LAW, SECURITY AND DEVELOPMENT
IN NIGERIA - A LEGAL PERSPECTIVE

Benson O. Omoleye ✉

LL.B (Unilag), LL.M (OAU) Ph.D (Ado), B.L, Nigeria

benson.omoleye@gmail.com

Alfred O. Filani

LL.B (Unlag), LL.M (Unilag) Ph.D (Ado), B.L, Nigeria

Abstract

The paper examines the state of national security in Nigeria, the problems posed by the various threats to its security and the challenges of national development. These challenges include militancy, kidnapping for ransom, terrorism, armed robbery, hired assassination, herds men /farmers conflicts etc. It analyses these challenges within the broad framework of its political economy. It examines and evaluates the nation's legal system regarding its responses to the challenges of national security and development.

Keywords: Law, Security, Development, Nigeria

INTRODUCTION

The nation-state called Nigeria is today plagued with a number of ills; socio-economic, political, cultural and legal challenges so profound that it appears the corporate existence of the country is facing existential threat. Socially, there is palpable tension among the various ethnic nationalities that constitute the country; economically, there is acute and widespread poverty; economic indicators of Gross National Product and per capital income may show upward trend, the macro-economic indices measure average performance of the economy and do not address the actual disparity in the economic fortunes between the few rich and the poor majority. The form of political system is inefficient, bloated, costly and thus not satisfactory to some segments of the country.

Insecurity, of the myriad of challenges, appears to be the greatest challenge threatening the integrity of the country; there is Boko Haram insurgency in the North-East, militancy and kidnapping for ransom are very rampant in the cil-producing areas of the south-south and in particular the Niger Delta regions, Herdsmen/farmers clashes which originally began in the Middle Belt areas, is now a phenomenon in the whole territorial space, and there is rising incidence of armed robbery. In short the whole country is enveloped in an atmosphere of insecurity.

This paper addresses this issue of national insecurity, national development and the role of law not only in driving development but in achieving effective national security in Nigeria.

The paper is divided into three parts: the first part examines the concept of national security globally, it's essential components, the theoretical framework and some perspectives on the causes of national insecurity in Nigeria. The second part analyses the concept of national development, the state of national development in Nigeria and the imperatives for nation-building and development. The third part examines the place of law in the scheme of national developmental aspirations; it considers and evaluates the existing national law and policy on crimes that continue to threaten the security of the nation. Finally, suggestions and proposals for effective national security and national development are advanced.

THE CONCEPT OF NATIONAL SECURITY

There is no single generally accepted definition of security. It has been variously conceived and the concept thus appears nebulous, lacking any precise form.

The Chambers 21st Century Dictionary defines security as protection from physical harm especially assassination. Others define it as protection against attack or robbery; still it is defined as protection from the possibility of future financial difficulty; and again it is viewed as freedom from vulnerability to political or military takeover of government (Mesjase C. 2004).

In modern times, the concept of security, and in the present discourse, national security has become amplified, embracing economic security, environmental security in addition to the physical aspect of it. Kofi Annan, the former United Nations Secretary General defined security in this broader sense when he said security could no longer be understood in purely military terms; rather it must encompass economic development, social justice, environmental protect, democratization, disarmament and respect for human rights and the rule of law.

Security has been an issue at the heart of man, perhaps from the very beginning of human existence. In political philosophy, philosophers have advanced theories of social contract between the state and individuals whereby the former agreed to guarantee the security of individuals, among other things, in exchange for the individual giving up his right to self-

preservation. Thomas Hobbes, in his book 'Leviathan', put it thus: "That a man be willing when others are so too, as far-forth as for peace and defence of himself as shall think it necessary, to lay down the right to all things, and be contented with so much liberty against other men, as he would allow other men against himself" (Hobbes T.1651). He said further "without security, there is no place for industry …. no arts, no letters, no society, and which is worst of all, continual fear and the danger of violent death, and the life of a man solitary, poor, nasty, brutish and short" (ibid). John Locke, another notable philosopher agreed no less when he said legitimate political government is a product of social contract where people in the state of nature conditionally transfer some of their rights to the government in other to better ensure the single and comfortable enjoyment of their lives, liberty and property. According to him since governments exist by consent of the people in order to protect the rights of the people and promote public good, governments that fail to do so can be resisted and replaced with a new government. As he put it "men by nature are free, equal and independent; no one can be put out of his estate and subjected to the political power of another without his consent. The only way whereby any one divests himself of his natural liberty and put on the bond of civil society is by agreeing with other men to join and unite into a community for their comfortable, safe and peaceable living one among another in a secure environment of their properties (Locke J. 1689). Thus from philosophical perspective, the need to protect and guarantee personal liberties and freedoms among which security is very critical, is the reason for the existence of the nation-state of modern societies.

In the contemporary times, the concept has further been elucidated. It is described as "a basic value because it is an essential requirement or a condition of a successful and fulfilling existence. It liberates people both physically and mentally to get on with the business of building their lives without undue fear of those around them… It is also a peace of mind, liberation from the anxiety and apprehension associated with fear of those who are in a position to harm us" (Jackson J. 2004). To some scholars security embraces all measures designed to protect and safeguard the citizenry and the resources of individuals, groups, businesses and the nation against sabotage or violent occurrence (Olukayode Olabanji and Urhriese 2004). According to Beland, the concept of insecurity connotes absence of safety, danger, hazard, uncertainty and lack of protection, "It is the state of fear, anxiety stemming from a concrete or alleged lack of protection" (Beland D. 2005). Omede sees security as a dynamic condition which involves a relative ability of a state to counter threats to its core values and interests (Omede, A. J. 2011). Others have described national security as a state of being secured or free from danger and risks; it is a situation where either an individual, social group or geo-political entity is protected against any form of danger, espionage or attack of any sort, internally or externally, (Okeke A.

A. 1999) as a condition of feeling safe from harm or damage, the defence, protection and preservation of values and lack of threats to acquired values, (George-Genyi M. E. 2013) as a state of being protected from danger and anxiety for a nation, security connoting order and progress (Ebeh J. I, 2015); and the absence of those tendencies which could undermine internal cohesion and corporate existence of a state and its ability to maintain its vital institutions for the promotion of its core values and socio-political and economic objectives as well as meet the legitimate aspirations of the people (Ekoko A.E and Vogt M.A.1990).

The concept of national security suggests that the government and its legislature should protect the state and its citizens against all kinds of national crisis through a variety of power projections such as political power, diplomacy, economic power, military power amongst others. Measures usually taken to ensure national security include:

1. Using diplomacy to rally allies and isolate threats;
2. Mobilizing economic power to enhance or compel cooperation;
3. Maintaining effective control of the armed forces;
4. Implementing civil defense and emergency readiness measures, including anti-terrorism legislation;
5. Ensuring the resilience and redundancy of cultural infrastructure using intelligence services to detect and defeat or avoid threats and espionage, and to protect classified information; and
6. Using counter-intelligence services or secret police to protect the nation from internal attack (Emmanuel M.A 2017).

Achieving Effective National Security – Underlying Theories

There are some theories propounded to explain how security could be archived in nation-states. Utilitarianism Theory: This posits that in any given situation, we should do what we have the best overall consequence for everyone concerned; In making decision on any particular case, we calculate the likely effect of various actions and choose the one that produces the greatest benefit for the greatest number of people (Rachels J. 1998).

Democratic Peace Theory: According to this theory, security is largely a function of virile liberal institutions; active and strong civil institutions functioning optimally and creditably will birth effective security, and that a security policy must have its long-term objectives, the spread of liberalism (Doyle M. W. 1998). In other words security is best secured by promoting democracy, respect for human rights and development of civil society.

Nigerian Security Challenges

Security challenges in Nigeria have assumed frightening proportion, now quite phenomenal. An attempt will be made to highlight some of them which occur almost daily.

The incidence of militancy and kidnapping is on the rise; though very rampant in the Niger Delta areas of the country. The nation generally now experiences the criminal activities routinely. Youths in particular have found, in these crimes, alluring and profitable enterprise.

The use of violence to create fear among the masses in pursuit of political, religious, ideological or social objectives is gradually gaining ground in Nigeria. The emergence of Boko Haram insurgency in the North East of Nigeria has been explained on this basis. The insurgent group led by one Mohammed Yusuf which started as a small group of disgruntled youths has now grown into a monster, that has defiled all measures to route the organisation.

There have been claims that Boko Haram had been in existence right from the 1990 but only became noticeable in 2000. Ekanem and Jacob Dada and Bassey James Ejue have this to say:

"*It is on record that this particular group has been operating under the name Shabaab Muslim Youth Organisaton with Mallam Lawal as the leader since 1995 but leadership of the group shift to Mallam Lawal left Nigeria to continue his education in Saudi Arabia*" (Samuel A. E , Jacob A.D and Bassey J .E, 2012)

Boko Haram is today in Nigeria perhaps the deadliest insurgent group and the greatest threat to national security. Thousands of lives have been lost and properties estimated in millions of naira destroyed. The real objectives or motivations of the organization are not yet clear, they exist only in the realm of conjectures and speculation.

In the oil-rich Niger Delta, there are the Niger Delta People Volunteer Force (NDPCF) led by Alhaji Asari Dokunbo; Movement for the Emancipation of Niger Delta (MEND) led by Henry Okah; the Niger Delta Vigilante Force (NDVF) led by Ateke Tom; and movement for the Actualization of the Sovereign State of Biafra (MASSOB), among others. These are groups that inflict maximum terror and violence in the south-south and south-east of Nigeria.

It is claimed in some quarters that kidnapping, militancy vandalism or precisely the destruction of oil-pipelines and other criminal activities were contrived as protests to the neglect of the oil-producing communities by successive governments in Nigeria. Militancy has grown into thriving multimillion naira businesses in the region, individuals involved have also become willing tools in the hands of desperate politicians for use during election contests.

Armed robbery is yet another form of insecurity now on the rise in the country. The National Bureau of Statistics (NBS) in 2008, revealed the armed robbery proned states as Anambra, Oyo, Imo, Rivers, Kano, Ogun, Gross, Rivers and the Federal Capital Territory (FCT).

The incidents of armed robbery have remarkably gone up in recent years and all measures put in place by the government has not resulted in appreciable drop in the incidents of armed robbery.

Another security threat is hired assassination. Epele A. (2016) identifies the rampart cases of hired assassination as another security the threat. This crime, though not new, has become pronounced as it occurs more frequently and is more widespread than ever before. As a consequence, many lives have been cut down (Christian O. I 2016). Although these crimes carry capital punishment under the nation's laws, they continue because of the helplessness of the law enforcement agents and the inability to bring the perpetrators to book. The government therefore has failed in their responsibility of protecting the lives and properties of its citizens.

In recent times, herdsmen/farmers conflict has added to the Nigerian security challenges. The conflicts, which occur almost on daily basis, have led to the death of hundreds of citizens across the length and breadth of the country, though more concentrated in the middle belt areas of Benue, Taraba and Plateau States. It has also caused the destruction of properties worth millions of naira. Apart from the resultant causalities and destruction of properties, mass migration of people from conflict areas to other regions which are relatively secure has created the challenge of managing refuge influx in the numerous internally displaced peoples' camps.

The above are some of the grave security challenges being faced by the country. It is not an exhaustive catalogue and no attempt can be made to state all, given the constraint of space in this discourse. It is apt here to also consider some perspectives on the factors responsible for national insecurity in Nigeria.

Causes of Insecurity in Nigeria

There are different views expressed on the causes of insecurity in the country. Here are some of the causes identified by scholars and public commentators.

Unemployment/Poverty

The high rate of unemployment and poverty especially among the youths is obviously a major factor of insecurity in the country. Idle youths have strong predisposition to violent crimes which in turn undermine the nation's security system. In Lagos, its foremost commercial centre and former capital, it has given rise to what is known as area boy phenomenon. These are loosely organized gangs of street children and teenagers, composed mainly of males who roam the street of the state; they extort money from passer-by, sell illegal drugs, act as informal security guards and perform other odd jobs (En. M. Wikipedia.org/wiki/Area boys; accessed 12/5/2018).

The emergence of the insurgent group know as Boko Haram, though claimed to have ideological opposition to western education, high rate of employment could well explain its appeal to the youths.

The heartland of Boko Haram is the remote, semi-arid North; it is the country poorest region where a miserable education system and high employment among the youths provide easy recruits for extremists. The failure of successive administrations to address the challenges of poverty, unemployment and inequitable distribution of wealth among the ethnic nationalities is one of the major causes of insecurity in the country. According to Alalawi B. (2010) what this means is that poverty and unemployment increase the number of people who are prepared to kill or be killed for a cause for a token benefits. The rate of unemployment increase to 23.9 percent in 2011 compared to 21.1 percent in 2010 and 19.7 percent in 2009. It has a youth population of 80 million, representing about 60% percent of the total population with a growth rate of 2.6 percent per annum; national demography suggests that the youth population remains vibrant with the average annual entrant of the labour force at 1.8million between 2006 and 2011. Edeko (Edeko S. E. 2011) says 37.7 percent of the Nigerian youths were aged between 15.24 years and 22.4 percent of those between the 25 and 44 were willing to work but can not get jobs.

Religious and Ethnic Conflicts

Ethno-religious conflict is a major cause of insecurity in Nigeria. Religion plays a critical role in the Nigeria society and it is a potent force in geo-political development of the country. It is a force which has been used to unite Nigeria and has also been used to divide the country. Ethno-religious crises is notorious as the as the major cause of violent crises in Nigeria. Most of the crises occur in the middle-belt and along the culturally divided borderline states of predominantly Muslim North, and also take place between Hausa-Fulani groups and the non-Muslim ethnic groups in the southern Nigeria political landscape causing political instability (Haldum C. & Adedoyin O. 2016). Communal conflicts have also occurred severally between Hausa/Fulani in the south west, particularly Ile-Ife. Between 1999 and 2013, more than 11,000 deaths have occurred as a result of more than hundred incidents of communal violence. Ethnic violence has been witnessed in almost all regions in the country but with particular frequency in the Niger-Delta, the Muslim North and the Northwest, and along the middle belt (Ibid). The level of insecurity arising from ethno-religious crises in post-military era is considerably higher than that experienced during the three decades of military rule that ended in 1999 (Ibid).

Ineffective Security System

The entire security apparatus appears weak, dysfunctional and ineffective. The personnel often deployed to handle a given security assignment, it appears, lack the requisite expertise and are ill-equipped. Some personnels get influenced by ethnic, religious and commercial sentiments, unable to separate their personal interests from that of the nation. They often abandon national interests and values and opt to pursue their parochial concerns thereby sabotaging government efforts and fueling insecurity through either leaking vital security information or aiding and abetting criminals to acquire weapons or to escape the long arm of the law (Christine O. I 2016).

Porous Borders

The porosity of the Nigerian borders has aided the uncontrolled influx of Nigerians mainly young men, from neighbouring countries such as the Republics of Niger, Chad, and the Republic of Benin, and this has been responsible for some of the criminal acts in the country (Ibid). The frontiers of the country are largely untracked thus making free movements of people, mainly criminals into the country completely uninhibited (Hazen J. M & Horner J. 2007). It is a phenomenon that has always been a grave threat to national security. President Muhammadu Buhari recently attributed the rising incidents of criminal violent activities in the country to the infiltration into Nigeria, Libya-Gadafi trained fighters through the porous borders. A study also shows that Nigeria hosts over 90 percent of about 8 million illegal weapons in West Africa (Edeko S. E. 2011).

Endemic Corruption

Corruption has often been identified as one of the serious threats to national security in Nigeria. A number of writers and public commentators have alluded to this at several fora. Olusegun Obasanjo, a former President of the country, said in this respect; "No society can achieve anything near its full potential if it allows corruption to become the full blown cancer it has become in Nigeria" (Inauguration speech of Olusegun Obasanjo as the President of the Federal Republic of Nigeria at Eagle Square, Abuja on 29th October, 1999). A writer also maintained that corruption in Nigeria is systemic and political corruption is a cancer militating against Nigeria's development (Iduh S. 2011).

The question is apt: why is corruption a viable enterprise in the third world, nay Nigeria?. According to a writer, the causes of corruption are myriad and they have political and cultural variables. Some evidence points to a link between corruption and social diversity, ethno-linguistic fractionalization, and the proportions of the country's population adhering to different religious traditions. Thus the political system and the culture of society could make the citizens

more prone to corrupt activities. Some of the fundamental factors that engender corrupt practices in less developed nations, including Nigeria are listed as;

1. Great inequality in the distribution of wealth;
2. Political office as the primary means of gaining access to wealth;
3. Conflict between changing moral codes;
4. The weakness of social and governmental enforcement; and
5. The absence of a strong sense of national community. (Bryle 1921)

According to Victor D (2011) the causes of corruption in Nigeria cannot deviate significantly, if at all, from the above factors. However it is also true to say that obsession with materialism, compulsion for a short-cut to affluence, glorification and approbation (of ill-gotten wealth) by the general public are among the reasons for the persistence of corruption in Nigeria (Ndiulor 1997). The lack of ethical standards throughout the agencies of government and business organizations in Nigeria is a serious drawback. According to Bowman (1991) ethic is action, the way we practice our values; it is a guidance system to be used in making decisions. The issue of ethics in public sector (and in private life) encompasses a broad range, including a stress on obedience to authority, on the necessity of logic in moral reasoning and on the necessity of putting moral judgment into practice. Unfortunately office holders in Nigeria (appointed or elected) do not have clear conceptions of the ethical demands of their positions, even as corrupt practices are going off the roof, little attention, if any, is being given to this ideal (Ibid).

Greed and poor reward system are other factors of corruption. Nigeria's reward system is one of the poorest in the world. With poor reward system, a large part of the working population are strongly disposed to corrupt practices.

There are ample legislations enacted by the Nigerian state to light corruption. Whether the laws are potent and efficacious enough to effectively fight the scourge is a different matter. These include;

1. The Economic and Financial Crimes Act
2. Money Laundering Act
3. Code of conduct Tribunal Act
4. Advanced fees fraud and other related offences Act
5. Independent Corrupt Practices and other Released offences Act
6. The Criminal code
7. The Penal code
8. The constitution of the Federal Republic of Nigeria (as amended)

Agenda for Effective National Security

The discourse so far has highlighted the major security challenges of the Nigerian nation. Most of the causes of insecurity arose from the imbalance in the political structure of the country. The political structure engenders ills such as ethno-religious conflicts, herdsmen/farmer clashes, corruption, pipeline vandalism, kidnapping for ransom, terrorism and militant activities generally. In the light of the above it becomes imperative to redesign the entire socio-economic, political and legal framework of the country along the lines of federal principles. The police should be a state matter, to ensure an effective policing of the whole country. States also should control the resources in their respective domain, giving only the central authority an agreed percentage.

Good governance is yet another panacea to insecurity challenges in the country. Accountable, transparent and responsible leadership whose driving force is the improvement of the collective well-being of the citizens and who is committed to implementing economic policies and human development programmes is an imperative for effective national security.

The law against corruption as highlighted above must be made more effective. The institutions of the economic and financial crimes must be made to spread throughout all the states of the federation. As it is now, its activities are majorly concentrated in the major cities of the country.

The judiciary must be an active partner in the fight against corruption. Judicial officers should imbibe a progressive legal ideology and approach law mainly from the perspective of social justice, national objectives and aspirations. The courts should jettison Austinian positivist ideology that employs strict legal rules as the basis of adjudication. As noted by a writer.

"Our collective recognition that corruption is the common enemy leaves us with only one alternative to muster all our strength and resources and wage a massive, awesome and relentless war against it until we achieve a complete eradication. And the soldiers at the forefront of this battle must incidentally be judicial officers" (Maxwell G. 1998).

And echoing this point, Anthony Aniagolu said.

"Two departments of governments, the police and the judiciary need to be cleaned up and the other arms of the government will automatically follow suit. Once the police can be trusted to apprehend criminals and the courts trusted to give them immediate trial and punishment, every member of the society would soon wake up and law and order established"(Aniagolu A. 1999).

The measures highlighted above are imperatives to effectively combat the challenges of insecurity in the country.

National Development

Development is not a definite concept. It is many-sided and thus not easy to define. More often the than not, it is conceived purely in economic sense. From strict economic perspective it is "Seen as simultaneously the vision of a better life, a life materially richer, institutionally more modern and technologically more efficient and an array of means to achieve that vision" (Rodney W. 1982), and from the angle of individual, development, it implies skill and capacity, greater freedom, creativity, self-discipline, responsibility, and material well-being (Udombana J. N 2000). The realization of these aspects of personal development depends on the state of the security as a whole. From the prisms of social group, it means increasing capacity to regulate both internal and external relations.

Economic conception of development also includes a wide range of services and amenities such as adequate public transportation system, good communications- radio, television, telephone, and with the information revolution, internet services. It also includes efficient public administration with a trained civil service. According Nsongurua Ndombana "Development include the acceptance and spread of the whole population of at the very least, minimal standards of housing, education and health. It means that all people are reasonably clothed and fed. It means that in hard times such as unemployment, minimum assistance is available for those in need. In some countries, the assistance is referred to as social security. These, in broad terms, are the accepted results of development" (Ndombana J. N 2000).

However, development encompasses other matters apart from the economic well-being of the individual and society at large. The definition of development now is all-embracing- economic, technological, organizational and managerial. The monolithic view point in defining and conceptualizing development is of interest perhaps to the economists and a few other peoples. Development consists of the ability to maximize resources, it is for the benefit of human beings, in all their aspects, tangible and intangible (Arnold G. 1985). It is development in this wider connotation that appeals to a larger audience and is gaining currency in modern times. It is now measured in terms of human rights, what is now known as the right to development (Ndombana N. J 2000).

Antony N. Allot said development means "not just the increase in the number of factories or expansion of services but basically whether life is happier and more fruitful and enjoyable for the individual. In doing this one has to balance one factor against another" (Antony N. A, 1981).

Underdevelopment, on the other hand has been defined as "a series of complex interacting phenomena, resulting in flagrant inequalities of wealth and poverty, stagnation, a relative backwardness compared other countries, producing potentials which fail to progress as

far as they might; economic, cultural, political and technological dependence" (Yues Lacoste 1976).

The view has been expressed that underdevelopment is not tantamount to absence of development; people have developed in one way or another, thus the term makes sense only by comparing levels of development of different human societies.

The State of Development in Nigeria

Third world countries are generally rated as underdeveloped because of their low performance on all indices of development. The Nigerian economy has grossly underperformed relative to her enormous resource endowments and her peer nations. The economy is endowed in commercial quantities in the about 37 solid minerals and has a population of over 170 million people. Yet economic performance has been poor and does not reflect these endowments. Compared with the Asian countries, notably, Thailand, Malaysia, China, India and Indonesia, that were far behind in terms of GPD per capital in 1970, these countries have transformed their economies and are not only miles ahead of Nigeria, but are also major players on the global economic arena.

The relative decline of the country economic fortunes are attributable to some major factors; these are: political instability, lack of focused and visionary leadership, economic mismanagement and corruption. The long years of military dictatorship stifled economic and social progress as resources were plundered, social values debased and unemployment rose astronomically with concomitant rise in crime rate.

However, since 1999, economic growth has risen substantially with annual average of 7.4 percent in the last decade. The growth however has not been inclusive, broad-based and transformational. The implication of this is that economic growth has not resulted in the desired structural changes that will make manufacturing the engine of growth, create employment, promote technological development and induce poverty alleviation (Kelikume K. 2015).

According to the National Bureau of Statistics (NBS) national poverty level is 54.4 percent and the current unemployment level stands at 19.7 percent. The Gross Domestic Product (G.P.D) expanded 4.29 percent in the fourth quarter of 2017 over the previous quarter. GDP growth rate averaged 1.54 percent from 2010 until 2017.

Economic and social infrastructure, especially power is grossly dilapidated. The power sector is generally recognized as a binding constraint on Nigerian economy. Poor corporate governance, both in the public and private sectors have led to high incidence of corruption and inequality in income distribution (Ibid).

The economic situation of Nigeria as briefly considered above contrasts sharply with the situation in developed economics. The United States of America, for example, with only 6% of the world population consumes about 55% of all the natural resources of the earth. It is calculated that an American child consumes roughly 500 times more material resources than a child in an undeveloped country (Bedjaoui M. 1979).

The Role of Law in Promoting National Security and Advancing National Development

The discourse here will focus more on the functional or teleological aspect of law and less on conceptual analysis. For our purpose, it is apt to consider how law could function to promote national security and enhance national development. In this regard, it is also pertinent to analyse the conduct, attitudes, orientation or the dominant legal ideology of the principal actors in the administration of justice system – the judges, lawyers, e.t.c. This is imperative, given that law plays a critical role in the socio-economic and political progress of any nation.

Law as a Tool of Social Ordering

Sociological jurists have long recognized the value of law as an instrument of social control. From Jeremy Bentham's utilitarianism which posits that law functions to achieve the greatest happiness of the greatest number, Von Ihering's jurisprudence of interest which emphasizes the purpose or the end of law, Duguit's social solidarity which stresses harmonious co-existence among the various elements of human society and Roscoe Pound's idea of law as a mechanism of social engineering, it is incontestable that law, indeed, plays a critical role in human societies. It is not only an instrument to achieve stability and order but also, and perhaps more importantly, a vehicle for socio-economic and political development.

National Security and Development: A function of the political structure

The major factors of insecurity in Nigeria are the results of the lopsided political structure. A large chunk of the population feels marginalized and oppressed. The complaint is that the political economy is skewed in favour of a particular region and put the rest of the country at a disadvantage. There is lack of equity and fairness in the distribution of the nation's wealth and access to other opportunities. Crimes such as vandalisation of oil-pipelines, kidnapping for ransom, ethno-religious conflicts, corruption and a host of others are manifestations of frustrations and general disenchantment with the pattern and structure of the country's federation.

Dr. Nnamdi Azikiwe, a former president of Nigeria, wrote in this respect "In order to evolve into a perfect union, the whole of Nigeria should be and so demarcated geographically

and demographically that no one region would be in a position to dominate the rest" (Essentials for Nigerian Survival" Foreign Affairs, Vol. XLIII 1964/65, pp. 456-457).   Dr. M. I. Okpara was more emphatic on this matter when he said:

*"Among opinions in this regard are the following: we hold the view that the worst threats to the Nigerian Unity are the practice of regionalism … and the fact that the most important principle of federation, namely, that there should not be any one state so much greater than the rest combined that it can bend the will of the Federal Government has been broken. Until these two threats are removed, they labour in vain who labour for the Nigerian Unity and Solidarity" (*Bello M. 1993).

Chief Obafemi Awolowo, the then opposition leader at the House of Representatives echoed the same view when he said.

"The evils which afflicted Nigeria and brought about the ruin of the first Republic may be put in a nutshell as follows ….. (1) Abnormal imbalance in the constituents of the federation ….." (Awolowo O. 1966).

Although these views were expressed many decades ago the issue of national question remains the foundation of the major problems, including security challenges, confronting the nation today. The need today for a legal framework, a constitutional order that will engender equity, fairness and justice among the various ethnic groups of the country has never been more imperative and urgent. As I observed elsewhere in this regard:

*"The seemingly unending violence, pipeline vandalisation, kidnapping for ransom in the Niger Delta, the hub of oil mineral is largely an expression of frustrations, disillusionment and disenchantment with the present political economy of the nation" (*Omoleye B. O 2017).

Existing political structure needs to be reviewed to address these crimes threatening the nation's security and inhibiting its development. Arthur Nwankwo, alluded to this when he said:

"The powers of the central government should be significantly reduced to issues of immigration, currency, military/defence and foreign affairs. Powers, in essence, should devolve more on the federating units …. the region must be in charge of resources within their space. The resources are to be exploited by the regions and an agreed percentage paid to the central government" (Nwankwo, A. O).

The herdsmen/Farmer conflict is yet another manifestation of the imbalance in the political structure of the nation. A nation run on generally excepted federal principles would not be bedeviled with this perennial challenge. Nwabueze B. O. (1983), a notable constitutional scholar identified six different principles of federalism –a union of several autonomous political entities, division of government powers between the entities, supremacy of the constitutions, mutual non-interference by other entities in the exercise of powers of one entity within its

sphere, equality of states in the division of government powers and multiplicity of states to create a feeling of interdependence and thereby force upon each state an awareness of its relative insignificance vis-à-vis the whole federation.

The activities of Herdsman mainly from the North east parts of the country roaming the whole length and breadth of the country clearly run foul of these federal principles, completely unjustified under the laws of the federation. Benue State anti-grazing law for example, is a legitimate exercise of the state's power to control the use of land in its territory and this power is not subject to that of another state or the Federal Government. We as lawyers have the responsibility of ensuring that Herdsman/farmers imbroglio is resolved in accordance with the extant law of the country.

Administration of Justice: Law in Aid of National Security, Social Justice and Development

The critical role of the actors particularly the judges in the administration of justice of any nation cannot be over-emphasized. Gray, an eminent English jurist, exaggerated this point when the defined law almost exclusively in terms of the rulings and decisions of the court. According to him "the law of a state or any organized body of men is composed of rules which the court, that is the judicial organs of that body, lay down for the determination of legal rights and duties"(Gray J.C 1921). Holmes had earlier defined law as the prophesies of what the court would decide (Holmes W. 1887). Although these perspectives of the eminent jurists have been critizised as being unduly restrictive as they ignore other critical dimensions of the phenomenon, it does emphasize the pivotal role of the court in the administration of justice of any nation. Mr Justice Arthur T. Vanderbilt further explained the crucial role of the judiciary when he said"

"…… it is the courts and not the legislature that citizens primarily feel the keen cutting-edge of law. If they have respect for the work of the courts, their respect for the law will survive the short coming of every other branch of government, if they loose their respect for the work of the courts, their respect for law and order will varnish with it to the great detriment of society" *(*Abraham H.J 1975)*.*

In the light of the foregoing, it is apposite to examine, albeit briefly, the general attitudes of the Nigerian judges to statutory interpretation or the dominant legal ideology.

Many jurists have expressed the view that the quality of a legal system is largely a reflection of the dominant legal ideology of the judges. Eugene Ehlich, an Austrian jurist said:
"There is no guarantee of justice except the personality of the judge" (Cardozo B. N. 1921).

Austinian positivism which conceives law strictly in terms of the application of formal rules appears to be the dominant ideology. Justice Belgore M. B, a former Chief Justice of Nigeria articulates this position as follows:

".....a Judge is obliged to enforce the law laid down by the legislature or created by a higher court whether such law is unfair, absurd or even dangerous. It is justice according to law, not necessarily according to justice. So a judge is constrained if there is a wrong which cannot be fixed into any compartment created by parliament or laid down by a higher court. The legislature is the law giver and the courts operate within the confines of the circle down" (Hon Justice Belgore M.B 1999).

Earlier, Kayode Eso J.S.C opined "the court is to administer the law as it is and not as it ought to be" (Ransom Kuti Olufumilayo) A notable justice and author succinctly captured this dominant orientation when he said of the Nigerian Judges:

"they must disentangle themselves from the cocoon of conservatism which many of them have woven around themselves by their training in British Universities, Faculties of Law manned by those trained in the former. They must break loose from what some of them consider to be maximum prison unto which Austinian positivism confine them. They must gallop quickly into the light of economic and social justice and into an innovative judicial interpretative processes designed to lead to the same and in order to justify their very existence which has the responsibility and mandate of their people to lead them into the Cannon of redemption. Austinian *positivism has blinded many of our law men from seeing or possibly acknowledging the evils that have been perpetrated in the name of the law by generation of our political leader. For too long have many of our judges given unqualified support to the Leviathan ruler…"* (Aguda, T. A 1988).

Other notable scholars have equally condemned the undue emphasis placed on legal rules as the driver, as it were, of judicial rulings and decisions. Lloyd remarked in this respect.

"Conceptualism or legalism is a vice to which lawyers too readily succumb. Rules are means to an end, purposive instruments. They embody social objectives and policy choices. Thus when a judge is confronted with a rule, he is not met by a bloodless category but a living organism which contain within itself value choices" (Freedman M. D. A).

It is important that our judges must approach law from the angle of social justice, seen largely from prisms of the common man not school in the intricacies of jurisprudence but nevertheless endowed with the elementary principles of justice. In this respect I commend the approach of a foremost English Judge, Lord Denning as stated by Schmittholf while paying tribute to him; he said about the distinguished jurist:

*"He looks at law as an instrument of doing justice, doing justice now in the case before him, justice which is founded on what the majority of right-thinking people regard as fair solutions, justice which the common people understand which give them confidence that those occupying the judgment seat do not live in a different world ideals from their own and understand their hopes and anxieties. The belief that law is an instrument of doing instant justice is the explanation of Lord Denning's often misunderstood radicalism. His approach is teleological. He thinks of the result before he considers the legal reasoning on which it was to be founded. If the result to which established legal doctrine leads is obviously unfair or out of touch with what ordinary people would expect to be law, he will examine first the principles in order to ascertain whether they really compel an unjust solution and after whether this method, will enable him to arrive at an answer which is more adequate to modern needs…..." (*Ogundipe Alajise 1987).

CONCLUDING REMARKS

The correlation between law, security and development of any nation, nay, Nigeria is axiomatic. Law is a veritable instrument to achieve effective national security and enhance national development.

As we have examined in the course of this paper, insecurity in Nigeria is largely induced by the imbalance in the political structure of the country poverty and, now, debased value-system of the nation. These need to be addressed to solve the challenges of insecurity in the country.

The issue of security is inextricably linked to development. National development is enhanced in an effectively secured environment. The legal framework for national security should be strengthened, be made more effective in combating crimes that threaten the nation's security. The actors in the administration of justice system, the judges should imbibe, in particular, progressive legal ideology that emphasizes social justice, they should in specific clear cases avoid strict application of unjust legal rules which they consider oppressive or unfair.

REFERENCES

Adeola G. L.& Oluyemi F. (2012) the Political and Security Implications of Cross Border Migration between Nigeria and Her francophone Neighbor, (2012) International Journal of Social Sciences Tomorrow 1(3)

Aguda, T. A (1988), "The Challenge of the Nigerian Law and the Nigerian Lawyer in the First century" being Nigerian National Merit Award Winner's Lecture, delivered at Abeokuta on Wednesday, 14 September, p. 16

Alalawi B, "Ethic-Religious Conflicts in Nigerian. Casual Analysis and proposals for New Management Strategies" European Journal of Social Sciences.

Aniagolu A .1999 , "Constraints in the Administration of Justice" Lecture delivered at the All Nigeria Judges Conference, , Abuja 1st – 5th November, 1999

Antony N. A,(1981) "Development and Human Rights" 1980 6. Hum. Rt. Dev. 194, 195

Arnold G. (1985), Aid in the Third World, 23

Awolowo O.(1966), Thoughts on Nigerian Constitution, Ibadan Oxford University Press, p. 61

Beland D. "The Political Construction of Collective Insecurity: From Moral Panic to Blame Avoidance and Organized Irresponsibility", Centre for European Studies, Working paper series 126.

Bello M. (1993), Federalism and Pluralism, T. O. Elias and M. I. Jegede (eds.) Nigerian Essays in Jurisprudence (MIJ Publishers Ltd) , p. 117

Cardozo B. N. (1921) The Nature of Judicial Process, p. 16

Christian O. I 2016, , "Role of Judiciary in Enhancing National Security" a paper presented at the 50th Conference of the Nigerian Association of Law Teachers (NALT), June 11-16-Nnamdi, Azikiwe University, Akwa, Anambra State, p. 176.

Dike V,E (2005), Corruption in Nigeria; A new paradigm for effective control Udombana J.N, Third World and the Right to Development: Agenda for the Next Millenium in Human Rights and Contemporary Issues in Africa, Nsongurua J. Ndombana (ed.), malthouse press Ltd. P. 3.

 Doyle M. W(1998), 'Ways of War and Peace', Journal of Philosophy and Public Affairs, NewYork, Norton, also Christian Ike, Role of Judiciary in Enhancing National Security, a paper presented at the 50th Nigerian Association of Laws Teachers, Akwa, Anambra State, 11-16 June, 2017, p. 175 of the Proceedings.

Ebeh J. I, (2015). "National Security and National Development: A Critique", 2(3), International Journal of Arts and Humanities, 6.

Edeko S. E. (2011) . "The Proliferation of Small Arms and Higher Weapons in Africa: A case study of the Niger-Delta" Sacha Journal of European Studies (2).

Ekoko A. E and M. A Vogt M. A , "Nigerian Defence Policy: Issues and Problems" httpp://ww.amazon.com.Nigerian-Defence-Policy-Issues-Problems.

Emmanuel Musa Jatu, "National Security Policy in Nigeria", www.iacspsea.com.accessed 10/5/2018.

En. M. Wikipedia.org/wiki/Area boys; accessed 12/5/2018

Epele A. (2016). "Corruption and the Nigerian Society: Causes, Effects and the Futility Solutions" The Politics Magazine, University of Benin, Benin City.

Freedman M. D. A., Lloy's Introduction to Jurisprudence, 4th ed., p. 818. Quoted in Ogundipe Alajise (1987), "Legal Practitioner" Review Vol. 2, No 1, (pp. 3-6

George-Genyi M. E ."Good Governance: Antidote to Peace and Security in Nigeria" (2)(2) European Journal of Business and Social Studies, 41.

Gray J.C (1921), The Nature and Sources of Law, 2nd edition, p. 82

Haldum C & Adedoyin O (2016), Ethnic and Religious Crises in Nigeria, www.accord.org.za., African Journal of Contemporary Research, 2016, vol. 1.

Hazen, J. M &Horner J. (2007), "Small Arms, Armed violence, and the insecurity in Nigeria: The Niger Delta Perspective" Switzerland small Arms Survey.

Hobbes T. (1651), Leviathan ,Tuck R.(ed.) (Cambridge University Press) 2000 pp 85 – 215

Holmes W. (1887), The Path of the Law, 10 Harvard law Review, 457. Quoted in Abraham H.J (1975), The Judicial Process, Third ed.,

Hon Justice Belgore M.B (1999), "Constraints in the Administration of Justice" a paper delivered at the Judges Conference, Abuja,

Iduh S 2011 "The Challenges to Peace in Nigeria' International Journal to Vocational and Technical Education, (2011) Vol. 3. No. 8.

Jackson J (2004). "The Global Covenant: Human Conduct in a World of State" Oxford University Press pp. 85-215.

Kelikume K, Economic Development and Growth in Nigeria, www.dailytrust.com.ng.

Locke J(1689) , "Second Treatise of Government: of the Beginning of Political Societies" Blackwell Publishing Ltd, p. 49

Maxwell G (1998), "Effect of Corruption in the Administration of Justice" In M. M. Gidado (ed) Constitutional Essays in Honour of Bola Ige (Chenglo Ltd, pub.) Chapter 23, p. 266

Mesjase C.(2004),'Security as an Analytical Concept' A paper presented at the 5th Pan-European Conference on International Relations held at Hague, September 9-11

Nwabueze B.O.(1983), Federalism in Nigeria under the Presidential Constitution, London, Sweet & Maxwell, pp 1-22

Nwankwo, A. O (2016).The Restructuring Nigeria Needs" https://www.thecable.ng/restructing-Nigeria-needs. \

Okeke A. A. 1999: "National Security, Good Governance and Integration in Nigeria: A Discourse" 2011, (7)(iv) Asian Social Science, 167.

Olusegun Obasanjo (1999) speech delivered as the President of the Federal Republic of Nigeria at Eagle Square, Abuja on 29th October, 1999.

Omede, A. J. (2011) "Nigeria: Analysing the Security Challenges of the Goodluck Jonathan Administration" Canadian Social Science, Vol. 7. No. 5.

Omoleye B. O (2017), "Economic Crimes in Nigeria: The Political Economy Approach", Journal of Law and Criminal Justice, Vol. 5. Pp. 65-73.

Rachels J.(1998) "Ethical Theory and bioethics", in H. Kuhse and P. Singer (eds.) A Comparison of Bioethics (Oxford: Blackswell) pp. 15-23.

Ransom Kuti Olufumilayo & Ors v Attorney General of the Federation, (1985) 2 NWLR (pt. 6) 211.

Rodney W(1982) , How Europe under developed Africa 9

SamuelA. E , Jacob A.D and Bassey J .E, (2012) "Boko Haram and Amesty: A Philo-Legal Appraisal" International Journal of Humanities and Social Sciences (2)(4) 231.

Yues Lacoste, Geographie du Sous-development (1976); Mohammed Bedjaoui, Towards a New International Economic Order 25 UNESCO, 1979