status. P 2

<sup>153</sup> Ibid

<sup>154</sup> Ibid

it that over 1000 members may have been killed and imprisoned.<sup>155</sup> By 2014, over 22,000 deaths have been recorded, and 3.3 million internally displaced persons in the books.<sup>156</sup> This is against all democratic constitutional arrangements and respect for human dignity, thus constituting a failure of democracy.

Interestingly, it seems in favor of the Nigerian state when article 33 (2) of the constitution provides that any person shall not be regarded as being deprived of his life in any context in cases arising:

- (a) For the defense of any person from unlawful violence or for the defense of property; (b) in order to effect a lawful arrest or to prevent the escape of a person lawfully detained; or (c) for the purpose of suppressing a riot, insurrection or mutiny.<sup>157</sup>

This provision grants the Nigerian state the legitimacy to tackle terrorist groups like Boko Haram with measured force as defined even if it means killing its members. This is justified by the fact that Boko Haram has continuously targeted innocent civilian lives through its attack on Villages, Bedouin communities, Mosques, churches, Marketplaces and security forces.

Serrano and Peric observed,

“...the battle thus far from the side of Boko Haram has consisted of small- scale insurgent hit and run attacks on a range of government and civilian forces, which is followed by large-scale retaliatory military deployments from state security forces, widespread urban lockdowns, door to door searches and harp-hazard large scale arrests”.<sup>158</sup>

This has left much of the population of North Eastern Nigeria caught between the brutality of Boko Haram and the excesses of authority by the Joint Task Force. Constituting a cause for concern terms of humanitarian perspectives.<sup>159</sup>

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<sup>155</sup> Judit Barna. “*Insecurity in context: The rise of Boko Haram in Nigeria*”. (Brussels: Policy department, directorate-general for external policies, 2004). P 8

<sup>156</sup> Ibid P9

<sup>157</sup> Nigeria world Op cit.

<sup>158</sup> Rafael Serrano and Zacharias Peri. Ibid

<sup>159</sup> Ibid

Serrano and Peric also observed that the result of large-scale systematic human rights abuses on the part of the Nigerian joint task force ensured that people became less prone to opening up when there is the need to provide information on Boko Haram.<sup>160</sup> In Serrano and Peri's words

“...JTF abuses have created growing resentment in communities, making community members more unlikely to provide information that could help curtail Boko Haram” and that “abuses by the JTF have created more distance between the people and the government”.<sup>161</sup>

Even members of the JTF themselves echoed the above claim when they witnessed growing discontent and lack of support for the “operation restore order” being carried out.<sup>162</sup> If this is the case, then it can be argued these segments of people are reacting to the failure of rule of law within human rights perspective, which has discouraged them from retaining the optimism they had in their democratic government.

The result is a paradox, instead of the sense of security of lives and entitlements getting secured, fear is entrenched. This is not the expectation rather it is the opposite. So in this wise, the efforts of the security forces in curbing Boko Haram has led to failings of a positive attitude towards the state feelings of deprivation is the cause in this instant.

Furthermore, it is of most scholars' observation that anytime there were cases of extra-judicial killings or even illegal arrests, the scale of Boko Haram attacks and reprisals got worse. This is to say in any case where the government tackles the terrorist group with brute force and when arbitrary arrests and killings occur, the terrorist resolve only increased. For instance, after the 2009 crackdown on the group and its re-emergence in 2010, added suicide bombings to its arsenal of attacks. This was traditionally regarded as the anathema to the Nigerian spirit consti-

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<sup>160</sup> Ibid

<sup>161</sup> Ibid P 201

<sup>162</sup> <http://allafrica.com/stories/201301020836.html>. last accessed 3rd of April 2016

tuting an alien phenomenon.<sup>163</sup> Bokoharam evolved into attacking students at (secular) schools and health workers involved in polio vaccination.<sup>164</sup> Neighborhood chiefs and other Muslim clerics were not spared either as they were followed through and assassinated, citing collaboration with government security forces.<sup>165</sup>

The conflict could have been perhaps just a police action to bring deviant elements into order or perhaps if there were careful attempts to check the group's activities by issuing out gazette notices for the group to cease its attempts to reclaim Mosques and refrain from unwarranted criticism of the government as in the case of Maitatsine before. This would have opened up opportunities for dialogue even if it was partial, eventually getting to the root cause of the problem. Another case is the role of empathy in understanding these grievances as they are and providing solutions.

### **4.3 Analyzing the Dynamic Interplay: The Failure of Democracy, Deprivation and the Rise of Terrorism**

A part of the problem in Nigeria is the problem of idle poor and unemployed youths. A very good case in point is the Almajirai (Hausa term for disciple). Almajiranci (discipleship) had been a long-standing phenomenon in Northern Nigeria where youths are sent to faraway lands in order to acquire Qur'an education.<sup>166</sup> This way, the Almajirai are youths between the ages of 3-

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<sup>163</sup> Serrano, Rafael and Peri Ibid.

<sup>164</sup> "Spiraling Violence", op. cit. pp. 30-57.

"Nigeria massacre: Bokoharam Islamists kill 42 at Boarding school in Yobe state", *The Independent*, 8 July 2013;

"Polio workers in Nigeria shot dead", *The Guardian*, 8 February 2013.

<sup>165</sup> Crisis group Africa Report N216, "Curbing Violence in Nigeria (ii): The Bokoharam Insurgency." P 14

<sup>166</sup> Vanguard. "Almajiri Education: Modern Gang up against ancient tradition". At <http://www.vanguardngr.com/2012/04/almajiri-education-modern-gang-up-against-ancient-tradition/>. Last accessed 19<sup>th</sup> of May 2016.

12 who are sent by their parents to madrasas to learn the Qur'an and earn a living side by side.<sup>167</sup> The system was efficient for centuries only to have suffered a collapse in standards in modern times.<sup>168</sup> These youths usually remain destitute and the means of any form of formal education is basically not available. They are poorly catered for and the means of livelihood is usually very scant. The end result is for them to resort to street begging and peddling, remaining easy targets for manipulation by radicals such as Yusuf.<sup>169</sup>

This is when the feelings of alienation begin as the youths in the case of the Almajirai, will feel he does not belong, and especially when they see their peers attending schools and having nice lives. This is even without the knowledge of what the constitution actually provides for them.<sup>170</sup> The search for an easier life continues and due to the punishing condition the Almajiri finds himself, any force that resembles the amelioration of the situation is followed without hesitation, constituting a vital factor in the explanation of the rise of Bokoharam. Yusuf's exploitation of this factor a case in point.<sup>171</sup>

On another level, unemployment is a social demographic that is high amongst youths in Nigeria, not only withstanding the Almajirai. In 2006, the unemployment rate in Nigeria according to the National Bureau of Statistics averaged 14.60 percent. It rose to 23.90 percent in 2011.<sup>172</sup> Further figures showed that even though Nigeria had progressed economically, the poverty rate had jumped from 54.3% in 2004 to 60.9 percent in 2011.<sup>173</sup>

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<sup>167</sup> Akali Omeni. *"The Almajiri in Northern Nigeria: Militancy, Perceptions, Challenges, and State Policies."* *African Conflict & Peace building Review* 5, no. 2 (2015) P 130

<sup>168</sup> Ibid.

<sup>169</sup> Vanguard. Op.cit

<sup>170</sup> This is from a personal experience talking to an Almajiri in Zaria, Kaduna state of Nigeria.

<sup>171</sup> DW. *"Nigeria's Almajiri schools: recruitment ground for terrorists?"* at <http://www.dw.com/en/nigerias-almajiri-schools-recruitment-ground-for-terrorists/a-17521389>. Last accessed 19th of may 2016.

<sup>172</sup> Vanguard. *"Tackling Poverty"*. At <http://www.vanguardngr.com/2013/11/tackling-poverty-nigeria/>. Last accessed 7<sup>th</sup> May, 2016.

<sup>173</sup> Ibid.

This constitutes a contradiction of the expectations of the youths and the population in general in their optimism for democracy 16 years earlier. In fact, some reports claim Nigerians had a higher standard of living during dictatorship than they had after the last democratic transition.<sup>174</sup> Thus such deprivations, leading to frustrations become important tools on the road to youth radicalization, by rendering them vulnerable to ideological manipulation by rich radicals who provide means of escape from such conditions.

To add to the above, based on surveys for the US Institute of Peace, Onuoha reported that in Nigerian cities of Kaduna and importantly Borno, respondents identified the high incidence of poverty and unemployment as the second most important factors that lead to youth radicalization and why youths engaged in religiously based violence.<sup>175</sup> In Kaduna, 83 percent of respondents reported that unemployment and poverty are important factors.<sup>176</sup> In other important big cities that have witnessed the rise of radical terrorists in Nigeria, Kano reported a 92 percent approval of poverty and unemployment as important factors in the development of religiously based violence.<sup>177</sup> These factors identified by Onuoha are not the direct causes of youth radicalization, as earlier mentioned, he confirms rather the feelings of deprivation and other frustrating conditions of life are the precipitants that render youths vulnerable to manipulation by extremist ideologies.<sup>178</sup> Bokoharam a case in point.

In such a way, the Nigerian state has failed to live up to its democratic mandate and in this connection failed in its constitutional rights perspective. As Act 17 of the constitution has

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<sup>174</sup> Theo Brinkel and Soumia Ait-Hida. "*Bokoharam and Jihad in Nigeria*". In *Scientia Militaria*, South African Journal of Military Studies. Netherlands Defense Academy, Department of International Security Studies Vol 40, Nr 2, 2012. pp. 1-21.

<sup>175</sup> Freedom C. Onuoha. "*Why do Youths join Bokoharam?*" (Washington, DC: Special report for the United states Institute of Peace, 2014). P6

<sup>176</sup> Ibid

<sup>177</sup> Ibid

<sup>178</sup> Ibid

asked for the state to maintain the equality of citizens in the pursuit of prosperity and comfortable living, the Nigerian constitutional state has not yet delivered.

The overwhelming discourse amongst youths under the cusp of unemployment, illiteracy, destitution and poverty is when the Nigerian system will change for the betterment of their lives and livelihood. The problem has been due to years of political and economic corruption, most youths have lost trust in the system. This has led to their use by predatory and corrupt politicians in illegal vices such as electoral rigging for instance.<sup>179</sup> In this instant, any phenomenon that represents a change for the better and has appealing trust will be joined and massively supported. This can be seen in the recently held Presidential elections seen as the freest and fairest in the country since another in 1990. Muhammadu Buhari won on the mantra of change and youths as central to the government's policy on future developments for the country.

#### **4.4 Presidential Discourse on Constitutionalism and Rule of Law in the Face of Youth Radicalization and Terrorism**

Assessing the presidential address by President Muhammadu Buhari for the Nigerian people after electoral victory in the 2015 general election, the following important points can be adduced in attempts to paint the Nigerian situation with constitutionalism, rule of law and democracy. The inauguration speech will be analyzed in view of the three main themes of this chapter that is human rights record of the state, and the role of rules of engagement in countering Bokoharam, Youth unemployment, idleness, and poverty.

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<sup>179</sup> Bokoharam members for instance were used and then dumped by the former governor of Borno state Ali Modu sheriff after securing electoral victory. He used them to engage in political thuggery and ballot snatching tactics until victory.



A case in point in Buhari's electoral speech is when he mentioned in relation to immediate problems the nation is facing in recent times as a democracy

"At home, we face enormous challenges. Insecurity, pervasive corruption, the hitherto unending and seemingly impossible fuel and power shortages are the immediate concerns. We are going to tackle them head on".<sup>180</sup>

This confirms the challenges and perils the constitutional democracy of the Nigerian state faces at the moment. In addition to the above, Buhari stated

"Nigerian economy is in deep trouble and will require careful management to bring it round and to tackle the immediate challenges confronting us, namely; Boko Haram, the Niger Delta situation, the power shortages and unemployment especially among young people."<sup>181</sup>

Recognizing unemployment as a major problem and promising in the party manifesto to maintain the momentum in creating jobs and ameliorating the situation of millions of youths.<sup>182</sup> Importantly, describing the group he says

"Boko Haram is a typical example of small fires causing large fires. An eccentric and unorthodox preacher with a tiny following was given posthumous fame and following by his extra-judicial murder at the hands of the police. Since then through official bungling, negligence, complacency or collusion Boko Haram became a terrifying force taking tens of thousands of lives and capturing several towns and villages covering swathes of Nigerian sovereign territory".<sup>183</sup>

This way the indictment of the state in its slow response to a threat of minuscule threat is recognized and emphasized. Thus the focus of the new administration is to push for reforms after careful study of the Boko Haram terrorism, in order to check the rise of groups in its ilk. He did not fail to mention the use of the word *murder* either, recognizing the extrajudicial killings (human rights record of the state) that can be associated with Nigerian armed forces.

In acceptance and recognition of human rights violations, and the need to revise the situation, he states

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<sup>180</sup> Premium Times. "For the Records: President Muhammadu Buhari's 2015 inaugural Speech". At <http://www.premiumtimesng.com/features-and-interviews/183975-for-the-records-president-muhammadu-buharis-2015-inaugural-speech.html>. last accessed 10th of May, 2016

<sup>181</sup> Ibid.

<sup>182</sup> Ibid

<sup>183</sup> Ibid

“For now the Armed Forces will be fully charged with prosecuting the fight against Bokoharam. We shall overhaul the rules of engagement to avoid human rights violations in operations. We shall improve operational and legal mechanisms so that disciplinary steps are taken against proven human right violations by the Armed Forces.”<sup>184</sup>

The overall effect of all these observations by the president is to entrench the doctrine of the rule of law in everyday runnings of administration of daily lives of Nigerian armed forces and institutions that will guide their democratic actions such as rules of engagement and civil-military relations.

## CONCLUSION

In conclusion, it has been established that Bokoharam is the product of misinterpretation of religion on the one hand, and on the other exploitation of a situation of mass grievances, disappointments, and discontent with the Nigerian government. In addition, failings in terms of protection of human rights and catering for rural and urban poor have fuelled radicalisation of youths. Unemployment and idleness remain important factors in propelling radicalization.

Thus to test the hypothesis that relative deprivation is the major cause of the rise of radical terrorists in Nigeria, in this case, Bokoharam, the results garnered above have confirmed the hypothesis. Even *though Bokoharam had never mentioned constitutional rights as the basis for their fight*, an outsider look into the evolution of the conflict has shown that the failures of the government in human rights perspective, failure to ameliorate the situation with poverty and unemployment, has led to negative consciousness of people affected towards it, and the joining of the cause of Bokoharam. The thesis has hinted there are similar cases across the world.

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<sup>184</sup> Ibid

Essentially, human rights are essential to democracy. The Nigerian human rights record has been bad and from the account of Bokoharam, this has shown how extrajudicial killing and arrest had led to terrorism by them. Religious deprivation also played a role in the rise of the terrorists. The ouster from mosques and demolition of religious centers in initial skirmishes with the group fuelled its radicalization and violence.

If all of the above are true, Bokoharam is a product of relative deprivation, coming along with the twisted ideology of a group. If this is the case, it is important that lessons are learned from the above in an attempt to check these excesses. Empathy for the enemy is often a useful tool to reach the table of dialogue. In the event, this is reached, terrorism can be reduced to the barest minimum, albeit if the terrorist understands that the democratic right to freedom and equality of all is a virtue that cannot be tampered with if the world is to coexist.

This way, assessing the position of the Nigerian democratic state in terms of its implementation of the good life et al, It is safe to say Nigeria is still on the path towards delivering the goods. From 1999 until date, the rule of law mechanism has been strengthened with counterterrorism bills furthering the rules of engagement in times of crises. There has also been the establishment of tribunals of inquiry were deemed necessary for adjudication of mass crimes. In addition, the mass displacement of peoples from their homes due to the Bokoharam crises has furthered the reach of government to the poor, this way, mass housing, education and feeding schemes have been rolled out in attempts to ameliorate the situation of the internally displaced peoples and also importantly the youths. These all serve to further the constitutional democratic ideal to the citizenry, which eventually will see Nigeria attain its constitutional mandate and hence on a full-on constitutional democracy

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