



## An Analysis of Crimes Committed by the Multinational Joint Task Force in North-East Nigeria

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### Abstract:

The Multinational Joint Task Force (MNJTF) is the major collaborative military initiative among the countries of the Lake Chad Basin Commission (LCBC) saddled with the responsibility of combating Boko Haram Terrorism (BHT) within the region. Although the body seems to have achieved some successes, they have however, over the years, been involved in seemingly clandestine activities such as torture, extra-judicial execution, gender-based violence, etc., which, according to international humanitarian law, if committed during non-international armed conflict, are regarded as war crimes. This study seeks to investigate the nature and pattern of war crimes committed by some Nigerian military forces under the MNJTF in the course of Counter-Insurgency (COIN) operations against Boko Haram terrorists in north-east Nigeria between 2012 and 2019. It also investigates the implications of these travesties on victims, the war against terrorism and Nigeria in general. It analyses the various war crimes committed by the MNJTF. It also examines the measures for curbing the criminal activities of some members of the MNJTF. This study engages the following issues: what are the war crimes committed by the Nigerian soldiers under the MNJTF or why is the latter accused of gross human rights violations? What are the implications of the criminality of the MNJTF? What measures should be taken to curb the criminality of the MNJTF in north-east Nigeria? This study uses both primary and secondary sources. It anchors on Biological and Cultural Transmission Theories of criminology. The study reveals that the statutory body in charge of countering terrorism and also securing human lives, is also, like the Boko Haram terrorists, terrorising innocent civilians and promoting insecurity in north-east Nigeria. The conclusion is that the MNJTF is smudged with the brush of brutality and terrorism.

### Keywords:

War crime, MNJTF, North-East, Nigeria, terrorism.

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## *Introduction*

The Multinational Joint Task Force, whose mandate is to counter insurgency in north-east Nigeria, has done tremendously great at some fronts, dislodging the terrorists from their Sambisa stronghold and reducing Boko Haram terrorism to guerrilla warfare. The latter, seems to have been vilified for criminal activities against innocent civilians and/or citizens. (Amnesty International, 2018, p. 59). The MNJTF in the course of its operations, between 2012 and 2019, committed war crimes such as torture, extra-judicial execution, arrest of innocent persons, unlawful detention of Boko Haram suspects and gender-based violence, and thus, promoted insecurity within an already tensed and insecure north-eastern region of the country (Amnesty International, 2015, p. 36). Rather than freeing hundreds of thousands of people who had been trapped in the recaptured vast swathes of territory that was once under the control of Boko Haram, the MNJTF embarked on systematic patterns of violence and abuse against this population, including crimes against humanity (United Nations Security Council Report, 2017, p. 6). To this populace and many other inhabitants residing within the region, terrorism and/or fear and insecurity seem to be in perpetuity.

Worrisome as the case may be, the narratives on this perspective of the criminality of the MNJTF in the course of its operations, are conspicuously missing in extant literature on counter-insurgency in Nigeria. Peace and conflict scholars have captured several aspects of this subject such as, the origin and/or establishment, changing pattern and nature, weaknesses and achievements, problems and prospects, of counter-insurgency in Nigeria. Unfortunately, this critical aspect of the criminality of military forces has not been well discussed and documented for both academic and general knowledge purposes.

It is, therefore, the position in this study to investigate war crimes committed by the military forces under the auspices of the Multinational Joint Task Force (MNJTF) in the course of Counter-Insurgency (COIN) operations against Boko Haram terrorism in north-east Nigeria between 2012 and 2019. This study examines the nature and pattern of war crimes committed by the military forces during this period and the implications of the travesties on victims, the war against terrorism and Nigeria in general. It discusses measures that can be deployed in curbing the criminality of the MNJTF and how these affect the fight against COIN in Nigeria.

This multidisciplinary study utilises primary and secondary sources of data. As primary sources, interviews were conducted with serving military personnel who were part of the MNJTF counter-insurgency in the north-east, and have been subsequently redeployed to the Nigerian Army School of Supply and Transport (NASST), Benin, Edo state. In addition, the reports of Amnesty International and the United Nations Security Council are also used. This study employs the investigative and descriptive styles in its presentation. It anchors on Biological and Cultural Transmission Theories of criminology. The chapter is subdivided into sections. The first part is on conceptual and theoretical explanations. The next section focuses on the historical development, achievements and challenges of MNJTF. Section three is on the analysis of the criminality of the MNJTF. The following section is devoted to the consequences



of the criminality of the MNJTF. And the last part discusses the measures for curbing the criminal activities of the MNJTF.

### *Conceptual and Theoretical Explanations*

This section begins with conceptualisation of some concepts such as crime and/or criminality, and war crime. The explanations of these concepts provide a better and clearer understanding of the argument raised by the authors.

**Crime:** This is defined as any action or omission which constitutes an offence and is punishable under the law (The Scottish Centre & Justice Research SCCJR, 2019, p. 1). To SCCJR, crime is seen as, “action or failure to act” that is considered by law to be a community wrong and is punishable by the law of the state. Crime, from a different perspective, is viewed from fundamental attributes of all criminal behaviours (Sampson & Laub, 1993 p. 301; & Gottfredson & Hirschi, 1990:67). To these scholars, instead of attempting to separately discuss crimes such as homicide, robbery, rape, burglary, embezzlement, drunken driving, child neglect, and failure to pay tax, it is safer to identify a common feature of crime. To this end, Gottfredson and Hirschi opine that all criminal behaviours involve the use of force, fraud, or stealth to obtain material or symbolic assets. In their behavioural definition of crime, they lay emphasis on criminality, a certain personality profile that causes the most disturbing and alarming sets of crimes. As they noted, criminality is a style of premeditated and tactical conduct branded by self-centredness, indifference to the suffering and needs of others, and low self-control. And that individuals are more likely to find criminality as an attractive pattern of behaviour due to its immediate gratification through relatively easy or simple but risky tactics. As it is, crime, in most cases, are committed with the intent of acquiring material, symbolic and hedonistic resources. For example, an individual who commits crimes such as narcotics trafficking and gambling, has the intention of obtaining money which is being used to procure material resources; in crimes such as sexual assaults and illicit drug use, not associated with theft, people obtain hedonistic resources that increase enjoyable feelings or reduce unpleasant feelings; and political crimes such as terrorism or election fraud are perpetuated towards obtaining symbolic resources including but not limited to power and prestige (Agnew, 1992:48 & Gottfredson & Hirschi, 1990).

**War Crime:** The term war crime is any act, or omission, committed in an armed conflict that constitutes a serious violation of the laws and customs of international humanitarian law and has been criminalised by international treaty or customary law (Fleck 2013:83). From a broader perspective, war crimes are all acts constituting a violation of the laws or customs of war, irrespective of whether the behaviour is criminal (Werle and Jessberger, 2014:391). Two elements or conditions of what constitute a war crime are, one, an abuse of international humanitarian law, and second, the outlawing of the behaviour under treaty, agreement or customary international law (Cassese. 2013:67). According to Cassese, the first condition has to do with violation of what constitutes international humanitarian law. When there is a

violation of such international agreement or treaty during armed conflict, a war crime is committed. Also, a conduct, even if not criminal, but has been outlawed or criminalised by the international humanitarian law, when being displayed becomes a war crime.

Amnesty international further submitted that these acts, including but not limited to the following, arbitral arrest, torture, extra-judicial execution and gender-based violence, committed in the context of a non-international armed conflict, constitute war crimes so far as the military commanders bear both individual and command responsibility, and that this criminality may also amount to crimes against humanity. The evolution of war crimes can be traced to the traditional laws of war, which is generally called international humanitarian law. These laws regulate the conduct of armed conflicts whose rules were derived from international conventions and customary international law. International humanitarian law addresses individual criminal and belligerent state responsibilities for serious violations committed during armed conflict situations. According to the definition of article 8 of the Rome Statute of the International Criminal Court, war crimes during non-international armed conflict include acts against persons who do not participate in ongoing hostilities, including violence to life and person, in particular murder of all kinds, mutilation, cruel treatment and torture (International Criminal Court, 2011). In addition, the Rome Statute also outlaws attacks targeted at the civilian population not being involved in any form in the fighting.

To further understand the drivers of crime and criminality, two criminological theories, such as biological and cultural transmission theories are examined. These theories provide plausible explanations for the crime of military forces saddled with the responsibility of ensuring national security and peaceful existence of citizens.

**Biological Theory:** Biological justifications of crime is based on the assumption that some persons are “born criminals,” and that they are physiologically different from non-criminals (SCCJR, 2019). Proponents of this theory view crime as a product of biology and biological characteristics, which is associated with mal-developed or not fully developed brains. Though this theory has fallen out of favour, it has, in a way, informed contemporary biological explanations of crime. Biological expositions for criminal activities have thus witnessed a new dimension since the mid-20<sup>th</sup> century. Contemporary approaches of biological theories do not solely rely on the explanation of crime from the viewpoint of physical features of the body, rather, they focus on biochemical conditions such as poor diet or hormone imbalance; neurophysiological conditions such as learning disabilities caused by brain damage; genetic inheritance and/or abnormality; and intelligence (Kevles, 1985). This theory is relevant to this study in that it explains the determinants of crime. The theory sees the effect of mal-developed brain and/or poor thinking capacity of some military personnel as the reasons for criminal activities during counter-insurgency.



### ***Cultural Transmission Theory***

This theory posits that normative systems produce varied patterns of social behaviour evident across and within societies, and that crime is shaped by factors external to the individual, that is, experiences within the neighbourhood, peer group, and family (SCCJR, 2019). Clifford R. Shaw and Henry D. McKay, are two prominent proponents of cultural transmission theories, who embarked on spatial mapping to examine the impact of residential locations on juveniles (Shaw & McKay, 1969). They found that patterns of delinquency were higher in areas characterised by poor housing, poor health, socio-economic disadvantage and transient populations, and that crime was a function of neighbourhood or environmental dynamics. They also discovered that areas settled by newly arrived settlers experienced a breakdown of social norms due to ethnic diversity and competing cultural traditions. This theory hinges on poor socio-economic background, which in some cases confines the family to a very poor settlement system. Also, the theory stresses how the financial situation of the family prevents members from having access to medical services and how this leads to poor health. Moreso, the theory suggests that crime is a by-product of the various dynamics within the immediate environment.

### ***The Multinational Joint Task Force: A Historical Appraisal***

Counter terrorism and counter insurgency operations have increasingly transcended the domestic and individualistic efforts of states. The current state of our world with respect to the surge and proliferation of criminal gangs and networks have rendered most states almost helpless in marshaling out strategies in their campaigns against them. The effective functionality of national security apparatus has almost become no match to these deadly networks of terrorists and insurgents. The realization of this have made states to increasingly shrink, limit and circumscribe their sovereignty so as to be able to find common grounds of collaboration and cooperation with other states in the fight against these heartless and callous terrorists-cum-insurgents. It is the outcomes of this collaboration and cooperation by Nigeria with her immediate francophone neighbours that have resulted in the creation and establishment of the sub-regional security alliance, christened the Multinational Joint Task Force (MNJTF), which has as its ultimate goal the creation of a security community. In other words, the Multinational Joint Task Force is to serve as the means for the ultimate attainment and realization of a sub-regional security community. (Aideloje, 2020).

The creation of the Multinational Joint Task (MNJTF) Force preceded the administration of former President Goodluck Ebele Azikiwe Jonathan (2011-2015), even though one could easily agree that his reign witnessed the most lethal attacks on the country by Boko Haram insurgents. Historically, the creation of the MNJTF began during the military junta of late General Sani Abacha and was expanded by the Abdulsalami's regime both in terms of membership and operational mandate. Its present status came into being during the administration of President Goodluck Jonathan. Scholars have agreed that the first MNJTF was formed in 1994 by the regime of General Sani Abacha chiefly to police the north-east region against armed banditry from the Chadian war. However, at this embryonic stage, the force

was solely a Nigerian affair. Its initial operational responsibility was to clear the border regions from the nefarious activities of bandits, ensure and assure the free movement of persons and goods across the border. Four years after, that is in 1998, the force assumed its true multinational status when military forces from Chad, Niger and Nigeria were all brought together to collectively and concertedly deal with security challenges of common concerns situated within the Lake Chad region. By 2012, the MNJTF operational mandate was expanded to meet with current security challenges of insurgency and terrorism being perpetuated by Boko Haram and related issues such as arm trafficking, kidnapping etc. (Albert, 2017). Agreeing with Albert on the historical development of the MNJTF, Willibroad Dze-Ngwa, however added that “following increasing Boko Haran extremism, characterized by religious fundamentalism, brutal assassinations, kidnappings, hostage-takings, suicide bombings, detonations and wanton destruction of properties, the activities of the MNJTF was extended to all affected countries. Of course, this was because none of these countries could single-handedly check the excesses of the group with their national boundaries owing to the fact that they had membership, recruits and sympathizers in all the affected countries and beyond”, (Dze-Ngwa, 2018). It is necessary to state that the creation of the MNJTF during the administration of Goodluck Jonathan to include neighbouring countries did not come about quite easily. This was because the Jonathan’s administration was initially averse to allowing other neighbouring states to join Nigeria in the fight against home grown insurgency and terrorism. The administration’s belief was that allowing external forces to assist Nigeria will no doubt deal a heavy blow to the Big Brother Personality that Nigeria has seemingly assumed within the continent and sub-region over the years. It would in their thinking portray the country as incapable of dealing with her purely domestic problems alone. In addition to this was the fact that Cameroon and Nigeria have had a fractious relationship. The menace of the insurgents as long as they were domiciled within Nigeria was seen purely to be Nigeria’s problems. However, the trans nationalization of the insurgents’ activities compelled hitherto unwilling states such as Cameroon to join in counter insurgency (COIN) operations and the rising profile of the insurgents, their capacity to carry out multiple lethal attacks on regular basis and the seizure of some local governments in the north-east with effective occupation by the insurgents compelled the administration to reach out to her neighbours to join forces together to deal with their shared and common security challenges.

### ***Achievements of the Multinational Joint Task Force***

It is almost tempting to argue that no achievements have been recorded by the MNJTF in the face of the resurgent and continuous security harassments on the country by bandits, terrorists, insurgents and other criminal gangs and networks that dot the geographical landscape of the country. It is almost like the security agencies are frustrated because of their apparent inability, so to speak, to arrest and put an end to the security imbroglio that have bedeviled the country over the past fifteen years. However, a careful assessment of the



operations of the MNJTF would reveal that quite a lot have been recorded as gains, despite their criminality and the challenges that have militated against their effective operations.

One of the most significant achievements of the MNJTF was the recapture, repossession and occupation of territories formerly under the effective control of the insurgents. Prior to the recapture of these territories, Boko Haram had successfully taken over about fourteen local governments in Borno State, established an Islamic Caliphate, hoisted their flag, and even collected taxes, regulated economic activities and established its headquarter in Gwoza, implying that Nigeria had lost part of her sovereignty. President Jonathan had declared that Nigeria underestimated the capacity of the insurgents as well as their external influences and support. The 2015 general elections were postponed in part because of the need to recover and reclaim these territories seized and occupied by the insurgents. (Chasmar, 2014; BBC, 2015; Onuah 2015; Nwabughio, 2016; Nwezeh & Olugbode, 2020).

It was therefore to the credit of the then government and the Chief of Army Staff, Lieutenant-General Kenneth Minihah that these territories were reclaimed and repossessed.

Reporting on this feat, the British Telegraph stated that:

The Nigerian army achieved its biggest victory over Boko Haram on Friday, capturing the town serving as the headquarters of the Islamist gunmen. An offensive mounted by the 7th Division has broken the insurgents' grip on a large area of Borno state. The gunmen captured Gwoza nine months ago and turned the town into the headquarters of their movement and a crucial operating base. Shielded by the Mandara Mountains near the border with Cameroon, Gwoza had been the capital of Boko Haram Self-proclaimed Caliphate. The area's inhabitants are from the same Kanuri tribe as Boko Haram's leader, Abubakar Shekau, and most of his fighters.

The successful conduct of the 2015 general elections despite the security challenges and fears to conduct the same in areas considered to be the stronghold of the insurgents can be considered to be a major achievement of the MNJTF. The elections could have been declared to be inconclusive had the electoral umpire gone ahead to conduct the same excluding the three northeastern states of Adamawa, Borno and Yobe. The National Security Adviser to President Goodluck Jonathan, Rtd Colonel Sambo Dasuki came out to suggest to the Independent National Elections Commission (INEC) that it will be in the country's national interest to have the elections postponed for a period of six weeks. Three major grounds were given for the need to postpone the elections according to the NSA. The first was the need to recover all illegally seized Nigerian territories from the Boko Haram insurgents so that persons from those areas can go back to their localities and participate in the elections. If these seized and controlled areas are not retaken and the residents allowed and helped to go back so that they can participate in the elections, the integrity of the election processes would have been seriously compromised. These hundreds of thousands of eligible voters would have been short-changed and disenfranchised. The second reason was that there was the need for the Nigerian army and other sister security agencies to clear the northeast from the activities of the insurgents so as to create a secured environment that was needed for the conduct of the

elections and the safety of lives and electoral materials. The NSA insisted that if the elections were allowed to go on as scheduled, the military and all other security agencies of the government will not be able to guarantee the security and protection of the lives of Nigerians and the sensitive and non-sensitive materials to be used for the elections. The third ground according to the NSA was to give INEC enough time to be able to distribute millions of biometric cards to voters. (Aideloje, 2020).

The “technical defeat and degradation of Boko Haram”, though can be contested, is seen to be another achievement of the MNJTF. Insurgency usually involves three phases. The insipient/latent phase, the guerilla phase and the war of movement phase. The extra-judicial killing (assassination) of Mohammed Yusuf in July of 2009 transformed the group he led into an insurgent-cum-terrorist movement under the leadership of his successor Abubakar Shekau, allegedly and reportedly now diseased (Hazzad, 2009 & Guardian, 2009). At the peak of their operations, the sect could successfully engage in conventional warfare with the Nigerian military with reported cases of gaining the upper hand in gun battles. Several reports showed that the Nigerian army fled in the course of battle because they lacked the requisite weapons to confront these insurgents. These insurgents-cum-terrorists were able to attack military formations, security centres and the United Nations building in Abuja. (Hazzad, 2009 & The Guardian, 2009). The sophistication of their weapons was dreaded by the men of the Nigerian army and several times the Nigerian army had to run away from them because they could not stand the superior fire power of the insurgents as even recently admitted by Lieutenant General Tukur Buratai during his working visit to Gwoza (Nwezeh & Olugbode, 2020). The takeover of fourteen local government areas and the hoisting of their flags and the declaration of a Caliphate by the insurgents with its headquarters in Gwoza (Chasmar 2014) all testified that these bunches of criminal elements were out to confront the state fire-for-fire. The argument against the technical defeat and degradation of the insurgents has been hinged on the basis of the insurgents’ continued ability to mesmerize the state, and occupy ungoverned spaces, carry out kidnapping for ransom and create fears in the hearts and minds of the locals. However, it can also not be argued against that the government has been able to some extent foil attacks, prevent the insurgents from taking over and occupying territories, and reduced their operations to the fringes of the society. Their war of movement phase has also been reversed to guerilla warfare, which is attack and run away.

In October of 2019, President Buhari reiterated his stance that the insurgent group has been substantially defeated. In a report by the Guardian Newspaper titled *Boko Haram now ‘substantially’ defeated, says Buhari*, the President was quoted to have stated that:

The nation is appreciative of the gallantry and sacrifices of the officers and men of our Armed Forces in the campaign against insurgency and other internal security operations. This has led to the return of normalcy in affected parts of the nation. The Boko Haram terrorists have been substantially defeated and degraded to the extent that they are now only daring soft targets. We shall not rest until all our displaced persons are safely resettled into their communities without fear of further attacks. The peace and security of Nigeria is non-negotiable and the security agencies must continue to do their work





diligently. The task of resettling and rehabilitating our citizens as well as the reconstruction of territories affected by the war will continue to be one of the priorities of this administration. (Erezi, 2019).

The use of soft power approach in the fight against insurgency can equally be seen as an added achievement of the MNJTF. The realization that COIN operations should not always and at all times be anchored on the use of lethal weapons (hard power) is one significant achievement of the MNJTF. If the hearts and minds of the locals must be won and the backbone of the insurgents be broken, then, there is the absolute need and necessity for the adoption of this soft power approach. Boko Haram, like all insurgent groups, thrive on propaganda in order to gain the support of the locals against the government they are at war with. The absence of the support of the local's spells doom for insurgent activities and operations. Besides, there are persons who were forcefully conscripted into the group and some others who on a second thought have become unwilling members due to the carnage being regularly carried out against hapless and defenseless civilians including women and children. Such unwilling and forcefully conscripted members can be won over through the use of soft power approach. The adoption of deradicalization, rehabilitation and reintegration as integral part of the COIN operations have helped the military to harvest some unwilling and forcefully conscripted members of the movement who also have contributed invaluable intelligence that will help in stemming the tide of insurgency and terrorism in the country.

In a report by The Punch titled: Deradicalised ex-Boko Haram members beg for forgiveness:

The Nigerian Army says its soft power approach in the fight against Boko Haram is gaining ground with more of the repented terrorists now embracing civil life. The camp commandant of 'operation safe corridor' Colonel Beyidi Martins disclosed this during the oath taken by the repentant graduating clients at the base camp in Malam Sidi Gombe. The individuals were formally members of the terrorist group, Boko Haram, who underwent deradicalization, rehabilitation and reintegration programmes organized by the Nigerian army. The reformed insurgents walk up to a sitting judge, take an oath of allegiance to serve the country and become responsible citizens to the state. Their sincerity gets the attention of the sitting judge and some representatives of the states affected. Beyond this, there is a huge task of reintegration. But the Nigerian army says the war against terror in Nigeria is gaining momentum and the approach in winning the hearts of the repentant terrorists is the key.

### ***Challenges for the Multinational Joint Task Force***

The creation of the MNJTF was believed to be ultimate instrument that will immediately bring to an end the decade-plus long war against terrorism and insurgency in the country. The efforts of the Nigerian government to tame the insurgents were met with several brick walls, thereby necessitating multinational collaborations involving the member states of the Lake Chad Basin. With the benefit of hindsight, one can easily see how difficult and complicated the COIN operations have become. Even at the multinational level, the war against insurgency and terrorism is far from over. Combined efforts have not been able to deal a decisive blow on the insurgents. Rather, what we see daily now is the hydra-headedness of the war and the

mutation of the insurgents into banditry activities. There are of course challenges that have posed serious threats to the COIN operations both at the national and multinational levels.

One of the major challenges that has militated against the effective and efficient functionality of the MNJTF is the problem of mistrust between the states involved in the COIN operations. Historically, Nigeria has had not too fantastic relationship with two of her francophone neighbours - Cameroon and Chad. Between Nigeria and Cameroon, there was a contest over the oil rich Bakassi Peninsula that almost resulted to war. There was indeed a military confrontation which led to loss of lives on both sides. The same frosty relationship equally existed between Nigeria and Chad and it bothered on two things: border demarcation and the forceful expulsion of about seven hundred Chadians from Nigeria on the 17<sup>th</sup> of January, 1983 during the civilian administration of President Shagari. The border demarcation almost led to an inter-state war between both countries. The Chadian government responding to Nigeria's government decision to deport her citizens led to the blockade of the Lake Chad against Nigeria's fishermen, arguing that the Lake itself entirely belong to her, reason why it was named after her in the first place as Lake Chad. These inter-state hostilities to some degree affected effective collaboration between both sides, thereby reducing the effectiveness and efficiency of the MNJTF. (Albert, 2017).

The absence of linguistic homogeneity has also been fingered to be one major challenge of the COIN operations. Combatants are required for the sake of effective communication to speak the same language. Where this is lacking or wanting, it will necessarily pose a severe challenge to effective operations in the theatre of war. Since most of Nigeria's neighbours are francophone and those involved in the security community arrangement are francophone and only Nigeria is anglophone, one can easily understand that effective communication between both sides will be severely hampered, which in turn will affect the successes of the MNJTF.

Interviews conducted with military personnel with practical experience and involvement in the COIN operations in the North-East revealed that the deployment of new recruits from the depot into the theatre of operations, the existence of moles and Boko Haram sympathizers, the ethnicization, religionization and regionalization of the military high command, the use of less efficient, old and decrepit weapons and the diversion of war funds have all in very severe measures militate against the successes of the MNJTF (Oral Interview with a military officer 'A', 2019).

### ***The Criminality of the MNJTF: An Analysis***

The MNJTF, particularly the Nigerian military forces, have in so many ways, curtailed terrorist activities within the north-east region of Nigeria. They have, in similarly senseless posture like the insurgents, committed war crimes for which the latter are being criticised (Amnesty International, 2015). Since 2012, the activities of the MNJTF have endangered the lives of innocent and protected persons, and also deprived the latter from some fundamental human



rights such as the right to liberty, freedom from arbitrary arrest or detention, right to fair hearing, and right to security (Amnesty International, 2015).

While arbitrary deprivation of liberty in international armed conflict is allowed, the case is not the same in non-international conflict (Schindler, 1979 & International Committee of the Red Cross, 2008). Arbitrary deprivation of liberty or abuse of human rights during non-international armed conflict is a serious violation of international humanitarian law. In 2013, the Office of the Prosecutor of the International Criminal Court qualified the fighting in north-east Nigeria as a non-international armed conflict, and thus, states and non-state armed groups, as it is in the case of Nigeria, are bound by the rules of international humanitarian law as well as international human rights law (Schindler, 1979).

In Nigeria, while the Constitution (Constitution of the Federal Republic of Nigeria, 1999) protects the rights to liberty, subsection 35(1) allows a person to be deprived of their liberty to the extent that this is to allow them to be brought before court. Also, according to subsection 4, any individual being deprived of their liberty must be brought to a court within a reasonable period of time. However, subsection 7 removes this protection for persons reasonably suspected of capital crime. By implication, while an individual may only be arrested and detained under subsection 35 (1) for the purpose of being brought to court, there is no obligation to bring such suspect to court within a reasonable time if they are facing capital offence. It becomes glaring that subsection 7 does not comply with international human rights law as it allows suspected persons to be held indefinitely if they are accused of capital offence, without a fair hearing or the opportunity to have a lawyer to defend them at the court. Besides, section 35 does not allow purely administrative detention and stipulates that all arrested and detained suspects, in connection with a criminal offence, must be held with the intention of being brought before court. In the same vein, the Terrorism (Prevention) Act as amended allows for extended detention of people suspected of involvement in terrorist activities but does not allow the administrative detention of a person without reasonable suspicion and without oversight by the court. Therefore, elongated pre-trial detention of non-combatants and alleged Boko Haram members and supporters in the north-east, who were imprisoned without a credible proof of criminal act, cannot be held to be lawful under the Act as the procedures set out in the Act have not been observed.

Besides, it is quite understandable that the Nigerian state is currently using its military, in conjunction with the MNJTF, rather than the law enforcement agencies, to fight terrorism, basically because of the nature of the emerging dimension, sophistication, command structure and the capacity of military operations of Boko Haram group. However, to a large extent, the government, as observed and studied by Amnesty International and the United Nations Security Council, has not taken serious actions to halt the abnormal or to prevent the military from committing war crimes (Amnesty International, 2015 & Amnesty International, 2018). There seems to be, on the part of the military forces, a continuous violation of international humanitarian law in the on-going counter-insurgency in the Lake Chad Basin Commission, particularly in north-east Nigeria. The random mass apprehensions and

imprisonment of non-combatants and suspected persons or alleged supporters of terrorists with no access to the courts, usually made outside the combat zone and often without evidence, are contrary to Nigeria's Constitution and its international human rights obligations. The handling of these persons violates all fair trial and access to a judge, which by interpretation, remove the power of the court to access the legality of their detention or prevent torture and other ill-treatment. According to Amnesty International, in most cases, detainees are usually denied access to medical and legal services, and to their families.

### *Crimes Committed by the Military*

In concluding this section, it is imperative to highlight some of the war crimes committed by the Nigerian military forces and/or MNJTF. This will reveal the magnitude of the violations of international humanitarian law and international human rights law, and the individual and command responsibility in the violation of international humanitarian law.

Between 2012 and 2015, Nigerian military forces extra-judicially executed more than 1,200 persons; they arbitrarily arrested 20,000 people, mostly young men and boys; they committed countless acts of torture; thousands have become victims of enforced disappearance; and at least about 7,000 persons died in military detention due to starvation, extreme overcrowding and denial of medical attention (Amnesty International, 2015). These crimes are specifically discussed below:

**Extra-Judicial Executions:** Since the creation of MNJTF, cases of extra-judicial executions have increased. According to reports, on 12 February 2012 Boko Haram members attacked soldiers from the MNJTF, based in Duguri, in Kukawa Local Government Area (LGA). Three days later, on 15 February about 100 soldiers from the MNJTF Headquarters in Baga arrived in Duguri village on boats in revenge attack and killed more than 200 people (United Nations Security Council, 2017; Oral Interview 'B,' 2019). While trying to escape the attack, according to eyewitnesses, many residents drowned. In April, 2013, Boko Haram members had a shoot-out with soldiers from the MNJTF along the Baga-Malam Karanti road. In the ensued encounter, one soldier and 25 Boko Haram fighters lost their lives. The next day at about 6 a.m. during a "mop-up" operation in Baga, about 2,275 buildings were destroyed, 125 severely damaged, and 187 people killed (Odomove, 2014). The Nigerian military forces, sometimes with the support of the Civilian JTF members executed a large number of victims, at times dozens or even hundreds per day (Odomovo, 2014; Oral Interview 'C,' 2019).

As earlier indicated above, 1,200 persons in Borno, Yobe and Adamawa were extra-judicially executed. In 2015, after the recapturing of Bama territory from Boko Haram terrorists, the Nigerian military forces killed all other persons not cleared by the Civilian JTF as residents (Amnesty International, 2015). Also, in 2014, more than 640 detainees who fled following the Boko Haram attack on Giwa barracks in Maiduguri were killed by the Nigerian military (Amnesty International, 2015). These cases and several others demonstrate that the military killed people after they had been captured. A large number of detainees were shot



dead inside detention facilities, while some were either shot or had their throat cut right after being captured during cordon and search operations (Oral Interview 'D,' 2019).

### ***Deaths in Military Custody***

Since 2011, there have been thousands of cases of deaths in custody. Report has it that more than 7,000 persons, including men, women and boys, died in military detention. Amnesty International conducted interviews with nine human rights defenders who monitored and recorded the depositing of bodies at mortuaries by the military. These interviews further reveal that in mid-2013 up to 180 deaths were recorded within a few days. Also, within the first six months of 2013, about 1,000 persons died in military custody in Maiduguri. Between April and May, 2014, 20 detainees died in Giwa barracks. In the JTF headquarters in Potiskum, in Government Reserved Areas (GRA), there were also cases of death in custody (Salaam, Usman, and Lawrence, 2016; Amnesty International, 2015; & Amnesty International, 2018).

Between 2012 and 2016, deaths in military custody also occurred in the MNJTF detention centre in Baga, Borno state; the 23 Armoured Brigade barracks in Yola, Adamawa state; and Presidential Lodge in Damaturu, Yobe state. In the MNJTF detention centre, there were cases of Mala Umar Babale, Sheriff Hassana and Auwali Haruna who died in detention (United Nations, 2017). At the 23 Armoured Brigade, there were about 218 suspects who died in detention between 2 January and 30 December 2014 (Weekly Intelligence, 2013). The story of deaths in custody in the Presidential Lodge was the same as in other places. An electrified baton was always used on a person to make him cooperative or talk (Oral Interview 'E, 2019'). This pattern led to the death of many suspects. Generally, most of the deaths in military facilities were as a result of torture, thirst, starvation, suffocation and untreated diseases, and possibly due to the small size of the cells that are often congested and poorly ventilated (Mamah, Omonobi, Marama, and Agande, 2014).

### ***Mass Arbitrary Arrests and Unlawful Detention***

Since 2011, Nigerian security forces have arrested more than 20,000 people, composed of young men in Adamawa, Borno and Yobe states. The number increased following the imposition of the state of emergency in the aforementioned states, though actual figures could not be obtained due to improper and non-centralised systems of documentation (Ibrahim & Saleh, 2018; & United Nations, 2013). Between January 2012 and July 2013, more than 4,500 were arrested, including another 1,600 persons arrested as part of Operation Restore Order (ORO) 1. In a document released by the Headquarters of the JTF on 30 June 2013, within the first six weeks of Operation BOYONA, precisely between 16 May and 30 June 2013, 916 "Boko Haram suspects" were arrested and detained (Joint Task Force Report, 2013; & Amnesty International, 2015). In some cases, these victims were released after families paid bribes to the military, after being prosecuted and tried, while thousands were executed or

died in detention, and the rest held indefinitely in unauthorised and unacknowledged military detention, denied contact with lawyers or relatives, and without having access to court (Oral Interview 'F,' 2019). Arbitrary arrest and unlawful detention gave credence to enforced disappearances, torture and ill-treatment. To date, some families are yet to know the whereabouts of their sons, daughters, mothers and husbands.

In addition, between 2015 and 2018, sexual exploitation especially in Internally Displaced Camps, occurred. Circumstances in which women and girls complied with the demands to become “wives” and “girlfriends” to soldiers and Civilian Joint Task Force JTF members were so coercive that consent to sex was not possible (Amnesty International, 2018). Displaced women and girls were targeted for sexual exploitation and abuse (Oral Interview 'G,' 2019). The military used starvation as a strategy for sexual exploitation. Young women and girls were starved with food and water by the Nigerian military forces who traded these items for sex. Also, there was organised system of sexual violence between the soldiers and civilian JTF (Amnesty International, 2018; United Nations, 2017 & Odomove, 2014). Here, the Civilian JTF member will chose young girls and take them to the soldiers, who thereafter relocate such girls to unknown destinations for sexual intercourse. Moreso, according to report, scores of women (and some men) narrated how soldiers and Civilian JTF members deployed force and threats to rape women and girls (Amnesty International, 2015 & Amnesty International, 2018). Hundreds of civilian women were detained in military barracks, and at least tens of thousands were confined to camps for months or years. There was detention of women and girls who were victims of Boko Haram abductions; who arrived at displacement camp without being accompanied by their husbands; and who had familial relationship with someone accused of being Boko Haram (Oral Interview 'H,' 2019). Like their male counterparts, young women and girls were tortured and ill-treated, and several too died in military facilities.

### ***Implications of the Criminality of the MNJTF***

The war crimes committed by the MNJTF has, in some ways, impacted the nation negatively. Members of the JTF have, through their obnoxious activities, further enmeshed the Nigerian state, particularly the north-eastern part in a more critical security abyss.

War crimes committed by the military forces are major challenges to the whole idea of counter-insurgency in that civilian citizens that should collaborate with the MNJTF and other security agencies, were, directly or indirectly, targeted or earmarked for destruction through torture, ill-treatment, starvation and unlawful detention. This may boost support for insurgents and thus affect the course of counter-insurgency, as well as hinder reconstruction activities.

The collateral damage strategy or enemy-driven approach of the MNJTF of not actually protecting civilian citizens has a negative effect on information and intelligence gathering and sharing in mapped out conflict zones. Sharing of useful information is a risky venture in



situations where arbitrary arrest and unjustified revenge operations against villages and/or LGAs, where Boko Haram terrorists had previously used as points of attack are prevalent. War crimes against innocent persons hamper civilian-military relations, as such dealings are fraught by suspicion and lack of trust, which also constitute the challenges of counter-insurgency initiatives.

The criminality of the MNJTF has immeasurably undermined the long-desired peace and stability and/or security being sought for in the north-east. It is glaring to discerning observers that peace and security are elusive in the north-eastern part of the country. So far as the MNJTF continues to commit war crimes, a state of armed conflict will thus remain in perpetuity, and the issue of insecurity will continue, as it is with Boko Haram. In the wake of fear and insecurity, not just from Boko Haram terrorists alone but also from the MNJTF, socio-economic activities in the north-east continue to decline, as both national and international business owners find the region to be a dangerous environment for any meaningful activities.

More importantly, the MNJTF's war crimes which manifest in diverse ways such as torture, arbitrary arrest and unlawful detention, death of civilian citizens in military facilities, enforced disappearance of people, and gender-based violence, infringe on the nation's democratic values, and this trend continues to threaten the country's budding democracy.

### ***Curbing the Criminality of the MNJTF***

Curbing the war crimes of the MNJTF is fundamental if the Nigerian government sincerely wants to achieve holistic success which entails the defeat of Boko Haram insurgents, a more secure north-east region and more importantly, respect for and promotion of human rights. The defeat of terrorism, even, if achieved in the nearest future, cannot be said to be complete, if the civilian citizens continue to experience brutality and abuse of their human rights. Therefore, to curb the war crimes of the MNJTF, the following measures are suggested:

It is critical that the Nigerian government and other participating countries in the MNJTF system embark on a campaign and enlightenment programme on the need to comply with the African Union's (AU) human rights standards, the AU's Regional Stabilisation Strategy for the area, international humanitarian law and international human rights law. The Nigerian government and other countries providing military forces should expand training on such compliance in the MNJTF headquarters and national sectors.

Moreso, there should be a deliberate attempt on the part of the Nigerian government and its military to organize and execute operations in a manner that will reduce collateral damage to the barest minimum, and safeguard the security and human rights of civilian citizens. The military forces should be charged to strictly stick to obviously defined 'rules of engagement' and avoid any extreme use of force that may account to violation of human rights. The rule of engagement should unambiguously state when the use of force is necessary and the control of the use of force (Odomovo, 2014).

Monitoring and oversight by civilian-led organizations, non-governmental organizations and other relevant agencies are critical for meaningful crime reduction in any context. There is therefore the need to put in place procedures for monitoring the behavior of troops and other MNJTF officials, as well as the use of sanctions against offenders, which are almost non-existent at present. Both monitoring and the use of sanctions will serve as a deterrent, which can, in a way, prevent criminality, and by extension, promote human rights and security in north-east Nigeria.

More importantly, the government should set up a Public Protection Service Commission to provide a unified but flexible interagency cooperation mechanism for the Nigeria Police Force, the Military, Civil Defence Corps, CJTF, and other non-state security outfits, to create a single coordinated service for community stabilization and policing.

In addition, the Nigerian government should set up special body, comprising of legal experts, medical practitioners and social workers, whose responsibility will be to visit, either weekly, monthly or quarterly, military facilities or detention camps, with the aim of interrogating detainees or suspects and to provide opportunity for legal and medical attention, particularly for detained innocent citizens. In lieu of the above, the Nigerian government should ensure that the armed forces hand over suspects to civilian authorities and also boost the capacity of such authorities to provide suspects a conducive platform for due process.

Since available reports (Amnesty International, United Nations Security Council, and et al.) have shown that military forces in IDPs camps hoarded and traded food and water for sex, the government should rethink the method of food distribution in such camps. It is suggested that women within the military forces or civilian agencies should, as a matter of policy, be designated for food distribution to displaced women, girls and children. That apart, women could be made to be in charge of general food distribution to both displaced male and female. This stratagem will significantly curb the prevalence of gender-based violence, particularly sexual exploitation and abuse in IDPs camps.

Enemy-centric approach to counter-insurgency promotes the violation of international humanitarian law and human rights because it entails the use of military action or aggression against civilians not participating in terrorism. Population-centric approach is a tested practice in India, which the Nigerian government should adopt in its fight against terrorism. Apart from encouraging intelligence or information dissemination from civilians to military officers, which is germane in counter-insurgency, population-centric approach is citizen-friendly, as this can influence positive relations between suspects and military forces, and invariably promote and protect human rights.





## **Conclusion**

The MNJTF has achieved some successes in the fight against Boko Haram terrorism, even though they have not in visible and practical manners, achieved enduring peace within the north-east region. Civilian population, for more than a decade, lived in fear and state of insecurity, masterminded by the security structure itself. To fleeing innocent citizens and survivors of terrorism, peace and security in the north-east is illusive, as the supposedly custodian of security – MNJTF, epitomises terror.

Like Boko Haram terrorists, the MNJTF is guilty of war crimes against civilian citizens as, under the period of study, both were involved in arbitrary arrests, detentions and/or abductions, enforced disappearances, corruption, extra-judicial killings and gender-based violence. Unlike the terrorist group, the military forces used government resources such as funds, equipment and structure to perpetrate war crimes against citizens, which should have been protected or safeguarded. The use of resources belonging to and the insouciance of the government are indicative in that, the form of silence, non-reactiveness and lack of punishment for offenders, demonstrates that not only foot soldiers committed crime but that military commanders and other high-ranking officers were involved in war crimes against vulnerable citizens. Since the MNJTF were involved in war crimes and the lives of civilian population and their properties are endangered in the north-east, the need arises for a rethink on peace and security education and the operations of the MNJTF in the course of counter-insurgency.

## **Conflict of Interest**

The authors hereby declare that no competing financial interest exists for this manuscript.

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