

**MILITARY IN INTERNAL SECURITY
OPERATIONS: CHALLENGES AND
PROSPECTS**

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Introduction

Military involvement in internal security operations (ISOPs) is inevitable as the need for higher level of aggression continually reveal itself. Although this has been the case ever since Nigeria was formed and it also continued throughout the colonial period, the recent occurrence of terrorism witnessed in the country has further justified the need for military participation in ISOPs. This move however is not without challenges of own as the military is not particularly trained for ISOPs unlike the civil security authorities and as a result, consistently engage in acts which are not civil enough.

This paper discusses the involvement of the military in internal security operations by looking at the applicable laws, the instances of military ISOPs in Nigeria, extent of utilization as provided by legal instruments, ISOPs challenges, derogation from legal provisions and ISOPs prospects.

Functions of the Military

The 1999 Constitution of Nigeria which provides for the military in its section 217 makes it clear that the duties of the military, that is the Army, Navy and Air force will be to defend Nigeria from external aggression¹, maintain its territorial integrity and securing its borders from isolation

¹ Section 217(2)(a) 1999 Constitution

on land, sea or air,² suppressing insurrection and acting in aid of civil authorities to restore order when called upon to do so by the President but subject to such conditions as may be prescribed by an Act of National Assembly³. The military is also to perform such other functions as may be prescribed by an Act of the National Assembly⁴.

Although the main functions of the military is to protect the nation against external aggression or threats, occasionally the military may be required to assist the civil authorities to deal with internal violence and suppress internal tension. For instance, the military may be required to assist the police in restoring law and order in any part of the country. Section 217(c) 1999 Constitution forms the basis of the involvement of the military in Internal Security Operations (ISOPs) in Nigeria. It provides thus in relation to the functions of the military in Nigeria:

“...suppressing insurrection and acting in aid of civil authorities to restore order when called upon to do so by the President but subject to such conditions as may be prescribed by an Act of National Assembly.”

Section 8(1) of the Armed Forces Act⁵ provides that the President shall determine the operational use of the Armed Forces. Operational use is further defined⁶ thus:

“In this section, “operational use of the armed forces” includes the operational use of the Armed Forces in Nigeria for the purpose of maintaining and securing public safety and public order.”

² Section 217(2)(b) 1999 Constitution

³ Section 217(2)(c) 1999 Constituion

⁴ Section 217(2)(d) 1999 Constitution

⁵ Cap. A20 LFN 2004

⁶ Section 8(3) of the Armed Forces Act *ibid.*

The security challenges witnessed in the country have called for more of military intervention in form of ISOPs and it has been observed that the military is increasingly involved in Internal Security Operations.⁷

What is Internal security Operation?

Internal Security Operations (ISOPs) are those acts carried out by the domestic security agents such as the Police, Customs Service, Immigration Service, and others, for the purpose of containing domestic threats to the security of the country. These threats often relate to dire cases of riots, demonstrations, strikes, communal clashes, terrorism, and the likes, which normally fall outside the constitutional duty of the military.⁸

For instance, it is the duty of the Police to maintain law and order within the society. Section 4 of the Police Act provides the general duties of the police as the preservation of law and order, the protection of life and property and the due enforcement of all laws and regulations with which they are directly charged.

ISOPs are designed to handle internal conflicts in a country. In Nigeria, communal/ ethnic clashes, religious conflicts and recently acts of terrorism have necessitated the involvement in ISOPs.

Some instances of military's involvement in internal security operations in Nigeria

⁷ Okoli, Al Chukwuma, Orinya, Sunday “Evaluating the Strategic Efficacy of Military Involvement in Internal Security Operations (ISOPs) in Nigeria” *IOSR Journal Of Humanities And Social Science (IOSR-JHSS) Volume 9, Issue 6 (Mar. - Apr. 2013), p. 21*

⁸ Ibid. 22

The military has always been involved in internal security from the days of colonialism. In August 1914, as the First World War gathered pace, an Egba revolt was militarily crushed by ten companies of troops from the newly created "Nigeria Regiment."⁹ In 1929-1930 the regiment was called upon for a major internal security operation against Igbo women, mainly at Aba.¹⁰ The Nigerian Air Force similarly participated in Military Operations Other Than War(MOOTW) against Maitatsine elements in Kano and Maiduguri, against the Taliban in the Mandara Mountains and in Panshekara and are active with the Special Task Force – Operation Safe Haven on the Jos Plateau while the Nigerian Navy were deeply involved in the management of the Ijaw – Itsekiri crises in the Warri metropolitan area. Both services, where they maintain a presence, have over the course of several decades actively cooperated with the Nigerian Army in Internal Security Operations (ISOs) geared towards restoring peace to various parts of the volatile federation.

These include, but are not limited to, the Tiv and Western Nigeria crises of 1962-1965, the post-election violence of 1983 in Western Nigeria, Ife-Modakeke conflict of the late 1990s, the 2000 Sharia crisis in Kaduna which claimed thousands of lives. The Nigerian Army also had to intervene in Yelwa-Shendam, Jos and Kano in 2004 to restore peace after well over a thousand persons had been killed in ethnoreligious violence between Hausa muslims and indigenous Christian peoples in the central highlands and reprisal killings which followed in Hausa muslim-dominated Kano thereafter. So serious was the violence that a rare state of emergency was declared in Plateau State.

⁹ **Dr. Nowa Omoigui HISTORY OF CIVIL-MILITARY RELATIONS IN NIGERIA**<http://www.gamji.com/nowa/nowa9.htm>

¹⁰ Ibid.

Some years later, serious ethnoreligious violence broke out and reprisal killings followed thereafter and across broad swathes of Northern and Eastern Nigeria in that order, occasioned by perceived indiscretion on the part of a Danish cartoonist in 2006. In 2011, post-election violence again broke out in some disaffected segments of Northern Nigeria leading to the deaths of over 800 deaths. It took the intervention of the Nigerian Army to restore normalcy to the restive parts of the federation.¹¹

Table 1: Instances of Military Internal Security Operations in Nigeria fro 1960 - date

Government/Regime	Period	Area of action
Abubakar Tafawa Balewa	October 1960- January 15, 1966 1960-July 1966	<ul style="list-style-type: none"> • Quelling of the Tiv uprising 1960-64 • Implementation of Emergency rule in Western Region in 1962 • Western region election crisis 1965-1966
General J.T.U. Aguiyi Ironsi	January 15, 1966	*Overtaken by interregnum
General Yakubu Gowon	July 29, 1966-July 29, 1975	<ul style="list-style-type: none"> • Maintenance of Law and order during the 1966 crisis, especially violence in the North. • Quelling the Biafran rebellion 1967-1970 • Joint Military Police anti-robbery patrol

¹¹ [CHRONICLE OF NIGERIAN MILITARY ENGAGEMENTS: 1959 – 2011](http://beegeagle.wordpress.com/2011/08/26/chronicle-of-nigerian-military-engagements-1959-2011/)
<http://beegeagle.wordpress.com/2011/08/26/chronicle-of-nigerian-military-engagements-1959-2011/>

General Mohammed/Olusegu Obasanjo	Murtala	July 29, 1975-October 1, 1979	<ul style="list-style-type: none"> • Quelling students riots (Ali must Go) • Joint military Police anti-robbery patrols.
Alhaji Shehu Shagari		October 1, 1979-December 31st 1983	<ul style="list-style-type: none"> • Anti-smuggling campaigns Lagos. Management of Ogunpa Flood disaster of 1981 at Ibadan • Maitasine religious crisis in Kano, Bauchi, Kaduna, etc. • 1983 General Elections crisis
General Buhari	Muhammed	December 31, 1983-August 31, 1985	<ul style="list-style-type: none"> • Joint Police Military Security Task Force
General Babangida	Ibrahim	August 27, 1985-August 26, 1993	<ul style="list-style-type: none"> • Quelling the anti-SAP riots of 1989 • Quelling the Zango-kataf mini-war of 1992 • Quelling of June 12 protests of 1993 • Joint Police-Military Security Task Forces
Chief Ernest Shonekan		August 26, 1993-November 17, 1998	<ul style="list-style-type: none"> • Joint Police-Military Security Task Forces

General Sani Abacha	November 17, 1993-June 8, 1998	<ul style="list-style-type: none"> • Quelling of Ogoni uprising of 1993-1994 • Joint Police-Military Security Task Forces.
General Abdullsalami Abubakar	June 8, 1998-May 29, 1999	<ul style="list-style-type: none"> • Joint Police-Military Security Task Force
Chief Olusegun Obasanjo	May 29, 1999-May 29, 2007	<ul style="list-style-type: none"> • Odi crisis, 1999 • Onitsha disturbances, 2006 • Niger Delta crisis, 1999-2009 • Ikeja Bomb blasts, 2001 • Ife-Modakeke crisis, 1999 – 2000 • Plateau state (Jos) crisis • Sharia and religion – related crisis in parts of Northern Nigeria
Alhaji Umaru Yar'Adua	May 29, 2007 - May 5 2010	<ul style="list-style-type: none"> • Quelling of Islamic insurgency in Borno (Maiduguri) 2009 • Jos crisis
Dr. Goodluck Jonathan	May 5, 2010 - Present	<ul style="list-style-type: none"> • Boko Haram crisis (till date) • Jos crisis (till date) • Post – elections crisis (April 2011)

Source: Okoli, Al Chukwuma, Orinya, Sunday “ Evaluating the Strategic Efficacy of Military Involvement in Internal Security Operations (ISOPs) in Nigeria” *IOSR Journal Of Humanities And Social Science (IOSR-JHSS) Volume 9, Issue 6 (Mar. - Apr. 2013), p. 22 - 23*

Applicable laws for Internal Security Operations

Domestic laws usually apply in internal security operations, but this is however influenced by the rules and standards of international law. Domestic laws provide the basis for military involvement in internal security operations while international human rights law regulates the conducts of operations, military or otherwise in those situations.

1. 1999 Constitution

In Nigeria, the first law is the Constitution which empowers the President to use federal forces to combat domestic disturbances. These disturbances only serve as threats to the rights of some individuals or group in some particular areas of the nation, these are not threats to the national security. Section 217 of the 1999 Constitution is to the effect that the military, under the directive of the President can act in the aid of civil authorities to restore law and order.

Pursuant to this section, the military is often called upon to suppress acts of riots, demonstrations and terrorism in order to restore peace, law and order.

Section 305 of the Constitution which empowers the President to issue a proclamation of state of emergency is another basis for military internal security operations. This section provides that state of emergency shall be declared in the following situations:

- when there is actual breakdown of public order and public safety in the federation or any part thereof to such extent as to require extraordinary measures to restore peace and security.

- Also, if there is clear and present danger of an actual breakdown of public order and public safety in the federation or any part thereof requiring extraordinary measures to avert such danger,
- or there is an occurrence or imminent danger or the occurrence of any disaster or natural calamity affecting the community or a section of the community in the federation, or there is any other public danger which clearly constitutes a threat to the existence of the federation.

These provisions above all refer to the breakdown of public order and public safety and the need to restore same. Although the duty to restore of law and order within the country is that of the civil authorities which is the Nigeria Police, the provision of Section 217 of the 1999 Constitution comes in handy here as it is to the effect that the military can be called upon to aid civil authorities to restore public order in any part of the country. In line with these Constitutional provisions, the military always performs internal security operations when a state of emergency is proclaimed.

The 1999 Constitution also safeguards human rights by providing for the rights to life, right to personal liberty, right to privacy, right to human dignity.¹²

2. International Human Rights Law

International laws do not contain provisions for when the military can perform internal security operations but they provide regulations for the conduct of ‘actors’ during such periods. International human rights law applies both during armed conflicts and in peacetime. This also applies to both armed conflicts of international and domestic nature. Its aim is to protect the

¹² Section 33-37 1999 Constitution

rights of individuals against State authorities. Those rights are set forth in international treaties such as the ICCPR, and in regional conventions such as the African Charter of Human and Peoples Rights.

The rights listed in these international treaties apply at all times except under some special conditions whereby a state may derogate from them by notifying the relevant authorities of its derogation. These special conditions include in the event of a public emergency threatening the existence of the nation.¹³

- Geneva Convention Relative To The Protection Of Civilian Persons In Time Of War Of 12 August 1949 (Geneva Convention)

The Geneva Convention makes provisions regulating the conducts of actors involved in domestic armed conflicts. Article 3 provides:

“ In the case of armed conflict not of an international character occurring in the territory of one of the High Contracting Parties, each Party to the conflict shall be bound to apply, as a minimum, the following provisions:

1) Persons taking no active part in the hostilities, including members of armed forces who have laid down their arms and those placed hors de combat by sickness, wounds, detention, or any other cause, shall in all circumstances be treated humanely, without any adverse distinction founded on race, colour, religion or faith, sex, birth or wealth, or any other similar criteria.

¹³ See Article 4 of the International Covenant on Civil and Political Rights (ICCPR)

To this end, the following acts are and shall remain prohibited at any time and in any place whatsoever with respect to the above-mentioned persons:

a) violence to life and person, in particular murder of all kinds, mutilation, cruel treatment and torture;

b) taking of hostages;

c) outrages upon personal dignity, in particular humiliating and degrading treatment;

d) the passing of sentences and the carrying out of executions without previous judgment pronounced by a regularly constituted court, affording all the judicial guarantees which are recognized as indispensable by civilized peoples.

2) The wounded and sick shall be collected and cared for.

An impartial humanitarian body, such as the International Committee of the Red Cross, may offer its services to the Parties to the conflict.

The Parties to the conflict should further endeavour to bring into force, by means of special agreements, all or part of the other provisions of the present Convention.

The application of the preceding provisions shall not affect the legal status of the Parties to the conflict.”

The provisions contained in common article 3 of the Geneva Conventions and, when applicable, Protocol II, applies to parties to such a conflict, whether State or non-State armed groups. It is also recognized that rules of customary international law related to non-international armed

conflicts, such as the principles of distinction and proportionality, are applicable to non- State armed groups.

- Protocol Additional To The Geneva Conventions Of 12 August 1949, And Relating To The Protection Of Victims Of Non-International Armed Conflicts (Protocol II), Of 8 June 1977 (Additional Protocol II to the Geneva Conventions)

This protocol was adopted because of the need to make provision for non-international armed conflicts. Before its adoption, the only provision applicable to non-international armed conflicts was Article 3 common to all four Geneva Conventions of 1949. This Article proved to be inadequate in view of the fact that about 80% of the victims of armed conflicts since 1945 has been victims of non-international conflicts and that non-international conflicts are often fought with more cruelty than international conflicts. The aim of the present Protocol is to extend the essential rules of the law of armed conflicts to internal wars. This Protocol is the first international treaty that applies solely to civil wars and sets restrictions on the use of force in those conflicts. It does not however apply to mere riots or minor internal disturbances¹⁴.

Its Article 4 provide for fundamental guarantees. It protects the rights of persons who do not take a direct part or who have ceased to take part in hostilities. They shall be treated humanely. The section also prohibits violence to the life, health and physical or mental well-being of persons, in particular murder as well as cruel treatment such as torture, mutilation or any form of corporal punishment; collective punishments; taking of hostages; acts of terrorism; outrages upon personal dignity, in particular humiliating and degrading treatment, rape, enforced prostitution

¹⁴ Article 1.2

and any form of indecent assault; slavery and the slave trade in all their forms; pillage; threats to commit any of the foregoing acts.

Article 13 of the Protocol provides for protection of the civilian population. It states:

“1. The civilian population and individual civilians shall enjoy general protection against the dangers arising from military operations. To give effect to this protection, the following rules shall be observed in all circumstances.

2. The civilian population as such, as well as individual civilians, shall not be the object of attack. Acts or threats of violence the primary purpose of which is to spread terror among the civilian population are prohibited.

3. Civilians shall enjoy the protection afforded by this Part, unless and for such time as they take a direct part in hostilities.”

Extent of Utilization of the Military in Internal Security Operations

Going by the provisions of section 217 of the 1999 Constitution which empowers the president to direct the military to aid civil authorities in restoring law order, it follows that the military is allowed to perform such functions as the civil authorities do. The word “aid” according to the Oxford Advanced Learner’s Dictionary¹⁵ means to assist. The military is therefore to assist the civil authorities usually the police, in doing whatever it is doing in such situations.

¹⁵ Oxford Advanced Learner’s Dictionary online http://oald8.oxfordlearnersdictionaries.com/dictionary/aid_2 accessed on the 22nd August 2013

The activities carried out by the military while performing internal security operations include the following¹⁶:

- cordon and search operations (sealing off a village to search for offenders, weapons or equipment)
- urban and rural patrols, possibly joint patrols with police or paramilitary Forces
- manning observation posts
- guard duties at key points or for VIPs
- road blocks or vehicle check points (VCPs)
- identity checks
- controlling peaceful demonstrations
- controlling or dispersing unlawful assemblies or demonstrations (riot situations)
- enforcing curfews
- making arrests
- detaining persons

- acting as a reserve or reinforcement. i.e. quick reaction duties on standby for incidents

- keeping sides apart (manning a “peace line” or “green line”)

- escort duties for the police, civil defence units, the fire brigade
- hostage rescue
- ambush
- securing or picketing routes, for example to ensure safe passage of supplies through sensitive areas
- bomb disposal, or dealing with improvised explosive devices (IEDs)

The National Assembly however is empowered by section 217 of the Constitution to prescribe conditions for military internal operations by an Act. “...*but subject to such conditions as may be prescribed by an Act of National Assembly.*” This section enables the National Assembly to enact laws which may prescribe conditions and limits to military internal security operations. In

¹⁶ **THE LAW OF ARMED CONFLICT Internal security operations – Part A (International Committee of the Red Cross Unit for Relations with Armed and Security Forces 2002)**

Nigeria there are Emergency Powers laws which declare state of emergency in particular regions and also regulate the conduct during the state of emergency.

CHALLENGES OF THE MILITARY IN INTERNAL SECURITY OPERATIONS IN NIGERIA

The involvement of the military in civil operations informs the need for the military to adjust to the demands of internal security operations. The military usually encounter problems adjusting when dealing with civil operations. Some areas where these problems stem from have been highlighted as follows:

A. Training¹⁷

Since the primary function of the military is to defend the country in times of war, military training is usually based on inflicting maximum damage and destruction on their opponents and defeating them in the shortest possible time within the rules and the law of armed conflict. Meanwhile, internal security operations only require restraint and the use of minimum force which is in contrast to what is usually required of soldiers in conventional warfare. The requirement for minimum force is because they are now maintaining law and order among their own people in their own country¹⁸.

¹⁷ THE LAW OF ARMED CONFLICT *Internal security operations – Part A* (International Committee of the Red Cross Unit for Relations with Armed and Security Forces 2002) p. 9-12

¹⁸ Ibid. 8

The arbitrariness associated with the military while in internal security operations can be attributed to the kind of training undergone by the soldiers. There is therefore the need for the military to undergo proper training to deal with internal operations. This fact was also acknowledged by Chief of Army Staff, Lt.-Gen. Onyeabo Ihejirika, who said that the Nigerian Army must refocus its logistics training to cater for internal security operations in aid of civil authority.¹⁹

B. Orientation

This is the attitude or views of a person. Military orientation dictates that a potential threat is an enemy and as such should be eradicated. Having a mindset like this during internal operations is dangerous. Defence against external aggression should be differentiated from the defence employed against ‘enemies’ within.

Another issue is the perceived attitude of the military when called upon to perform internal security operations. Some soldiers are of the opinion that they have a more noble role than this and some even think they have been called upon because of the incapability and inefficiency of the police in maintaining law and order. The resultant effect is that the military usually take over operations from the police instead of aiding the civil authorities as provided for in section 217 of the 1999 Constitution. Instead of lending support to the police or other civil authorities concerned the military end up taking leading roles. This can give rise to jealousy and distrust between the police force involved in the operations and the soldiers deployed for the internal operations. This is capable of causing unhealthy rivalry which can eventually undermine security

¹⁹ Simon Utebor “ Internal security: Army to refocus training –COAS” (NBF News, Wednesday, 8 Dec 2010) <http://www.nigerianbestforum.com/blog/internal-security-army-to-refocus-training-%E2%80%93coas/#sthash.9crnByAL.dpuf> accessed on the 22nd of August 2013

efforts.²⁰ This has caused the Nigerian Army to advocate for a centralized system to co-ordinate the activities of Joint Task Force Operations in the country as such system would prevent order and counter order by various Heads of Security Agencies²¹.

C. Equipment²²

Often times the soldiers involved in internal security operations are not properly equipped for the task. Soldiers engaged in internal operations who are only equipped with guns will definitely use it if their lives are threatened by a hostile mob²³. An average mob in Nigeria can only be in possession of stones and not guns. Using deadly equipment such as guns in this situation will not be suitable.

D. Strategy and Tactics²⁴

Military strategy and tactics are essential to the conduct of warfare. Strategy is the planning, coordination, and general direction of military operations to meet overall political and military objectives. Tactics implement strategy by short-term decisions on the movement of troops and employment of weapons on the field of battle. Armies all over the world have strategies and tactics employed in times of war. Some of the most commonly cited principles are the objective, the offensive, surprise, security, unity of command, economy of force, mass, and maneuver. According to history, a famous example that illustrates most of these principles occurred during

²⁰ THE LAW OF ARMED CONFLICT Internal security operations – Part A (International Committee of the Red Cross Unit for Relations with Armed and Security Forces 2002)p. 9-12

²¹ Nigerian Army advocates centralized system for JTF operations. (Radio Nigeria Ibadan online) <http://www.radionigeriaibadan.com/nigerian-army-advocates-centralized-system-for-jtf-operations> accessed on the 23rd August 2013

²² THE LAW OF ARMED CONFLICT Internal security operations – Part A (International Committee of the Red Cross Unit for Relations with Armed and Security Forces 2002)p. 9-12

²³ THE LAW OF ARMED CONFLICT Internal security operations – Part A (International Committee of the Red Cross Unit for Relations with Armed and Security Forces 2002)p. 9-12

²⁴ THE LAW OF ARMED CONFLICT Internal security operations – Part A (International Committee of the Red Cross Unit for Relations with Armed and Security Forces 2002)p. 9-12

World War II when the Allied forces eventually agreed on the objective of defeating Germany first with a direct offensive against the European continent. Under a combined command headed by Gen. Dwight D. Eisenhower, they effectively massed their forces in England, deceived Germany regarding the point of invasion, collected intelligence on the disposition of German forces, and set the vast maneuver called Operation Overlord into motion.²⁵

There is also the Envelopment tactic which is the unexpected appearance of enemy troops on a flank or from behind can damage an army's morale, and if a force is encircled it can be deprived of supplies or attacked from any side.²⁶

We will agree that internal conflicts do not always require all these tactics which soldiers ordinarily employ. Dealing with a hostile crowd of civilians in a riot situation requires a completely different approach from an attack on an enemy position in conventional warfare. There is the need to adjust to the smaller scale of operations and the tactical mobility required.²⁷

E. Mode of Operation of the military during internal security operations

The Nigerian military has engaged in peace keeping operations in foreign countries on a number of occasions and has been commended for its noble conduct during those occasions, Sierra Leone and Liberia are good examples. It is wondered why this is not the case when internal security operation is concerned. The problem of high handedness and insensitivity to the nature and characteristics of civilian dominated areas is always pointed out as a flaw.²⁸ A number of

²⁵ Military Strategy and Tactics <http://www.molossia.org/milacademy/strategy.html> accessed on the 22nd of August 2013

²⁶ **Rob Johnson "How To Win On The Battlefield" (Thames & Hudson, 2010)**

²⁷ **THE LAW OF ARMED CONFLICT Internal security operations – Part A (International Committee of the Red Cross Unit for Relations with Armed and Security Forces 2002)p. 9-12**

²⁸ Dr. Robert O. Dode "Nigerian Security Forces and the Management of Internal Conflict in the Niger Delta: Challenges of Human Security and Development" *European Journal of Sustainable Development* (2012) p. 411

features are associated with the Nigerian military engaged in internal security operations most of which are negative. These are discussed below:

1. Excessive use of force

The use of excessive force is against the precepts of human rights. Excessive force is a force generally beyond that which a reasonable and prudent law enforcement officer would use under the circumstances.

Article 51(5)(b) of the 1977 Additional Protocol I to the Geneva Conventions prohibits attack which may be expected to cause incidental loss of civilian life, injury to civilians, damage to civilian objects, or a combination thereof, which would be excessive in relation to the concrete and direct military advantage anticipated.

The military engaged in internal operations has been reported on several occasions as using excessive force. The case popularly known as the Odi Massacre provides an illustration of this. An attack carried out on November 20, 1999 by the Nigeria military on the predominantly Ijaw village of Odi in Bayelsa State. The attack came in the context of the conflict in the Niger Delta over the indigenous rights to oil resources and environmental protection. Prior to the Massacre, twelve (12) members of the Nigerian police were murdered by a gang of restive youths near the village of Odi. In an apparent revenge, the military acting on the directive of the Federal government, invaded the village and raided it. This attack was characterized by intense and excessive use of force. In effect scores of unarmed civilians, including women and children,

were killed. All the buildings in the village, except the bank, the Anglican Church and the Community Health Centre, were destroyed, leaving the village in a woeful state of desolation.²⁹

2. Extra judicial killings

Military in internal security operations have also been characterized with extra judicial killings. The Borno State Governor, Kashim Shettima, said in April 2013 that over 100 people were killed in Baga during a clash between officers of the Joint Task Force and insurgents over the weekend. Residents of the village said they buried 185 people after the battle, while the Red Cross has said 187 people were killed³⁰. The human Rights Watch also reported that during a military operation which began on October 22, 2001, soldiers from the 23rd Amored Brigade of the 3rd Amored Division rounded up villagers at Gbeji (in Zaki Biam area of Benue State) in what turned out to be a “ployed” meeting. The soldiers made the villagers to sit on the ground, separating thereby men from the rest and opening fire on the men indiscriminately³¹. There have also been several reports on extra judicial killings by the military in Nigeria.

3. Degrading treatment of citizens – rape, torture

Under normal circumstances, soldiers are not supposed to be seen all over the place but there is a departure from this in situations where military perform internal security operations as they are deployed to affected areas. Soldiers reportedly extort citizens after intimidating them. It is now a norm for soldiers to ask defaulting car drivers on the high way to do ‘frog jumps’ as a form of

²⁹ Okoli, Al Chukwuma, Orinya, Sunday “Evaluating the Strategic Efficacy of Military Involvement in Internal Security Operations (ISOPs) in Nigeria” *IOSR Journal Of Humanities And Social Science (IOSR-JHSS) Volume 9, Issue 6 (Mar. - Apr. 2013), p. 23*

³⁰ Ola Audu “Borno Governor says ‘over 100 people’ killed in Baga; orders distribution of relief materials” (Premium Times Newspaper online 23 April 2013) <http://premiumtimesng.com/news/130894-borno-governor-says-over-100-people-killed-in-baga-orders-distribution-of-relief-materials.html> accessed on 23rd August 2013

³¹ (*Human Rights Watch*, October 25, 2001)

punishment. Women and girls are raped on a number of occasions whether or not during a conflict. Some girls were reportedly raped in Abuja by soldiers under the guise that the girls were prostitutes.³²

4. Arbitrary arrest

Soldiers involved in internal security operations also effect arrest arbitrarily. For instance, at Odi and Zaki Biam, many young people were arrested and falsely accused of being masterminds of the killing of security personnel. At Onitsha, a number of youths were arrested and falsely accused of being members of MASSOB.³³

Derogation from Human Rights provisions

As a general principle, the legal applicability of international human rights protections is not affected by conflicts. However, international human rights law is characterized by an exceptional regime, by which under certain strict conditions States may limit their fulfillment or their protection of certain rights. These conditions frequently take place in armed conflict, even if they are not limited to such situations. Specifically, under international human rights law it is possible for States to derogate from certain human rights obligations and to impose limitations on the exercise of certain rights. To a lesser extent, derogations from rules protecting civilians are

³² "Nigerian Soldiers rape Women in Abuja" (CKN NIGERIA on Thursday, 17 January 2013) <http://www.cknnigeria.com/2013/01/nigerian-soldiers-rape-women-in-abuja.html> accessed on the 23rd August 2013

³³ Okoli, Al Chukwuma, Orinya, Sunday "Evaluating the Strategic Efficacy of Military Involvement in Internal Security Operations (ISOPs) in Nigeria" *IOSR Journal Of Humanities And Social Science (IOSR-JHSS) Volume 9, Issue 6 (Mar. - Apr. 2013), p. 23*

admissible in some circumstances in international humanitarian law, and several of its rules allow exceptions for reasons of military necessity or security.³⁴

In certain exceptional circumstances, States are allowed to derogate from their accepted human rights obligations.

The International Covenant on Civil and Political Rights recognizes that

“[i]n time of public emergency which threatens the life of the nation and the existence of which is officially proclaimed, the States Parties to the present Covenant may take measures derogating from their obligations under the present Covenant...”

Notwithstanding this provisions, derogations are subject to stringent conditions:

i. **The existence of a public emergency³⁵:**

The Human Rights Committee has stated that not every armed conflict qualifies as a state of emergency. In that respect, the Committee has indicated that “[t]he Covenant requires that even during an armed conflict measures derogating from the Covenant are allowed only if and to the extent that the situation constitutes a threat to the life of the nation. If States parties consider invoking article 4 in other situations than an armed conflict, they should carefully consider the justification and why such a measure is necessary and legitimate in the circumstances.” Furthermore, the European Court of Human Rights has defined public emergencies as “an exceptional situation of crisis or emergency which affects the whole

³⁴ INTERNATIONAL LEGAL PROTECTION OF HUMAN RIGHTS IN ARMED CONFLICT (United Nations Publication 2011) p. 46

³⁵ Ibid.

population and constitutes a threat to the organized life of the community of which the State is composed”;

ii. Temporary³⁶:

Derogation measures are temporary and must be lifted as soon as the public emergency or armed conflict ceases to exist;

iii. Necessity and proportionality³⁷:

Derogation measures must be strictly required by the emergency. Furthermore, derogations cannot be justified when the same aim could be achieved through less intrusive means;

iv. Consistent with other obligations under international human rights and humanitarian law³⁸:

The International Covenant on Civil and Political Rights (art. 4.1) indicates that States may take measures derogating from their international human rights obligations only provided that such measures are not inconsistent with their other obligations under international law. The Human Rights Committee has indicated that “during armed conflict, whether international or non-international, rules of international humanitarian law become applicable and help, in addition to the provisions in article 4 and article 5, paragraph 1, of the Covenant to prevent the abuse of a State’s emergency powers”;

v. Procedural guarantees³⁹:

³⁶ Ibid.

³⁷ Ibid.

³⁸ Ibid.

³⁹ Ibid.

The Human Rights Committee notes that “the provisions of the Covenant relating to procedural safeguards may never be made subject to measures that would circumvent the protection of non-derogable rights.”

Non- derogable Human Rights

The right to life – every human being has the inherent right to life. This right shall be protected by law. No one shall be arbitrarily deprived of his life. Art 6(1) ICCPR

The prohibition of torture – no one may be subjected to torture or to cruel, inhuman or degrading treatment or punishment. Art 7 ICCPR

Certain international human rights instruments explicitly prohibit derogation from some provisions. For example, the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment⁴⁰ provides that “*no exceptional circumstances whatsoever, whether a state of war or a threat of war, internal political instability or any other public emergency, may be invoked as a justification of torture*”.

The International Covenant on Civil and Political Rights⁴¹ explicitly prescribes that no derogation may be made concerning the right to life, the prohibition of torture or cruel, inhuman or degrading punishment, or of medical or scientific experimentation without consent, the prohibition of slavery, slave trade and servitude, the prohibition of imprisonment because of the inability to fulfil a contractual obligation, the principle of legality in the field of criminal law,

⁴⁰ Article 2.2 of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment

⁴¹ Art. 4.2.

i.e., the requirement of both criminal liability and punishment being limited to clear and precise provisions in the law that was in place and applicable at the time the act or omission took place, except in cases where a later law imposes a lighter penalty, the recognition of everyone as a person before the law, and the freedom of thought, conscience and religion.

Rules of Engagement

Rules of engagement are rules or directives to military forces including individuals that define the circumstances, conditions, degree, and manner in which force, or action which might be construed as provocative, may be applied. In some countries, Rules of Engagement have the force of law while in some other countries like Nigeria, these rules have a status of guidance to military forces. President Goodluck Jonathan has however called on the military to abide by their rules of engagement.⁴²

Guidelines On The Use Of Force

In a crisis situation, there is no hard and fast rule to determine whether a particular degree of force would be reasonable. The commander on the ground should decide taking the prevailing circumstances into account. He and his troops are responsible for their actions, hence the need to act in the spirit of humanity. The following guidelines should be observed in the use of force:

- a. Force must not be used at all unless it is necessary.

- b. Force is unjustifiable unless the immediate effect can be achieved by using it within the soldier's or policeman's legal power.

⁴² "Jonathan urges military to abide by rules of engagement" (Nigerian Pilot Newspaper July 8 2013) www.nigerianpilot.com accessed on the 23rd August 2013

- c. No force may be used than is necessary and reasonable in the circumstances.
- d. The degree of force cannot be reasonable if it is more than is required to achieve the immediate aim.
- e. Force must never be used for punitive purpose or as a deterrence for the future.

Use of Fire Arms

As regards the use of firearms, the following guidelines should be followed:

- a. The use of firearms should be confined to situations where there is an immediate threat to life and property or if an attack led to the death or serious injury to those in the charge of the troops and there is no other way of restoring the situation.
- b. The use of firearms represents an application of minimum necessary force in the circumstance.
- c. Adequate warning of intent to open fire should be given if possible. Fire may only be opened without warning when hostile fire had commenced or when delay could lead to death or serious injury of those who it is the troops' duty to protect.
- d. When no other course is open, it would be reasonable for a soldier to shoot and protect himself or other servicemen or others whom it is his duty to protect from real and immediate threat to death or actions resulting to serious bodily injuries.
- e. A soldier can open fire also to defend property or persons, which is his duty to guard and protect from forcible crime, which could result in serious damage to the property or injury to persons.

Use of Force in effect Arrest

Whenever a soldier uses force, it is important that he should be able to justify it and give reasons for the amount of force used in the circumstances.

PROSPECTS OF THE MILITARY IN INTERNAL SECURITY OPERATIONS

The increasing roles taken by the military in internal security operations have been criticized by people who are of the opinion that the military are not trained to manage internal operations like other civil authorities such as the police. However it must be said that the involvement of the military in internal operations has had its advantages notwithstanding the negativity associated with it. The military will also go a long way in providing aid to civil authorities if the proper mechanisms necessary for civil protection and internal operations are put in place. To this end, the following recommendations are proffered:

Recommendations

1. It is necessary for there to be domestic legislation which will regulate the operations of the military during internal operations. The Rules of Engagement of the military should be given a legal status and stop operating as mere guidelines.
2. There should be operational training for soldiers who will be involved in internal security operations. Training in riot control drill is of the utmost importance.
3. There should be a re-orientation of the soldiers involved in internal operations and the populace as well. The military has been tagged with the label of terror and an average Nigerian encountering soldiers on the road is likely to be subjected to unnecessary and

unwarranted fear. The fact that soldiers do not mingle with the day to day life of the people unlike the police is responsible for the fear.

4. Soldiers should also be knowledgeable in conflict management.
5. It is thus necessary that soldiers engaged in internal security operations have more of defence equipments although depending on each case.
6. The military should be made to undergo trainings geared towards internal operations before engaging in same.

CONCLUSION

The military will continually be involved in internal security operations notwithstanding the negative practices associated with their involvement. The Constitution serves as the main domestic law safeguarding the rights of the citizens thereby indirectly regulating the conduct of the military during operations. There are also international conventions and treaties in which Nigeria is a party to. However, there is no domestic legislation which specifically regulates military interventions in internal security operations. The Rules of Engagement of the military only serves as guidelines to the military and do not have any force of law per se. This contributes to the lack of respect for human rights exhibited by the military during some internal operations. It is necessary therefore to regulate their operations during these periods through a domestic legislation specifically enacted for that purpose.