

# WHAT IS JUSTICE? EXPLORING THE NEED FOR ACCOUNTABILITY IN THE BOKO HARAM INSURGENCY



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The Boko Haram insurgency is now in its eighth year. The Nigerian government continues to declare victories over the group, which is now split in two: into the Shekau faction and the Islamic State-aligned Al Barnawi faction. Since 2009, the insurgents have engaged in gross human rights violations, including extrajudicial killings, rapes, slavery, abductions, and willful destruction of civilian property, as well as many others. The intensity of the violence as led the prosecutor of the International Criminal Court (“ICC”) to declare the conflict between the Nigerian government and Boko Haram insurgents to be a non-international armed conflict.

Likewise, the Nigerian military is accused of committing gross human rights violations in the course of its involvement in conflicts in the region; the Civilian Joint Task Force (CJTF)-the paramilitary force helping government forces in prosecuting the war against insurgency-has also been accused of committing war crimes against civilians and Boko Haram insurgents. The Office of the Prosecutor of the International Criminal Court(“OTP”) has identified eight possible cases of crimes against humanity in relation to the conflict in north eastern Nigeria. These include six possible cases against Boko Haram and two against the Nigerian security forces.

Nevertheless, the call for a negotiated peace and reconciliation remains strong. For instance, in Niger, Chad, Cameroon, and Nigeria—all hugely impacted by the Boko Haram insurgency—there are ongoing deradicalisation and reintegration programs for ex-combatants. However, attempts at peace or reconciliation must also take into account the difficult nature of the insurgency. Boko Haram has proved adaptable, using varying recruitment strategies, including forced conscription, abduction, blackmail, indoctrination, loan schemes, etc.

There have been several concerted attempts at resolving the insurgency through political negotiation. The first of such initiative was spearheaded by former President Olusegun Obasanjo in 2011, when he made a visit to Maiduguri, Bornu state, and met with Babakura Fugu, an in-law of Mohammad Yusuf. Babakura was killed 24 hours after the meeting. This was followed by the Ahmed Datti-led initiative, the Galtimari Committee, the bizarre and possibly fraudulent Stephen Davies negotiation; Idris Deby's facilitated negotiation, and others. However, what is important to point out is that the insurgents have consistently maintained that they do not need amnesty, will never engage in dialogue, and will not stop fighting until an Islamic state is established in Nigeria. However, while a ceasefire has not been negotiated, it is important to point out that the Nigerian government has twice negotiated for the release of the Chibok girls with both the two splinter groups of the insurgents.

*However, what is at stake today goes beyond negotiation and asks the fundamental question of Justice. Justice for whom? What will Justice look like in the context of the Boko Haram insurgency?*

The quagmire of securing justice is illustrated by a scoping paper by the Centre for Democracy and Development Policy, Prospects for Transitional Justice Initiative in North East Nigeria. The paper identifies the several categories of victims and perpetrators, including among the victims civilian residents, the Nigerian military, the Civilian Joint Task Force, and Boko Haram ex-combatants, and including among the perpetrators Boko Haram combatants, the Civilian Joint Task Force, the Nigerian military, government officials, and civilian collaborators. The brief

also notes that different groups of victims seek justice against different perpetrators as well.

It is also important to point out that there is a thin line between victim and perpetrator in this conflict; one minute, a victim may become a perpetrator and vice versa. For instance, within the military—which is consistently pointed to as a perpetrator—members of the rank and file claim victimhood on several fronts: as victims of Boko Haram killings; as victims of government or senior military officials who enrich themselves by embezzling resources allocated to fighting the insurgency, etc. In the same vein, the men of the CJTF continue to claim that they are victims of unlawful detention by the military/government, and, conversely, some citizens have initiated cases against the CJTF for exposing their loved ones as alleged Boko Haram members or sympathizers, claiming that, in doing so, the CJTF violated their rights.

When this writer asked citizens in the three most affected states of Yobe, Bornu, and Adamawa in northeast Nigeria what justice should entail, I received different but interesting answers. Some citizens feel that justice means accountability through the prosecution of Boko Haram insurgents (the hostility towards insurgents has become particularly noticeable since the commencement of the government deradicalisation, rehabilitation, and reintegration (“DRR”) program, Operation Safe Corridor (“OSC”). The sentiments exist because victims are still reeling from the pain caused by the insurgency: while they are suffering in IDP camps, with no food and basic welfare, the ex-combatants are perceived to be enjoying life in the Gombe rehabilitation camp, drinking bottled water and sleeping under mosquito nets.

In the words of one of the interviewee, “because you give them a uniform, you claim they have repented.”

The OSC program is itself challenged on the basis that there is no clear communication to the public as to whether it is an amnesty program or under what legislation the Nigerian government established it.

Others want justice (accountability) against the military, whom they accuse of perpetrating heinous human rights violations. There is, however, no unity among these voices. Some citizens want accountability specifically against the men of the Joint Task Force (“JTF”) (code name “Operation Restore Order”), established in June 2011 and comprising the Nigerian Armed Forces, the Nigerian Police Force, the Nigerian Customs Service, the Nigerian Immigration Service, the Department of State Security and, and the Defence Intelligence Agency. According to one person interviewed in the course of writing this piece, “the JTF comes in the night to round up young men; some were extra-judicially killed and others arrested and detained at the JTF headquarters.” Another woman alleged that, during raids for Boko Haram members, JTF forces routinely stole jewelry. There were also allegations of arson against the businesses and homes of suspected Boko Haram members and sympathizers.

There have also been widespread allegations of war crimes against the security forces, including extrajudicial killings, torture, extortion, and rape. Amnesty International has accused the military of committing horrific mass extrajudicial executions in March 2014 following the Boko Haram attack on the Giwa Barracks. Even Boko Haram once made the prosecution of officers involved in the extra-judicial killing of their founder, Mohammed Yusuf, a precondition for dialogue. The Nigerian government recently set up a judicial commission of enquiry to investigate alleged human right abuses by the military.

Although some victims see justice as holding members of the Nigerian military and Boko Haram to account, others basically believe that justice will be reparation and in the form of monetary compensation to victims of abuse by the perpetrators (be they Boko Haram, the military, or other actors). In the same vein, others want just the truth—the truth of what actually happened, who Boko Haram is, who their sponsors are, why the state allowed the crises to fester until now, and other questions. Issues of memorialization have also frequently come up.

Whatever the plan is, the most challenging aspect of dealing with the aftermath of the Boko Haram insurgency will be reintegrating ex-combatants.

There are varying perspectives and opinions on reintegration, and the issue of stigmatization is particularly salient. Many civilian abductees of Boko Haram are segregated in camps, and they and their offspring often referred to as ‘evil Boko Haram wives and children.’ Some are also accused of being sent by Boko Haram to spy on the populace on the suspicion that anyone associated with Boko Haram is, and always will be, a true believer in their extreme ideology. According to an interviewee, “Boko Haram can never change, they cannot be trusted.” The challenge of reintegration is also not helped by evidence that several wives of Boko Haram insurgents fled back into the bush even after months of deradicalisation.

However, it is important to point out that there is a consensus with respect to what justice means amongst survivors. Justice for them means that a balance must be struck between the rights of survivors and those of perpetrators. But there is already a perception that the Federal Government of Nigeria is in no way willing to do this—rather, there is a focus on perpetrators as against survivors. The anger of the people seems more directed at the OSC program based in the Gombe camp (which is expected to graduate its second sets of surrendeeds soon). The program is a thorny issue on the survivors’ part for many reasons. One is the belief that most of the surrendeeds surrendered mainly out of hunger—or due to threats of being killed after committing offences in the Boko Haram camp and the need to escape. Others are also aggrieved that some of these surrendeeds are known to them and have committed heinous crimes in their communities, while they (the survivors) themselves have gone through, and are going through, so many calamities—such as the inability to farm or to eat properly, having to live in open and shared spaces (which is against their culture), being unable to return to their communities, and wallowing in poverty—but have received little or no government attention.

To further drive home the point, one of the interviewee, a 64 years old man, claimed:

*“All these people have not repented but only surrendered out of hunger or out of fear for their lives, or were captured when they ran out of bullets during a faceoff with government forces.”*

Another 40-year-old woman retorted:

*"[It] is all lies and propaganda. Nobody is surrendering. The people being paraded are refugees deported from Cameroon."*

When prodded further and asked if the surrendeeds will be reintegrated into the community, the people whom I interviewed responded, in unison, with "no." A young man added that they should be sent to North Korea.

As the cries for justice continue to rend the air, victim groups are also emerging to pursue accountability. One of such group is the Knifar Movement, a loosely organized group of displaced women and victims of conflict in northeast Nigeria. The group is seeking truth telling, compensation, and family reunification, among other things. In their petition, the movement attached a list of 466 persons whom they claimed died in the Bama hospital between December 2015 and July 2016 and another 1,229 persons currently in detention; the petition expressed fear that children as young as five may be held in the holding cells in Giwa Barracks.

In a YouTube video and petition submitted to the judicial commission on human rights abuses by the military, the **Knifar** women alleged ill treatment, extrajudicial killings, and poor living conditions in military custody, and accused the military and men of the CJTF of raping women and girls in the Bama Hospital Camp and the internally displaced persons (IDPs) camps in Maiduguri (all in Borno state).

Another of such victim group is the Jida Dole, which translates in Kanuri as 'Justice by Force.' This group is only after justice against the military. The group comprises the Giwa Barracks detainee and Maiduguri residents. The group claimed the JTF and military committed heinous crimes against the residents of Maiduguri in the height of the insurgency. Those detained in Giwa Barracks claimed they were fed only one in once in two days, and denied water and electricity.

There is no clear government strategy for dealing with these challenges. The Presidential Committee on the North East (PCNI), for instance, is focused more on the rebuilding of the northeast. Presently, there is an ongoing trial of suspects linked to ongoing Boko Haram insurgency at a military base in Kanji, Niger State.

*In the same vein, the Operation Safe Corridor was set up under a presidential directive to undertake deradicalisation, rehabilitation, and reintegration of repentant Boko Haram members. It is, however, unclear if entry to the program constitutes a blanket amnesty.*

Also salient is the question of where do the repentant exit to? Every corridor must have an exit. Are the people ready to have these ex-combatants back in the communities? It is important to point out that granting blanket amnesty in this insurgency will make peace and justice more difficult to achieve and would not prevent the perpetrators from being tried for war crimes under international law. This implies that amnesty is insufficient as a sole transitional justice mechanism for the Boko Haram insurgency. It is for these reasons that groups like the Centre for Democracy and Development and partners are pursuing the development of a transitional justice mechanism to deal with both perpetrators and survivors responsibly; this would be a welcome development as, historically, Nigeria has dealt with such issues more in an ad hoc political way and never holistically. Since the country's return to democracy in 1999, there have been various attempts to address grievances and human rights violations through the justice and reconciliation option in Nigeria. Immediately after the return to democracy, Nigeria, under the leadership of former President Olusegun Obasanjo, set up the Human Rights Violations Investigation Commission (HRVIC)—popularly called the Oputa Panel.

The mandate of the panel includes, *inter alia*, establishing the causes of all gross human rights violations perpetrated in Nigeria between January 15th 1966 and May 28th 1999, identifying perpetrators, and making recommendations. The commission, which sat from June 1999 to May 2002, received over 10,000 submissions but heard just 200 cases publicly. However, the final report of the panel was never officially released to the public; this was the result of the Supreme Court of Nigeria's ruling in *Fawehinmi vs. Babangida*, (where the Supreme Court held that, under the 1999 Constitution, the Federal Government of Nigeria has no power to set up a Tribunal of Inquiry as the power is now under the residual

legislative list only exercisable by states and not the federal government—unlike the 1966 Constitution which made provision for such.)

*The government of Nigeria, in redressing the Niger Delta militancy, also adopted a blanket amnesty as a means of post-conflict peace building in the southern region.*

The measure was meant to curb militancy in the Niger Delta which emerged from the drive for economic and self-determination by the people of the Delta region, and from the crippling effects of crude oil—the mainstay of the Nigerian economy—on their environment. The government of late Umaru Musa Yar'Adua declared an amnesty in June 2009 which allowed militants to hand in weapons for cash and other benefits of rehabilitation. History and experience has shown the use of blanket amnesties is only an interim solution that can relapse into violence on a larger scale. For instance, the reintegration of ex-combatants without collective societal acceptance can result in serial killings by those who have been hurt by past violence initiated by the ex-combatants.

Nigeria already has experience with this: in the course of the Niger Delta amnesty programme, ex-combatants received money and job training as incentives to disarm, whereas victims typically received no assistance in rebuilding their lives. Such imbalances are morally reprehensible, and also ill-advised. They may foster resentment, making receiving communities more reluctant to reintegrate ex-combatants, and they may also threaten post-conflict stability.

The resurgence of militancy in the Niger Delta is also proof that the amnesty programme was not sufficient in managing the crises in the long run. The inevitable negative effects on Nigeria's economy indicates a need to devise more durable measures in managing conflict situations. This is why there is a need for a holistic transitional justice mechanism that has the clear objective of improving the overall quality of life of the affected populations. Although it may not restore survivors to their pre-conflict status quo, it will help produce an environment that will let us move forward.



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