

Legal and Regulatory Challenges to Effective Implementation of the Firearms Act in Nigeria

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Abstract

This study analyses the legal and institutional impediments to effective implementation of the Firearms Act in Nigeria. It addresses the regulatory asymmetries between the government and the governed with respect to the production, import, export, possession, circulation, and misuse of firearms in the country. The discussion highlights how the impediments to effective implementation of the law hamper the constitutional aspirations of the security and welfare of Nigerian people. Particularly, as Nigerian security challenges have, over the years, been attributed to the proliferation and misuse of small arms and light weapons. The paper finds that lack of governmental will power and commitment to rid the country of illegal circulation of firearms is the main impediment to effective implementation of the Firearms Act. The paper advocates for a total overhauling of the Firearms Act, which was promulgated in 1959 and recommends the creation of a National Commission on small arms and light weapons.

Introduction

Scholars such as Thom-Otuya B.E.N, Helen Chuma-Okoro, Okoli Okoli, Oji Okeke, and Ibrahim Abdullahi,¹ have all pointed out that

the widespread criminal availability and misuse of small arms and light weapons, which is the modern-day terminology for “firearms”², constitute one of the main problem areas in the Nigerian security master plan. It is on record that the surge in illegal firearms trafficking into Nigeria has helped empower insurgents and criminal groups, such as armed robbers, kidnappers, assassins, ethnic militias, terrorists, etc., to adopt highly confrontational armed clashes, occasioning a surge of bloody violence across the country.³

¹ Thom-Otuya B.E.N. “Proliferation of Small Arms and Light Weapons in Niger Delta: A Threat to National Security in Nigeria.” *International Journal of Sustainable Development*, Vol. 2, No. 5, (2009), pp. 57-67; Helen Chuma-Okoro (2013) ‘Proliferation of Small Arms and Light Weapons in Nigeria: Legal Implications’ <<https://nairametrics.com/wp-content/uploads/2013/02/legal-implication-of-small-arm1.pdf>>; Okoli, P. “A Legal Inquiry into the Proliferation and Control of Small Arms in Nigeria.” *International Journal of Criminology and Sociology*, 3, (2014), pp.77–92; Okeke, V.O.S., Oji, R.O. “The Nigerian State and the Proliferation Small Arm and Light Weapons in the Northern Part of Nigeria.” *Journal of Educational and Social Research* Vol. 4 No.1 (2014), 415-428. <https://www.mcser.org/journal/index.php/jestr/article/view/1859>; Abdullahi, Ibrahim. “Contextualizing the Proliferation of Small Arms and Light Weapons in Nigeria: The Untold Story” *International Journal of Business & Law Research* Vol. 3, No. 1, January-March (2015), 1-14

<http://seahipaj.org/journals-ci/mar-2015/IJBLR/full/IJBLR-M-1-2015.pdf>

² The terms ‘small arms’, ‘weapons’, ‘guns’, ‘arms’ and ‘firearms’ are used interchangeably in place of “SALW”. Reference to any of these terms also covers ammunitions. “Firearms” covers various types of guns as defined in Article 3 of the Protocol against the Illicit Manufacturing and Trafficking in Firearms, their Parts and Components and Ammunitions, adopted by the General Assembly on May 31, 2001 (the UN Illicit Firearms Protocol). See also section 2 of the Nigerian Firearms Act Cap F28 LFN 2004.

³ See Amaize, E..et al. “Kidnapping, Banditry, Killings:133 highways of terror’ *Vanguard News*, (June

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In Nigeria, the Firearms Act⁴ which was promulgated in 1959, remains the principal law for controlling and combating the menace of proliferation of small arms and light weapons. In 2004, the said Act, without any amendment to its provisions was codified into the Laws of the Federation of Nigeria (LFN 2004) as Chapter F28. This Act expressly prohibits illegal possession, trade, and transfer of firearms. Section 18 of the said legislation restricts importation and exportation of firearms, while section 23 specifically provides that no person can manufacture or repair firearms except at a public armory or at arsenals for the armed forces, which must be with the consent of the President of the Federal Republic of Nigeria. It is instructive to note that in an effort to effect an amendment of the 1959 Firearms Act, the Senate, at its plenary session, of Tuesday, 27th November 2018, passed the Firearms Act (Amendment) Bill,⁵ but the President of the Federal Government of Nigeria has withheld his assent. This means that the old 1959 Act remains in force, as a bill does not become law until the President of the federation signs it. The intendment of the Firearms Act (Amendment) Bill is to increase the penalties for offences stipulated in the Principal Act and provide for the destruction of firearms imported illegally into the country or in possession of individuals

without valid licenses.⁶

Besides the extant national legislation on firearms, Nigeria is a state party to regional and international legal instruments on small arms and light weapons.⁷ Despite the availability of legislation on this issue, it is regrettable that the country is today plagued with massive proliferation and misuse of small arms and light weapons, and the situation is deteriorating and degenerating daily due to the fact that the extant laws and policies are deficient and are not effectively enforced. This paper, therefore, uncovers those challenges responsible for the inability of the government to efficiently and effectively implement and enforce the provisions of the Firearms legislation in Nigeria.

The Nature of the Implementation Challenges

The challenges inhibiting the effective implementation and enforcement of the firearm legislation in Nigeria are numerous, and are responsible for the uncontrollable large-scale proliferation of firearms in Nigeria. They do not stand alone, but stem from the defects in the social, economic, and political trajectory of the country. In 1959, when the Firearms Act, 2004⁸ was promulgated in Nigeria, the contemplation was limited to addressing the

2019). <https://www.vanguardngr.com/2019/06/kidnap-ping-banditry-killings-133-highways-of-terror/>

⁴The Firearms Act Cap F28 LFN 2004.

⁵Policy and Legal Advocacy Centre. "Senate Passes the Firearms Act (Amendment) Bill, 2018."

<https://placng.org/wp/2018/11/senate-passes-the-firearms-act-amendment-bill-2018/> "The Bill recommends the amendment of the following sections of the Principal Act section 27(2) which deals with Fines and Penalties for Offences, section 28(3) which deals with the Production of Licence, section 35(4) which deals with the Powers of the President to Prohibit Possession and Dealings in Firearms"

⁶Ibid

⁷The international framework on firearms is composed of three main instruments: the Firearms Protocol, the United Nations Programme of Action to Prevent, Combat and Eradicate the Illicit Trade in Small Arms and Light Weapons in All Its Aspects (Programme of Action, or PoA) and the International Instrument to Enable States to Identify and Trace, in a Timely and Reliable Manner, Illicit Small Arms and Light Weapons (International Tracing Instrument, or ITI), where only the Firearms Protocol is legally binding.

⁸The Nigerian Firearms Act was enacted on the 1st day of February, 1959, and is currently codified as Firearms Act CAP F28 LFN 2004. <http://www.nigeria-law.org/Firearms%20Act.htm>

immediate insecurity realities of that time. However, a lot has changed since then. For instance, the population of the country in 1959 was just 44,321,060.⁹ This, according to the 2017 revision of the World Population Prospects, increased to 185,989,640 in 2016, and 203.5 million in 2019.¹⁰ What this means is that the Nigeria of today is, at least five times bigger than the Nigeria of 1959, having added a population of over 160,000,000 people. With this huge increase in population came the attendant social problems of, for example, poverty, unemployment, illiteracy, brigandage, gangsterism, cultism, religious fanaticism, etc.

The Country, not being able to address these social problems, has found them to be responsible for widespread insecurity in the country, of which proliferation and misuse of small arms and light weapons are notable. Unfortunately, although the population has grown exponentially, and the attendant insecurity problems that the laws are meant to address have transformed and become highly sophisticated, the Firearms Act has remained as it was in 1959.

Closely related to the development of sporadic surge in the population of Nigeria is the emergence of the principle and practice of globalization of the world system. As a matter of fact, in today's world, globalization is the most challenging evolution. According to Folarin and Oviasogie, in 'Insurgency and National Security Challenges in Nigeria: Looking Back, Looking Ahead,' globalization hit Nigeria in the 1980s,

wearing the cloak of a liberating force¹¹. The author stated further that the impact was more strongly felt in the 1990s, and this was because information technology, which is a key driver of globalization ideology, revolutionized international relations and turned the world into a global village.¹²

As people began to aspire for new identities, western political systems became more engrafted in Nigeria as models for our social and political lifestyle.¹³ This principle, generally, encompasses economic interdependencies of countries across the world through varieties of cross-border transactions in goods and services and of international capital flows.¹⁴ It also includes the widespread diffusion of technology and information, advances in technology such as global telecommunication infrastructure, cross border data flow, the internet, satellite networks, and wireless telephones.¹⁵ In addition, globalization involves

¹¹Folarin, S.F. and Oviasogie, F.O. *Insurgency and National Security Challenges in Nigeria: Looking Back, Looking Ahead*. Ota: Covenant University Repository, 2014, 1-

¹²<http://eprints.covenantuniversity.edu.ng/3243/1/Folarin%20and%20Faith%206.pdf>; Sobowale, D. "Globalisation of floods: The start of hundred years of change in Nigeria." *Vanguard*, 2012. <https://www.vanguardngr.com/2012/10/globalisation-of-floods-the-start-of-hundred-years-of-change-in-nigeria/>

¹³ Ibid

¹⁴ Ibid

¹⁵Didigwu Augustus U. "The Effects of Globalization on Nigerian Youths And The Economy." *International Journal of Environment and Pollution Research* Vol.3, No.5, (2015), pp.9-16, <http://www.eajournals.org/wp-content/uploads/The-Effects-of-Globalization-on-Nigerian-Youths-and-the-Economy.pdf>; Konyeaso, F. U.

"Impact of Globalization on Nigerian Economy." *Pyrex Journal of Business and Finance Management Research* Vol 2, No. 10 (2016), pp.109-121 <http://www.pyrexjournals.org/pjbfmr/pdf/2016/december/>

¹⁶ Ibid

⁹Population Pyramids of the World from 1950 to 2100. <https://www.populationpyramid.net/nigeria/1959/>

¹⁰ The World Fact Book-Central Intelligence Agency <https://www.cia.gov/library/publications/the-world-factbook/atachments/summaries/NI-summary.pdf>; World Population Review <http://worldpopulationreview.com/countries/nigeria-population/>

the transfer of governmental policies across many sovereign borders. It became a powerful global process through which the establishment of the global market free from sociopolitical control was made possible. Ifeoma P. et al in, 'An Empirical Analysis of the Impact of Globalisation on Performance of Nigerian Commercial Banks in Post-Consolidation Period' posited that,

With the advent of globalization, the world has become a much smaller place where interaction between different countries has led to a situation where a country's economy and development are not only in the hands of the ruling government but is highly influenced by international organizations where international rules and legislations reigns (sic).¹⁶

Thus, the process shrank the entire world into a global village, and facilitated the collapse of boundaries between different worlds, expanding the connectivity of all forms of interaction.¹⁷ Going by its nature, characteristics, and scope, the emergence of globalization in the 1980s rattled the 1648 Treaty of Westphalia¹⁸, which designed a state system of non-

¹⁶Osamor, I.P., Akinlabi, H., and Osamor, V.C. "An Empirical Analysis of the Impact of Globalisation on Performance of Nigerian Commercial Banks in Post-Consolidation Period European." *Journal of Business and Management* Vol.5, No.5, (2013), pp.37-

45 www.iiste.org

¹⁷ Ibid

¹⁸Westphalian sovereignty, or state sovereignty, is the principle in international law that each state has exclusive sovereignty over its territory. The principle underlies the modern international system of sovereign states and is enshrined in the United Nations Charter, which states that "nothing should authorize intervention in matters essentially within the domestic jurisdiction of any state." According to the idea, every state, no matter how large or small, has an equal right to sovereignty.

interference on the twin-principle of territoriality and sovereignty.¹⁹ Whereas, sovereignty accords the state unquestionable but legitimate control over the nation and polity, and gives it the liberty to preserve and protect its territorial integrity from both internal and external threats, globalization of the world system has weakened the primacy of these laudable principles of sovereignty and territoriality that has greatly prevented many unnecessary wars. In today's world, globalization is having a subversive impact on different aspects of the life of nations across the globe. In Nigeria, virtually every aspect of our national life has gone through the transformative knife of globalization. Kendall et al. in 'The Diligence Due in the Era of Globalized Terrorism', present the negative impact globalization is having, particularly with regards to terrorism,

Ironically, but not surprisingly, as globalization opens up world markets and eases communication and transportation, it also makes vulnerable the very infrastructure that makes such trade and communication possible in the first place. Indeed, terrorists to advance their own violent political agendas now are exploiting the very same technological advances and governmental policy orientations that promote globalization. In a sense, then, terrorism is the "dark side" of globalization.²⁰

¹⁹Falk, R. "Revisiting Westphalia, Discovering Post-Westphalia." *The Journal of Ethics*, Vol. 6, No. 4, (2002), pp. 311–352. *JSTOR*,

www.jstor.org/stable/25115737 "Westphalia refers to the peace settlement negotiated at the end of the Thirty Years War (1618-1648), which has also served as establishing the structural frame for world order that has endured, with modifications from time to time."

²⁰Kendall, J., Barron, P.O., Allenbaugh, M.H. "The Diligence Due in the Era of Globalized Terrorism." *The International Lawyer*, Vol. 36, No.

One very heartbreaking case study of this dark side of globalization in Nigeria is the emergence of the dreaded Boko Haram terrorist network. This terrorist group has taken advantage of the instruments of globalization to emerge and threaten the state sovereignty of Nigeria and its preservation. It is estimated that Boko Haram insurgents, with the aid of dangerous small arms and light weapons have so far killed about 30,000 Nigerians displaced over 1.8 million others,²¹ and have abducted several others including the 276 Chibok girls who were abducted on April 14, 2014, some of who were later released and many of whom have not been rescued since then.²² According to Folarin and Oviasogie,

The security and sovereignty of the Nigerian State have been under globalized threat from different radicalized religious and regional youth groups, prominent among which are the Movement for the Actualization of the Sovereign State of Biafra (MASSOB), the Movement for the Emancipation of the Niger Delta (MEND), Oodua Peoples' Congress (OPC), the Arewa

People's Congress (APC), Bakassi Boys, Egbesu Boys.²³

Thus, internal security has been significantly imperiled by the various violent and criminal activities of many armed groups against the Nigerian State. The resultant effects have come in the form of armed robbery, kidnapping, drug trafficking, arms smuggling, human trafficking, and militancy. Countless bombings of churches, mosques, schools, government buildings, and others have equally put Nigeria on the terrorist list. The security unrest in Nigeria has indeed assumed a frightening level as herdsmen have continued to unleash terror on farmers through the instrumentality of small arms and light weapons. Also, kidnapping for ransom now occurs daily. The bottom line is that the sophistication with which arms proliferate in today's Nigeria was neither contemplated nor addressed in the 1959 Firearms Act.²⁴ The obsolescence of this Act is, therefore, a fundamental springboard from which so many other impediments to the effective implementation and enforcement of the laws on small arms and light weapons hinges. These impediments are specifically discussed in the following parts of this paper.

1, Spring (2002), pp. 49–66. JSTOR, www.jstor.org/stable/40707642, citing Craig Hall, Terrorism's Burdens on Globalization, Speech at Southern Methodist University, Dedman School of Law (Feb. 7, 2002); see also Mr. Hall's article in this issue, The Wake-up Call of Terrorism, at 125

²¹Wakili, I. "Nigeria: Presidency - 20,000 Nigerians Killed by Boko Haram." *Daily Trust*. (2016) <https://allafrica.com/stories/201604050004.html>; Sanmi, K. "Boko Haram: 27,000 civilians killed in 10 years – UN" *Premium Times* (1.8.2019). <https://www.premiumtimesng.com/news/headlines/344202-boko-haram-27000-civilians-killed-in-10-years-un.html>

²²Amnesty International. Amnesty International Report released on Tuesday April 14, 2015. Retrieved from *News24* online on April 16, 2015

²³Folarin, S.F., and Oviasogie, F.O. *Insurgency and National Security Challenges in Nigeria: Looking Back, Looking Ahead* (2014), 1-15. <http://eprints.covenantuniversity.edu.ng/3243/1/Folarin%20and%20Faith%206.pdf>

²⁴Karsten, J. "As criminals adapt to new technology, so must international law." (2017). <https://www.brookings.edu/blog/techtank/2017/04/21/as-criminals-adapt-to-new-technology-so-must-international-law/> "Technology empowers governments and non-state actors alike to reach far beyond their own national borders. Combatting transnational issues such as cyberattacks, terrorism, and propaganda requires developing new rules to address the negative consequences of technology."

Lack of Adequate Legislation and Ineffectiveness of Extant Ones

This paper has pointed out that the illegal circulation and misuse of small arms and light weapons have assumed alarming proportions in Nigeria. Unfortunately, the fight against this menace is largely being hampered due to inadequate legislation and the obsolescence and ineffectiveness of the extant laws. Also, there are regional and international conventions designed to address the problem of the proliferation of small arms and light weapons. Unfortunately, none of these international instruments are enforceable in Nigeria. Apart from those national legislations that are of complementary relevance on the issue of small arms and light weapons, such as the Armed Robbery Act, Criminal Code Act, etc., the only substantive legislation that is enforceable in Nigeria is the Fire Arms Act which was promulgated in 1959 and has failed to incorporate the modern-day best practices.

The Culture of Corruption in the Society

Corruption is an entrenched culture in Nigeria.²⁵ Corruption has eaten deep into the fabric of the Nigerian society. In this wise, Agbiboa, wrote,

The constellation of development obstacles notwithstanding, in several regions of Africa, especially in Nigeria, corruption has frequently emerged as a

critical obstacle to political and economic development.²⁶

Corruption is the fundamental causes of the country's socio-political and socio-economic problems. Today in Nigeria, almost everything can be "settled" through money and influence. For instance, election results, court judgments, examination results, the police, more alarming is the fact that the Military, which in the past epitomized discipline, rectitude, and professionalism, can be settled.²⁷ Section 15 Sub-section 5 of the Constitution of the Federal Republic of Nigeria states: "The State shall abolish all corrupt practices and abuse of power."²⁸ The Black's Law Dictionary defines Corruption as: An art done with the intent to give some advantage inconsistent with official duty and rights of others, the act of an official or fiduciary person who unlawfully and wrongfully uses his station or character to procure some benefit for himself or for another person contrary to duty and the right of others.²⁹

²⁵Bello, A.O. "Gift-Giving, Anti-Bribery Laws and the Nigerian." *Journal of Law*, Vol. 58, No. 3, October (2014), pp.278-302, <https://www.cambridge.org/core/journals/journal-of-african-law/article/gift-giving-anti-bribery-laws-and-the-nigerian-constitution-matters-arising/53ABB8BBF5071444788C170B50F7556C>

²⁶Agbiboa, D.E. "Serving the Few, Starving the Many: How Corruption Underdevelops Nigeria and How There Is an Alternative Perspective to Corruption Cleanups." *Africa Today*, Vol. 58, No. 4, (2012), pp. 111–132. *JSTOR*,

www.jstor.org/stable/10.2979/africatoday.58.4.111

²⁷ See Nlerum F. E. (2009) Arrest, Detention and Trial of Public Officers: The Nigerian Perspective In: Azinge, E. and Owasanoye, B. (eds.) Rule of Law and Good Governance, Nigerian Institute of Advanced Legal Studies, Lagos. "The real beginning of wide spread corruption of public office in Nigeria is traceable to the years of military rule in which the rule of law was emasculated and the resultant effect was the loss of good governance and wanton looting of public treasury"

²⁸FGN. *Constitution of the Federal Republic of Nigeria 1999*.<http://www.nigeria-law.org/ConstitutionOfTheFederalRepublicOfNigeria.htm>

²⁹Kranacher, Mary-Jo, and Riley, R.A. Jr. *Forensic Accounting and Fraud Examination*. New Jersey: John Wiley and Sons, Inc., 2011, 197

Corruption covers a broad spectrum of activities ranging from fraud, theft, embezzlement, bribery, extortion, abuse of discretion to favouritism and nepotism. Corruption is by far the most significant problem of governance in Nigeria, which threatens the stability and socio-economic development of the country. Unfortunately, virtually all the Nigerian ministries and agencies are enmeshed in the pervasive culture of impunity.³⁰ The corruption level in Nigeria is high as Transparency International ranks Nigeria 148 out of 180 in terms of corruption perception index.³¹ Surely, this may hinder effective enforcement of the law against corruption in the country as the activities of authorities responsible for implementing the laws are seen as questionable. This explains why importers and smugglers of small arms and light weapons often compromise Nigerian Customs Service personnel. Meanwhile, in 2005, the “Deputy Comptroller-General of the Nigeria Customs Service attributes the growth in trafficking to staff shortages, the lack of modern surveillance equipment and a shortage of vehicles.”³² Other

security operatives who have been corrupted with illicit financial rewards are found to be aiding perpetrators of small arms proliferation. Thus, where the supposed law enforcement agents are compromised, it becomes difficult to implement and enforce the law.

Lack of Enforcement Mechanism for the International Firearms Laws In Nigeria

It is general knowledge, in the international law community, that international law as a legal order does not command the same level of implementation and enforcement mechanism which the various national and municipal laws command. This is because the various countries, which constitute the Member States of the United Nations Organization, are sovereign entities in their own rights. This perspective explains the logic behind the general assumption that international laws are not enforceable.³³ Thus, it is often touted that international law is no law just because it lacks apparent enforcement mechanisms. With specific reference to the United Nation

³⁰Osoba S.O. “Corruption in Nigeria: Historical Perspectives.” *Review of African Political Economy*, Vol. 23, No. 69, (1996), pp. 371–386. JSTOR, www.jstor.org/stable/4006378.

³¹ Sahara Reporters. “Transparency International Ranks Nigeria 148th World’s Least Corrupt Country.” *Sahara Reporters*. New York (2018)<http://saharareporters.com/2018/02/21/transparency-international-ranks-nigeria-148th-worlds-least-corrupt-country> “Global anti-corruption watchdog, Transparency International (TI), has again ranked Nigeria low in its 2017 Corruption Perception Index (CPI) released on Wednesday. The latest ranking has Nigeria in the 148th position out of 180. The country, according to the CPI, scored 28 out of 100, a figure lower than the average in the Sub-Saharan region. CPI score relates to perceptions of the degree of corruption as experienced by business people and analysts and ranges between 100 (highly clean) and 0 (highly corrupt).” 21.2.2018

³²Yacubu, J.G. “Cooperation Among Armed Forces and Security Forces in Combating the Proliferation of

Small Arms.” Ayisi, A., and Sall, I. (Eds.) *Combating the Proliferation of Small Arms and Light Weapons in West Africa: Handbook for the Training of Armed and Security Forces*. Geneva: United Nations, 2005, pp.55-69,

56<https://undir.org/files/publications/pdfs/combating-the-proliferation-of-small-arms-and-light-weapons-in-west-africa-handbook-for-the-training-of-armed-and-security-forces-326.pdf>

³³Kirgis, F.L. Jr. “Enforcing International Law Enforcing International Law.” *American Society of International Law Insights (ASIL Insights)* Vol. 1, No. 1, January

(1996).<https://www.asil.org/insights/volume/1/issue/1/enforcing-international-law> “The assumption seems to be based on the absence of a direct international counterpart of the federal marshal, county sheriff or state/local police officer. There is currently no standing body of international law enforcement officers, nor is there strong political support for creating such a body. How then can international law be enforced, if at all?”

instrument for combating the proliferation of small arms and light weapons, the non-binding nature and lack of strict enforcement mechanisms have, by and large, limited the instruments to mere policy guide.

Whenever the Federal Government of Nigeria enters into any treaty with other nations, whether the bilateral treaty or multilateral ones, the National Assembly, is the only organ of government that has the exclusive sovereign power to domesticate such international laws into the Nigerian legal system.³⁴ Unfortunately, in the case of the United Nations Firearms Protocol, for example, the executive arm has ratified the instrument, but the National Assembly has abandoned it. Thus, this kind of situation, where instrument ratified by the executive arm will lie at the mercy of the country's lawmakers will remain until an amendment of the Treaties (Making Procedure etc.) Act, 2004³⁵ by the National Assembly is effected to make the participation of the National Assembly compulsory in treaty-making in Nigeria.³⁶

³⁴Okeke, C.E., and Anushiem, M.I. "Implementation Of Treaties In Nigeria: Issues, Challenges and the way forward." *NnamdiAzikiwe University Journal of International Law and Jurisprudence* Vol. 9, No. 2, (2018), pp.216-

229.<https://www.ajol.info/index.php/naujilj/article/viewFile/168850/158317>

³⁵ Treaties (Making Procedure etc.) Act, Cap T20, Laws of the Federation of Nigeria, 2004

³⁶Okeke, C.E., and Anushiem, M.I. "Implementation Of Treaties In Nigeria: Issues, Challenges and the way forward." *NnamdiAzikiwe University Journal of International Law and Jurisprudence* Vol. 9, No. 2, (2018), pp.216-229

<https://www.ajol.info/index.php/naujilj/article/viewFile/168850/158317>; Chukwuemeka, A.O. "Has the Controversy between the Superiority of International Law and Municipal Law been Resolved in Theory and Practice?" *Journal of Law, Policy and Globalization*, Vol.35, (2015), p. 116 <https://heinonline.org/HOL/LandingPage?handle=hein.journals/jawpglob35&div=17&id=&page=>

Institutional Fragmentation and Inter-Agency Rivalry

Institutional fragmentation and inter-agency rivalry is another major impediment to the effective implementation and enforcement of firearms legislation in Nigeria. In Nigeria, internal security is the primary responsibility of Nigeria Police Force. Although Nigeria Police is the lead agency saddled with the constitutional maintenance of internal law and order for the protection of lives and properties of the citizenry, other security agencies have been established to complement this daunting task. For instance, the National Counter-Terrorism Strategy (NACTEST), under Roles and Responsibilities of Ministries, Departments, and Agencies, stipulates that,

The Nigerian Police Force (NPF) is the lead agency for the maintenance of law and order and the prevention and detection of crime. The NPF is the first responder in the five strands of NACTEST with support from other security agencies. It will update the crime registry and store information digitally for easy access. In conjunction with the DSS, NSCDC, NIS, NCS, FAAN, NIMASA, NIA and the Ministry of Solid Minerals, ensure that firearms and explosives are not illegally imported and unlawfully used in the country. In collaboration with DSS, maintain and monitor information on quarries and industrial explosive sites in the country. The NPF is to institute measures to monitor and control the sales, distribution, and use of materials that may be used in making IEDs. In collaboration with the National Space Research Development Agency (NASRDA), Ministries of Science and

Technology, Finance, Information, and the Military, the NPF shall develop mechanisms to control the activities of cybercriminals.³⁷

The Nigerian fight against the Boko Haram insurgency³⁸ received a significant boost in 2014 when the Federal Government formally established a multi-layer communication structure for implementing the National Counter-Terrorism Strategy (NACTEST).³⁹ This policy was reviewed in 2016. Although the plan was designed to be coordinated by the Office of National Security Adviser (ONSA), several ministries, departments, and agencies (MDAs) have their roles to play under the policy.⁴⁰ In spite of this laudable mandate, the concerned security agencies are often engulfed in a rivalry

³⁷ The National Counter Terrorism Strategy (NACTEST)

<http://krexsource.com/ctc/NACTEST.pdf>

³⁸ The National Counter Terrorism Strategy (NACTEST) states that terrorism is the most serious security threat confronting Nigeria today. This is due to the actions of persons or groups who choose to advance their cause by committing acts of extreme violence against members of the society. The acts, which were hitherto considered as mere violent crimes, have claimed many lives and have been on the increase in the recent past. The current intensity of actions by such groups clearly points to an intention to create fear among the people and undermine the authority of Government. This, therefore, informed the need for a comprehensive National Counter-Terrorism Strategy (NACTEST) to effectively address the threat and reduce the risks so as to provide a safe environment where people can go about their daily lives freely and confidently.

⁴⁰ Eme, O.I. "Inter-Security Agency Rivalry as an Impediment to National Counter Terrorism Strategy (NACTEST)." *AfriHeritage Research Working Paper Series* 003, (2018), 1-21

<https://www.africaportal.org/publications/inter-security-agency-rivalry-impediment-national-counter-terrorism-strategy-nactest/>; Olawale Olaleye (2017) Danger of Inter-agency Rivalry Thisday <https://www.thisdaylive.com/index.php/2017/05/07/danger-of-inter-agency-rivalry/>

of supremacy between and among themselves,⁴¹ leaving the people to suffer in the hands of perpetrators of criminal activities, particularly those who make use of small arms and light weapons to take advantage of the people.

Lack of Governmental Commitment to Rid the Country of Illegal Availability of Small Arms and Light Weapons

The actions and inactions of the government of the Federal Republic of Nigeria show clearly that it is not committed to fighting the scourge of small arms and light weapons in the country. There are so many challenges to the cause of combating illicit weapons in Nigeria, but the overriding challenge is the lack of institutional willpower of the government. Institutional willpower is absolutely necessary if the fight against small arms and light weapons will be successful. This problem is exemplified by the prolonged time being spent by the President to give his assent to the amendment to the 1959 Firearms Act. This signifies that the government is not committed to the modification of this Act. It is more than a year since the Senate passed the bill for the amendment of the Act, yet it is still awaiting presidential assent. Such issues are vital and should naturally

⁴¹ Eme, O.I. "Inter-Security Agency Rivalry as an Impediment to National Counter Terrorism Strategy (NACTEST)." *AfriHeritage Research Working Paper Series* 003, (2018), 1-21

<https://www.africaportal.org/publications/inter-security-agency-rivalry-impediment-national-counter-terrorism-strategy-nactest/>; Olaleye, O. (2017). "Danger of Inter-agency Rivalry." *Thisday*

<https://www.thisdaylive.com/index.php/2017/05/07/danger-of-inter-agency-rivalry/>

receive sporadic attention. For every moment wasted by the government, fatalities, and injuries are piling up in the country.

Poor Border Control Mechanism

Poor border control is a serious problem in Nigeria. The country shares its land borders with four countries of Benin, Cameroon, Chad and Niger, and covers 923,768 square kilometres, and 853 kilometres of coastline. This is indeed so extensive that the Nigerian security forces are finding it difficult to manage.⁴² This has given room for bandits and smugglers to infiltrate Nigeria at will. There are reports of criminals using animals to bring firearms through land borders in places like Borno States. This also constitutes a serious challenge to the effective implementation of firearms law in Nigeria.

Weak, Corrupt and Ineffective Police Force

The 1999 Constitution of the Federal Republic of Nigeria makes provisions for the establishment of the Nigerian Police Force, the Police Council, and the Police Service Commission. Section 214(1) of the 1999 Constitution provides that: “There shall be a Police Force for Nigeria, which shall be known as Nigeria Police Force, and subject to the provisions of this section, no other police force shall be established for the Federation or any

part thereof.⁴³ Section 4 of the Police Act also provides that, “The police shall be employed for the prevention and detection of crime, the apprehension of offenders, the preservation of law and order, the protection of life and property and the due enforcement of all laws and regulation with which they are directly charged....” The Policeman is therefore saddled with the responsibility of maintaining law and order in the society and to apprehend and prosecute offenders. His duty includes prevention and detection of crime, apprehension of offenders, preservation of law and order, protection of life and property, and enforcement of all laws and regulations.⁴⁴

The police, in collaboration with the relevant state security agencies also provide surveillance networks on the activities of persons, considered security risks in order to prevent sabotage and subversion of the nation and its established institutions. Nevertheless internal security over the years have been described as pathetic as notable and unknown individuals have lost their lives, and till date a lot of these deaths have not been resolved based on the slow pace of investigation processes in the Nigerian Police force. Notable murder cases that have not been resolved and are still under investigation are that of the killers of Chief Bola Ige, former Minister of Justice in December, 2001 at Ibadan; Barrister and Mrs. Igwe in September 2002 at Onitsha; Alhaji Isiaku Muhammed in September, 2002 in

⁴²Ayisi, A., and Sall, I., eds. *Combating the Proliferation of Small Arms and Light Weapons in West Africa: Handbook for the Training of Armed and Security Forces*. Geneva: United Nations, 2005, pp.55-69, <https://unidir.org/files/publications/pdfs/combating-the-proliferation-of-small-arms-and-light-weapons-in-west-africa-handbook-for-the-training-of-armed-and-security-forces-326.pdf>

⁴³Siro, A.A., and Sundramoorthy P. “Police and Hisbah: The Status of Urban Kano Security Management.” *e-Bangi: Journal of Social Sciences and Humanities* Vol. 12, No. 2, (2017), 1-15 <http://ejournal.ukm.my/ebangi/article/view/20380/6429>

⁴⁴Ibrahim, A.A. “Police Corruption and the State: Prevalence and Consequences.” *Global Journal of Arts Humanities and Social Sciences* Vol. 3, No. 3, (2015), 19-29. <http://www.eajournals.org/wp-content/uploads/Police-Corruption-and-the-State-Prevalence-and-Consequences.pdf>

Kano, Sir Theodore Agwatu in February 2003 in Owerri; Chief OgbonnaUche also in February 2003 and Dr. Harry Mashall in March, 2003 among other attempted cases of murders and theft.

Situations like these have called the Nigerian police and policing strategies especially in relation to intelligence-information gathering since independence to questions. They collect bribes with impunity and pretentiousness.⁴⁵ It is heartbreaking that the very arm of the government that is supposed to enforce the law is the same one breaking it. If the enforcers of the law are breakers of the law, who is to be trusted in society? When Nigeria Police exhibit laxness, ineffectiveness and inefficiency in maintaining peace and order, it becomes dangerous for an average citizen to walk freely in the society. Agbiboa opined,

Corrupt and abusive policing in Nigeria is rampant among lowerranked officers, but large-scale embezzlement by mostly senior officers underlies and drives much of it. Indeed, down the years, several high-ranking police officials, from inspector general of police to

⁴⁵ In Nigeria, the legacy and public image of the police has been that of “arbitrariness, ruthlessness, brutality, vandalism, incivility, low accountability to the public, and corruption.” See Alemika, E.E.O. “Policing and Perceptions of Police in Nigeria.” *Police Studies: International Review of Police Development* Vol. 11, No. 4, (1988), pp.161–176; “Police Community Relations in Nigeria: What Went Wrong?” Paper presented at the Seminar on Role and Function of the Police in a Post-Military Era, Organized by the Centre for Law Enforcement Education in Nigeria (CLEEN), and the National Human Rights Commission (NHRC) at the Savannah Suite, Abuja, 8–10 March, cited in Agbiboa, D.E. “‘Policing Is Not Work: It Is Stealing by Force’: Corrupt Policing and Related Abuses in Everyday Nigeria.” *Africa Today*, Vol. 62, No. 2, (2015), pp. 95–126.

www.jstor.org/stable/10.2979/africatoday.62.2.95.

commissioner of police, have been implicated in scandals that have involved embezzlement and misappropriation of staggering sums of public funds earmarked for basic police operations. These cases are well documented (Agbiboa 2013b; Human Rights Watch 2010; Omotola 2007). In many of these cases, the federal government and the police leadership have failed properly to investigate, prosecute, or discipline implicated officers, much less take tangible steps to prevent future such crimes. One of the major embezzlement cases in the NPF was that of TafaBologun, an Inspector General of Police, who was convicted in November 2005 of laundering \$150 million (Agbiboa 2013b). The entire amount stolen by him (for which he was handed a six-month jail term) “would have been enough to fund the total budgeted operating costs of the police force—apart from personnel costs and capital projects—for nearly two and a half years” (Adigun 2005).⁴⁶

This behavior produces obstacles to effective policing and undermines professionalism. The corruption in the Nigerian Police is systemic. Systematic corruption is when corruption is an integral and essential aspect of the system. According to Agbiboa, not only are individual police officers involved in corrupt practices today, evidences abound of officers' involvement in organized acts of negligence and collusion with unknown persons to perpetrate offences such as: helping criminal

⁴⁶Agbiboa, D. E. “‘Policing Is Not Work: It Is Stealing by Force’: Corrupt Policing and Related Abuses in Everyday Nigeria.” *Africa Today*, Vol. 62, No. 2, Winter (2015), pp. 95–126. www.jstor.org/stable/10.2979/africatoday.62.2.95.

to escape from lawful custody, obtaining money from suspects for closure of case files, escorts of contra-banned and stolen goods, stealing from suspects and accident victims, receiving bribes in order not to effect arrest of crime suspects, receiving bribes from a person in order to arrest an innocent citizen who is not in good terms with the bribe giver, supply of police arms and uniforms to armed robbers, divulging official information for a fee, stealing from crime scene, receiving bribes and failing to enforce the law against motorists who contravene the law, demanding money from suspects as a condition for granting bail, which is supposed to be free.

Condemning the act of corruption in the Nigerian Police Force, Mohammed D. Abubakar,⁴⁷ former Nigeria's Inspector General of Police, on assuming command on 13th February 2012 said,

Police duties have become commercialised... Our men are deployed to rich individuals and corporate entities such that we lack manpower to provide security for the common man. Our investigations departments cannot equitably handle matters unless those involved have money to part with. Complainants suddenly become suspects at different investigation levels following spurious petitions filed with the connivance of police officers. Our police stations, State CID and operations offices have become business centres and collection points for rendering returns from all kinds of Squads and Teams set up for the benefit of superior officers. Our Special Anti-

Robbery Squads (SARS) have become killer teams, engaging in deals for land speculators and debt collection. Toll stations in the name of check-points adorn our highways with policemen shamelessly collecting money from motorists in the full glare of the public.⁴⁸

A lot of cases abound where police conducts arbitrary raids to round up suspects for later extortion. They sell arms collected from armed robbers instead of retaining them as evidence or tracing their calls to find their associates. As Owonikoko notes, "the process of allocation and utilization of security funds [...] gives the users the opportunity to divert the money into unintended areas and even into private pockets."⁴⁹ Also, criminals are known to usually bribe their way through and escape the long arm of justice. This has led to an increase in criminal activities, including illicit firearms trafficking, since the criminals know that the police could be bought at a price. Arrested criminals are back on the streets again the next day if they or their godfathers can negotiate and pay an agreed sum. This has greatly affected the effectiveness of the police in crime prevention and control in Nigeria. The Nigerian Army has also been indicted on corruption on corruption charges. For example, on 11th June 2016, the Nigerian Army retired about 47 officers on the ground that they have found to be compromised by some Politicians during the 2015 General

⁴⁷Mohammed Dikko Abubakar, CFR, NPM, mni (Rtd) was appointed in 2012 by President Goodluck Ebele Jonathan (2010-2015) to succeed Hafiz Ringimas the Inspector General of Police. Abubakar Dikko was succeeded in Suleiman Abba in 2014

⁴⁸Owen, O. (2014) *The Nigeria Police Force: Predicaments and Possibilities.* NRN Working Paper No. 5. Oxford: University of Oxford, 2014, 1-21.

<https://www.qeh.ox.ac.uk/sites/www.odid.ox.ac.uk/files/nrn-wp15.pdf>

⁴⁹Owonikoko, S.B. "Security Funding, Accountability and Internal Security Management in Nigeria." O.O. Oshita, I.A. Alumona, and F.C. Onuoha (eds.) *International Security Management in Nigeria: Perspectives, Challenges and Lessons.* Singapore: Palgrave Macmillan, 2019. 587-610, 600

Elections in the country.⁵⁰In July 2019, there was an account of five soldiers who stole over N400 million under the command of Hakeem Otiki, General Commanding Officer of the Army 8 Division in Sokoto.⁵¹ The soldiers were internally declared wanted by the Nigerian Army following the theft, while the senior officer was court martial, his bank account frozen by the Economic and Financial Crimes Commission (EFCC), and there is a report of the recovery of N135 million from him.

Thus corruption weakens security and subjects effective policing into the culture of bribery, extortion, and gratification, falsification of records, stealing, and embezzlement.

Collusion

The impediments identified in this study have explained the obstacles, challenges, and barriers militating against the success in combating and curtailing the proliferation of small arms and light weapons in Nigeria. Chief among these is the lack of institutional will of the Federal Government to tackle the menace of small arms and light weapons head-on. The Government needs to realize the no other entity has the constitutional wherewithal to carry out this duty and should therefore proactively do the needful to rid the country of the proliferation of small arms and light weapons.

Recommendations

⁵⁰Ejiofor, C. "List: 47 High Rank Officers Retired by Nigerian Army." (12.6.2016)

<https://www.legit.ng/857439-list-41-high-rank-officers-retired-nigerian-army-latest-exercise.html>

Retrieved 18.6.2016

⁵¹Sanni, K. "Nigeria: Anti-Corruption Groups Demand Probe of Stolen 'Billions' By Soldiers." *Premium Times*. 2019.

<https://www.premiumtimesng.com/news/top-news/342019-anti-corruption-groups-demand-probe-of-stolen-billions-by-soldiers.html>

- (i) The Firearms Act, LFN 2004, which was promulgated in 1959, should be amended to incorporate modern-day international best practices. For instance, the provisions of Section 12 of the Fire Arms Act, 2004, and Sections 7 and 42 of the Regulation should be amended to specifically require that the year and country of manufacture of firearms be properly as stipulated by Article 18 of the ECOWAS Convention. The purpose of Article 18 is to facilitate the easy tracing of weapons internationally and the relevant section in Nigeria's laws, in their present form do not specifically mandate that such marking be made.
- (ii) The Firearms Act, LFN 2004, which is the extant legislation on firearms and related matters should be amended to provide for the establishment of a National Commission on Small Arms and Light Weapons. A bill recommending a National Commission on Small Arms and Light Weapons in Nigeria passed the second reading on the floor of the House of Representatives in 2018 but appeared to have been abandoned.⁵² The National Commission, when created, should evolve a National Plan of Action, which is broad enough to foresee the carrying out of a nationwide census and registration of small arms dealers, local manufacturers, brokers, and intermediaries.
- (iii) A new method of marking and tracing firearms should be stipulated in the

⁵²Emejo, J. "Bill to Establish Commission on Small Arms Proliferation Passes Second Reading." *Thisday*. 31.5.2018

<https://www.thisdaylive.com/index.php/2018/05/31/bill-to-establish-commission-on-small-arms-proliferation-passes-second-reading/>

Firearms Act. The proposed National Commission should ensure that manufacturers in Nigeria and DICON follow strictly the new method. The new method should be in accordance with the 21st-century movement from metal to polymer and 3D printed weapons. A unique marking should be applied to an essential or structural component of the firearm, on an exposed surface, conspicuous, recognizable, readable, and durable and as far as technically possible, recoverable. At the time of the manufacture of the weapon, the name of the manufacturer and the country it was manufactured should be marked on the weapon along with the year, month, serial number, and firearm type. After manufacture, importation and exportation marks should be made from the country it was exported from or imported to. When in possession of government and security forces, it should be marked with a specific armory number, either government or state, with the date of entry into the armory and the date of its release into a different armory or civilian possession. Firearms without proper marking should be marked or properly destroyed. Databases of properly marked guns can be used to trace weapons and cut the sources of the smuggling chain, and punitive measures can be implemented. Armories without proper databases and marking methods should be prohibited from seizing and possessing weapons until their databases are corrected and established with appropriate marking methods.

- (iv) The government should adopt policy and orientation shifts that are capable of reversing the deteriorating general standard of living of the people in terms

of access to food, education, health care, housing, security, potable water, and high life expectancy, etc. The government should also provide gainful employment, educational facilities, medical care, good roads, electricity, and other basic amenities all across the country. This will also drastically reduce the drive for criminal activities such as armed robbery, kidnapping, burglary etc. The reduction in the commission of these crimes would mean a reduction in the demand for small arms and light weapons which are the tools of choice for criminals.

- (v) The three arms of government in Nigeria should work together to revamp the legal framework for fighting corruption in Nigeria. The minimum jail term for the commission of the offense of corruption should be twenty-five years. Corruption remains the main reason for the unequal distribution of the nation's wealth. The dissatisfaction that arises from uneven distribution of the nation's wealth will be eliminated thereby minimizing the crime rate in the country.