

BOKO HARAM: NIGERIA'S EXTRA-JUDICIAL STATE

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ABSTRACT

The form and character of Nigeria's state vis-à-vis extra-judicial killings is the thrust of this paper. The fall out arising from the recent *Boko Haram* crisis that resulted into the loss of lives and properties with displacement of hundreds of citizens no doubt deserves in-depth study. This paper discovers that major suspects that were given summary execution is not only a sore grape abut, rather potent credence to the claim of authoritarian police bequeathed to the Nigeria's post-colonial state. The paper emphasizes that extra-judicial killing is an infringement of the citizens' rights to life and state violation of international human rights charter of which Nigeria is a signatory. The paper strongly recommends that Nigerian Police must be re-orientated on how best to protect the rights of the citizenry.

Key Words: Extra-Judicial, Human Rights, State, Right to Life, Democracy.

INTRODUCTION

... a world with equal rights is a more just world. It is also a less dangerous world, generally, and one with a more elevated and civilized tone ... (Feinberg, 1973).

The above quotation epitomizes the central argument of this paper, which is to explore the fact that one of the internationally acclaimed barometers for appraising how politically developed and civilized a society is no doubt included the safeguard and protection of the fundamental and inalienable rights of man. These rights mostly civil and political can be itemized as thus:

- right to life;
- right to dignity of a human person;
- right to personal liberty;
- rights to a fair hearing;
- right to private and family life;
- right to freedom of thought, conscience and religion;
- right to freedom of expression and the press;
- right to peaceful assembly and association;
- right to freedom of movement;
- right to freedom from discrimination;
- right to acquire and own immovable property anywhere in Nigeria, and
- right to freedom from compulsory acquisition of property.

(Obey, 2004).

It is imperative to note that these rights, as contained in chapter IV of the 1999 Constitution, are justiciable, meaning that they can be enforced against the state (FGN, 1999).

The new thinking, however, in the extant literature on human rights generally is that observance of the inalienable rights of man is incomplete without strong observance of groups' rights, most especially in a plural and divided society, like Nigeria (Ojo, 2009). Osaghae (1996) reawakened the consciousness of the extant literature on human rights to what he called groups' rights. He averred that in Nigeria and other third world states where different ethnic groups were put together by the colonial authorities to form the new states, protection of groups' rights becomes imperative to stability (Ojo and Azeez, 2007).

Meanwhile, the strength and capability, coupled with political will on the part of Nigerian state to protect the aforementioned rights, came to the fore in July 2009, when scores of people were killed in Bauchi in a gun duel between security forces and a radical Islamist group called *Boko Haram* (*Nigerian Compass*, July 27, 2009:1,8). The sectarian crisis, like a wild fire, spread to Yobe, Kano, Borno, and Katsina states from Bauchi state within a week. The mayhem claimed the lives of scores of soldiers and policemen, hundreds of the sect members, and innocent victims. It also left a displacement of hundreds of citizens (*Sunday Punch*, 2009). In an editorial comment by *The Guardian* entitled "*Boko Haram*:"

Matters Arising”, the last count noted more than 800 persons have been killed and 4,000 made homeless as a result of one week of violent brutalities against perceived enemies of the sect.

In another insightful editorial comment by The Guardian newspaper was:

The police handling of the operation against members of the *Boko Haram* sect has raised issues of human rights. The capture and extra judicial killing of the sect leader, Mohammed Yusuf, his deputy and the suspected financier of the group, Buji Foyi, has brought much criticism in the direction of the police. The Police were rather reckless, shooting at will. Certainly, in upholding the law, the Police must not be seen engaging in jungle tactics (The Guardian, 2009).

From the foregoing, the crux of the matter is the extra judicial killing of the leaders and scores of unidentified others for their suspected involvement in the conflict, which is the focus of this paper. Before we proceed, it is imperative to note that extra-judicial killing is not peculiar to Nigeria or third world countries alone. In a profound study, Gordon (2004) noted that since the outbreak of the second *Intifada*, Israel has dramatically increased the use of extra-judicial executions in its struggle against the Palestinians, killing a total of 150 people within three and a half years. Side-stepping the crucial legal dimension of Israel’s policy of extra-judicial executions, which has been employed in the Occupied Territories and abroad for at least 30 years, is currently being challenged in the Israeli High Court of Justice. Expectedly, Israel’s policy of targeted killings has met with considerable controversy (Gross, 2006). In the same vein, the Yemen attack by the United States of America (USA) and the ‘targeted killings’ by Israeli forces have been castigated by human rights NGOs and some UN bodies as extra-judicial executions (Kretzmen, 2005). The states involved, both developed and developing argue, on the other hand, that the killings were legitimate acts of war carried out as part of the state’s inherent right to self-defence (Kretzmen, 2005).

For an in-depth analysis, this paper has been organized into a number of rubrics. With the above introductory overview, we proceed to conceptualization of human rights without necessarily being definitional. The third part of the paper is devoted to *Boko Haram* phenomenon, which is our case study. A whole section is equally devoted to contemporary cases of extra-judicial killings in Nigeria as empirical evidence of the phenomenon. The concluding part of the paper glaringly brought out the form and character of Nigerian state that is at variance with protection of human rights and groups’ rights too.

The paper, however, infers that despite the presumed democratic virtues of the polity, much still need to be done if the nascent democracy shall be consolidated and Nigeria reckoned with as a civilized society in the comity of nations. We now proceed to conceptualization of human rights, which forms the theoretical anchor for the paper.

ON HUMAN RIGHTS

Human rights are often traced to stoics. Zeno, the founder of the stoic school of thought, propounded the theory of Natural Law, under which human beings were supposed to have natural rights (Khan, 1998). The Greek city states also provide a glimpse of human rights in the form of *isogoria*, (*this implies freedom of speech*), *isonomia* (*means equality before the law*) and *isotamia* (*refers to equal respect for all*), the concept of just and unjust had always existed throughout the civilizations (Evan, 1967; Khan, 1998). It should be noted, however, that the concern with human rights in the world today stems from the perception widely shared with Rousseau that, “man, though born free, is everywhere in chains” (Dominguez, 1979). With globalization, increasing awareness, coupled with the preoccupation on how best to safeguard them from rampant violation, have made the term ‘human rights’ a song sung by almost everybody. Yet the contradiction, unclarity, inconsistency confusion, misinterpretation, absurdity, and plain stupidity that pervade notions of human rights are quite telling (Ojo, 2006).

For instance, while the western industrial world tend to define it in terms of political and civil liberties, third world nations seem to focus on the basic needs of food and shelter as a prerequisite for human dignity and, eventually, civil rights. Whenever the Anglo-Saxon and Judeo-Christian civilizations adhered to the centrality of individual rights, as opposed to group rights, the Islamic world, on the other hand, tends to regard individuals as being subordinate parts of the state community. It is however important to note that in a supposedly secular state like Nigeria, Islamic perception of subordination of individual rights to the state is improper it is for this reason that such act resulted into national crisis when Zamfara state introduced Sharia – Islamic legal system before a number of states in the North joined the fray. Also, polyarchical systems place emphasis on political freedom, while socialist systems choose to accentuate social and economic equality (Osaghae, 1992). In essence, defining human rights in the narrow terms of civil liberties would not be acceptable to societies striving for social equality or the satisfaction of basic needs. By the same token, any definition of human rights, devoid of concern

with political freedom, will not be viewed as legitimate, in the context of industrial western societies (Ojo, 2000).

In a perceptive work, Irele (1998) makes a clear distinction between legal and moral rights. The former types of rights are clearly stated in the legal system, while the latter category of rights is not. They are referred to as ideal rights. The most important class of ideal, or moral rights, is that of human rights. Be that as it may, human rights are also held to be absolute. What this means is that they are inalienable and universal. But at times, absoluteness could be referring to some additional features which can be interpreted in three ways. Feinberg (1973) claims that the first interpretation could mean that all rights are “unconditionally incumbent within the limits of their well defined scope”. The second interpretation of absoluteness means that all those parties involved in the implementation of human rights should “do their best” for the values involved in human rights. They are “ideal directives” to the parties that would implement their ideal rights; that they should be honored in all circumstances. The last interpretation of absoluteness is the strongest; that human rights should be honored, without exceptions, most especially right to life, which frowns at extra-judicial killings.

This section will be incomplete without alluding to human rights observance in pre-colonial Africa. In an all time work, entitled “Human Rights in Africa”, Baye (1982) argues that, “the idea of right to life existed generally in Africa because ‘Africa traditional beliefs, scrupulously, respects life, even of animals’”. This is reflected in the fact that it is wrong to kill (animals), except in cases of need. In pre-colonial Africa, the society never celebrated violence, war, robbery, rape, stealing, materialism, theft, or sex, the way it happens in our contemporary societies today. A few cases will demonstrate the value of human life and blood. For instance, among the Bantu people of Southern Africa, to carry out mere circumcision on a newborn baby, the earth was propitiated for the little quantity of blood that will thrive on it from the process, it was part of the checks against murder and human wastages. Also, among the Tale of Northern Ghana, the greatest sacrilege against the earth was to shed human blood, even in strife. A very good case of societal abhorrence of life wastage was demonstrated by the Bini (Edo) in 1370 A.D., when they stoned an Oba (their king) to death for ordering the murder of his Prime Minister. Among the Ibos in Nigeria, as shown in Chinua Achebe’s celebrated *Things Fall Apart*, even when a person killed another in error, the offender had to be banished from his town for several years before

their reconciliatory cleansing and compensatory processes followed (Ojo, 2000). With that brief explication of human rights, we now proceed to the *Boko Haram* phenomenon.

THE BOKO HARAM CRISIS

The recent clash between the Islamic fundamentalist organization, popularly known as *Boko Haram*, and the joint patrol team of the Nigerian police, army, and other security operatives in Bauchi state, specifically on Sunday, July 26, 2009, brought to the fore the activities of the groups, which only a few were ever aware of. According to media reports (The Guardian, 2009), *Boko Haram* originated from Maiduguri in Borno state, where it had existed for almost three years and led by 39-year old man called Mohammed Yusuf. ‘*Boko*’ means education, while ‘*Haram*’ means prohibited or forbidden in Islam. The sect, reportedly, has a link with Al-Qaeda and the Talibans of Pakistan. This Islamic fundamentalist has a lot of followers in Borno, Yobe, Kano, and Bauchi states, with few other spread across Gombe, Adamawa, Taraba, and Plateau states (The Guardian, 2009). The main objective of the group appears to be Islamizing the entire country and war against western education, and making the country ungovernable if their aims are not achieved, in the name of religion. Mallam Mohammed Yusuf aptly “represent an extremist muslim clerics or social movements advocating the transformation of Nigeria from an aspiring western-style democracy into an Islamic theocracy” (Suberu, 2009). Adherents were compelled to withdraw from school where they receive formal education, while those who had acquired one certificate or the other were also asked to tear them, rejecting, outrightly, western education. *Boko Haram* disciples were hoodwinked to see anything ‘western’ as evil in all its ramifications.

Within five days of confrontation by *Boko Haram* sect against security agencies, over 750 people were reportedly killed. Police stations, prisons, and government buildings were destroyed, along with churches and mosques. Hundreds of hapless women and children were rendered homeless. This is the fallout of a security offensive to quell the religious violence that broke out on Sunday, July 26, 2009 in Bauchi and quickly spread to Maiduguri, Yobe, Bauchi, and Kano.

The crisis took a dramatic turn when the sect-leader, Mohammed Yusuf, his deputy and the suspected financier of the group, Alhaji Buji Foyi, were, summarily, executed. Foyi’s killing came 24 hours after Yusuf’s execution. Curiously, Foyi was a Commissioner for Religious Affairs during the first term of Governor Ali Modu Sheriff of Borno state. Before then, he had served thrice as Chairman of Kaga Local

Council, among other top public offices in the state (The Guardian, 2009). According to media reports, Foi was arrested in his farm by the operatives of the Operation Flush 11, led by its commander, Colonel Ben Ohanatu, where he, allegedly, camped women suspected to be wives of the sect's members. The former commissioner allegedly used his connection and wealth to provide shelter for the fundamentalists.

As reported exclusively, *The Guardian* newspaper published his picture, shortly before his execution, at about 7.00 a.m. on Friday, July 31, 2009. Foi was shown as being driven on the back of a police patrol van to the Government House by Col. Ohanatu with his hands tied to the back. The troops had planned to show him to the Governor, but when Col. Ohanatu discovered that Governor Sheriff was not in the office, he headed for the headquarters of the Nigerian police and handed him over to the police. He was, thereafter, executed (see, The Guardian, August 1, 2009:1).

It is imperative to note that the summary execution of the two sect leaders attracted no cries, neither from the police authorities nor the state. Curiously, the media, too, reported the execution as if it were normal. The killing of the duo was celebrated, briefly, by the Borno state government. For instance, after the police and military authorities announced the killing of Yusuf, Governor Ali Modu Sheriff made a live broadcast, expressing gratitude to the president and the security agents for containing the violence (Newswatch, 2009). Dora Akunyili, Minister of Information and Communication, had said the death of Yusuf was a relief to the federal government and to Nigerians, describing it as good riddance to bad rubbish (Newswatch, 2009). When Yusuf was pronounced dead, hundreds of jubilating residents of Maiduguri had trooped to the Police station to catch a glimpse of his corpse.

The killing of the duo, which was initially celebrated by the government and security agents as a major breakthrough in curbing the bloody violence from the *Boko Haram* group, has, ironically, now turned out to be a sour grape. The reason for this is as soon as the news broke that the arrested sect leaders of the notorious Islamic sect were killed, human rights activists and amnesty group went to town, condemning the killing of Yusuf and Foi by the police, describing it as another of the numerous cases of extra-judicial killings by the police. No doubt, the police was suspected of hiding evidence. With the summary execution of the sect leaders, whatever information that could have been extracted from the sect leaders through interrogation and investigation has now been lost.

Expectedly, the killing attracted scathing criticisms from human right bodies, amnesty groups, and lawyers. Femi Falana, President of West African Bar Association, WABA, joined the fray by condemning the killing. He noted that it was regretted that, in spite of the ratification of regional and international human rights instruments by the Economic Community of West African States, ECOWAS, and member states human rights violations were still on the increase (Newswatch, 2009).

In a bid to save its face, the federal government ordered a probe into the deadly uprising by members of the Boko Haram sect in the North. The probe, according to the president, would cover the controversial killing of the sect leader Muhammed Yusuf (Nigerian Compass, 2009). The probe panel was headed by the National Security Adviser (NSA), Major General Sarki Muktar, (retired) while identities of other members of the probe panel were not disclosed (The Nation, 2009). In a characteristic manner of Nigerian state, the report of the panel is still being awaited.

No doubt, the police are in a fixed vis-à-vis the extra-judicial killing of the duo, which from all intents and purposes, amounted to infringement of their rights to life (Ojo, 1995). We now turn to the recent cases of extra-judicial killings in Nigeria to buttress the position that Nigeria's post-colonial state is a beleaguered one. This has given room to the nature of police Nigeria has.

STATISTICS OF EXTRA-JUDICIAL KILLINGS

No doubt, Nigeria is a signatory to a number of treaties and declarations, such as the United Nations 1948 Human Rights Declaration and the African Charter on Human and Peoples Rights, popularly known as the Banjul Charter. But the snag is that there are no ways of enforcing the content of these charters and declarations with conventions without infringing on the sovereignty of member states. Not only that, the political heads of these African states that were signatories to these treaties were doing so for political reasons, which were to buy legitimacy in the comity of nations. Deep in their hearts, it is difficult to observe the dictates of the charters, while events, too, have shown that they lack the required commitment to the charters and treaties they signed. Commenting on the signing of the African Charter on Human and People's Rights (Banjul Charters) between 1981 and 1986, Okunade (1997) wrote that "cautions, or qualified optimism, if not outright skepticism, heralded the signing, ratification, and the eventual coming into force of the African charter on Human and People's Rights. The pessimists (which certainly excluded African's political executives) informed by an understanding of the Banjul charter

viewed the African experiment in regional human rights promotion and protection system as potentially ineffective (Eze, 1984; Okunade, 1987; Shivji, 1989; Welch (Jr.), 1991). In view of the lack of efficacy coupled with the inherent weaknesses of these charters and conventions, which are well-known than to be recounted here, makes African leaders want to toy with extra-judicial killings. A number of cases in contemporary Nigerian state suffices to buttress this argument, starting from the popular Apo-six victims, who were, summarily, executed by the police in 2005, to the current Boko Haram sect leaders in 2009; the figure is staggering. This is because almost on a daily basis extra judicial killing takes place in the country.

One case of extra-judicial killing that Nigerians cannot forget in a hurry is that of six Nigerians who were killed by the police in the Apo Area of Abuja - Federal Capital Territory (FCT) - in June 2005 on the pretext that they were armed robbers. The six of them, who were of Igbo extraction, had, on June 7, 2005, gone out to visit friends. They were stopped by the police, while returning home.⁴ An argument ensued over bribe demanded by one of the policemen and Ozor. The policeman shot Ozor, who died on the spot. In a bid to cover the dastardly act, the remaining five occupants were killed by the police at different locations a few hours later. The most pathetic killing was the case of the only female among the six who was strangled to death (Newswatch, 2009). Danjuma Ibrahim was alleged to have killed the victims. The following day, their bodies were paraded before newsmen as armed robbers killed by the police in a shoot-out. But the stiff resistance of other traders at the Apo mechanic village, as well as the determination of the solicitor hired, who was able to prove in court that the victims were extra-judicially killed by the police, exposed the antics of the police force to cover their misdemeanor.

At the end of the sordid saga, the federal government was forced to set up a judicial commission of inquiry, headed by Justice Goodluck Olasumbo, which indicted the police. The commission, which was set-up on June 27, 2005, began sitting on June 29 and rounded up its sitting on August 5, 2005. It submitted its report to the government on August 24, while the government's white paper on the matter was made public on November 9, 2005 (Newswatch, 2009). Broderick Bozimo, who was, then, Minister of Police Affairs, had to formally apologize to the families of the victims on behalf of the federal government. He, also, conveyed to them the government's decision to pay a token of three million Naira to each of the victim's families to assuage their grief. Surprisingly, while the case was going on, one of the six police officers indicted in the killings, Othman Abdulsalam, Chief Superintendent of Police,

escaped from police custody in Abuja. Till date, nothing has been heard of him. The other five police officers were, however, subsequently arraigned before Justice Ishaq Bello of the High Court of FCT on a nine-count charge of criminal conspiracy. The case is still in court, while most of the indicted police officers have been granted bail (Newswatch, 2009).

Sagamu, in Ogun state, recorded her own share of extra-judicial killings in 2008. Funmilayo Abudu, a mother of three children, was shot and killed by the police and her body was later paraded before newsmen as the female head of a 20-member armed robbery gang. A day after the police paraded Abudu's corpse, her employer, Demirs Poultry Farm, identified her as a member of staff and insisted that she was not a robber. On the day she was killed, she was sent to a petrol station to buy fuel for the firm's power generator. Within minutes that her company driver dropped her off at the station, she heard the sound of gun shots between the police and the armed robbers. Abudu hid herself in a swamp from where she telephoned a female colleague to alert the other workers of the gun battle. When she noticed that the sound of gun duel had gone down, Abudu tried to come out of hiding, but that proved deadly as she never lived to tell her story. She was shot dead by the police. Till date, members of her family are still crying for justice (Newswatch, 2009).

In 2008, Modebayo Awosika was allegedly killed by the police and said he was an accident victim. But evidence later confirmed the contrary. The police first said the man died after his car hit a police van and somersaulted several times before catching fire, but later changed the story after an autopsy report showed he died of missile injury (gun shot). The new victim of the police account was that they shot at his vehicle to demobilize it after he failed to stop at a check point. The case is still pending in court. The same year, Abayomi Ogundeji, a journalist was also killed by the police in controversial circumstances in Lagos (Newswatch, 2009).

Furthermore, in 2008, Human Rights Watch conducted on-the-ground research in Jos, Plateau state, on the ethnic violence that rocked the town. The body found out that while most of the deadly inter-communal clashes took place on November 28, the vast majority of killings by the police and military took place the following day after Jonah Jang, the state governor, issued a, "shoot-on-sight" directive to the security forces. Human Rights watch claimed that it documented 118 cases of alleged arbitrary

killings by the security forces that took place between 7.00 a.m. and 1.00 p.m. on November 29, 2008, alone.

In 2007, Izuchukwu Ayogu and Nnaemeka Nwoke, who were students of Nsukka High School, in Nsukka Area of Enugu state were arrested by the police and, later, detained at the Nsukka police station for wandering. When their parents got to know that they were in the police custody in the evening, they went back home to raise money to bail out the boys. But by the time they returned to the station the following day, their whereabouts could no longer be ascertained. After a search party was raised, their remains were found in a shallow grave in a neighboring community. The Civil Liberty Organization (CLO) took up the matter and went to court. The court later convicted 15 police officers, who were connected to the extra-judicial killings of these two young men, and awarded 30 million Naira cost to the parents of the victims. Till date, the police in Nigeria have not paid the N30 million, neither are the indicted police officers serving any jail terms (Newswatch, 2009).

In a report replete with innumerable examples of extra-judicial killings, the Committee for the Defense of Human Rights (CDHR) reckons that innocent Nigerians are killed and maimed, while errant policemen go unpunished. For instance, policemen from the Delta state command beat one business man, named Peter Osimiri, and left him dead in June, 2008, when he refused to pay a 20 Naira bribe at a police checkpoint in Kwale. The policemen who committed the heinous crime, according to the CDHR, are yet to be brought to book (Newswatch, 2009). The police in Nigeria could be characterized as authoritarian. The police also lack legitimacy. The Nigerian police do not enjoy the confidence, respect, and support of the people. Sensitivity, respect, responsiveness, and service are central to effective social control, which the Nigerian police are not capable of. The police, to all intent and purposes, exist to service the state, rather than the people. Conceptually and functionally, though, the police and the government is one and the same thing, and enforcing the law and maintaining order is their responsibility. The police view it as their responsibility to quell and conduct all that threatens order in society, regardless of the justness of the prevailing order (Elechi, 2003).

In Nigeria, getting the actual number of people killed yearly by the police and other security agencies through extra-judicial killings is pretty difficult, simply because of lack of good record keeping. But in an in-depth study, Stone (2007) noted that the police in Nigeria kill hundreds annually and, in recent

years, it has been thousands killed annually. Although some of those killed by the Nigerian police are, undoubtedly, involved in criminal activity, others are merely caught up in chaotic disputes over bribes demanded by the police. However, most of the extra-judicial killings were not reported to the National Human Rights Commission (NHRC). The table below speaks for itself.

Table I
Extra-Judicial Killing Cases Reported to the NHRC on Yearly Basis

Year	No. of Cases Reported
1996	0
1997	6
1998	6
1999	8
2000	17
2001	20
2002	11
2003	6
2004	5
2005	13
2006	7
2007	7
2008	22
Total	128

* **Source:** Compiled by the author from Newswatch, August 24, 2009, Lagos, pp.15&16.

There are a number of reasons why comprehensive list of extra-judicial killings is difficult to come by in Nigeria. First, there is no government institution that is saddled with such a task, while many of the Non-Governmental Organizations (NGOs), also, have only rough estimates which are not sufficiently reliable for empirical analysis. Secondly, most extra-judicial killings are secretly carried out by the police and other security outfits in order to guide against public outcry and accompanied litigations. Thirdly, in view of the low literacy rate in Africa, generally, a lot of people do not know their rights, thereby, resorting to self-help rather than the law when their relations are, summarily, executed, deliberately or inadvertently. For instance, Access to Justice, a Non-Governmental Organization (NGO),

claimed that more than 8,000 Nigerians have been killed through extra-judicial killings in the past eight years (Newswatch, 2009). This is still a matter of conjecture that is not supported by figures.

At this juncture, it is imperative to note that one of the twin pillars of natural justice requires that a person must be heard before any punitive measure can be taken against him. *Audi alterem patten* is a legal phrase which means “hear the other party”. In essence, extra-judicial killings, no doubt, are antithetical to this principle. Victims of extra-judicial killings were denied that right of being heard. This, no doubt, is a glaring infringement of their right to life (Ojo, 1995). Whereas, the fundamental human rights of every citizen are amply recognized in, virtually, every local and international legal instruments on human rights. Indeed, section 36:1 of Nigeria’s 1999 constitution provides that “a person shall be entitled to fair hearing within a reasonable time by a court or other tribunal established by law and constituted in such a manner as to ensure it, independence and impartiality” (FGN, 1999 Constitution). Again, section 36:5 provides that “every person who is charged with a criminal offense shall be presumed innocent until he is proven guilty”. In a nutshell, extra-judicial killing is contrary to the proclamation of the Nigerian constitution and the international law that all suspects have the right to be presumed innocent until proven guilty by a court of law (Elechi, 2003). At the global level, article 3 of the Universal Declaration of Human Rights states, emphatically, that, “everyone has the right to life, liberty, and security of persons” (Khan, 1998).

The Committee for the Defense of Human Rights (CDHR), in its 2000 report, noted that the group had hoped that with the return to democratic rule on May 29, 1999 that, “there would be a reduction in extra-judicial killings in Nigeria, but, rather surprisingly, there was an increase in incidences”. The Human Rights Violations and Investigations Commission (HRVIC), also known as the Oputa Panel, had, in the course of its sitting in 1999, condemned the rate at which the police was engrossed in extra-judicial killings. Chukwudifu Oputa, a retired Supreme Court Justice, noted that of all the petitions before it, the human rights violations, perpetrated by the police and other security agencies, ranked the highest. The panel said it was worrisome that those who were saddled with the responsibility of protecting the law and defending the constitution were the greatest abusers and violators of legal codes. The panel was established by former President Olusegun Obasanjo in 1999 to investigate human rights abuses during the Nigeria’s three decades of military rule. In spite of the return to civil rule, nothing seems to have changed. The police still kill with impunity. Olasupo Ojo, President, Committee for the Defense of

Human Rights (CDHR), said once a superior police officer gave an order that an armed robbery suspect should be “escorted” or “sent on an errand”, it is euphemism for such a robbery suspect to be killed. He said the tradition, now, is for a robbery suspect to be taken to Special Anti-Robbery Squad (SARS) and be shot in the leg (Newswatch, 2009). Whereas the Police or any of the security agencies do not have any power to punish anybody under the law even if anybody is perceived to have infringed upon any part of the law of the land, the only thing they can do is to arrest such a person, carry out an investigation, submit their report to the Ministry of Justice, which will then institute a charge against such a person for trial under due process according to law, where a fair hearing and a fair trial would be guaranteed. If at the end of the day, the person is adjudged guilty, then the court will pronounce the appropriate punishment (Newswatch, 2009).

It would be recalled that in 2005, the United Nations was so miffed with Nigeria’s human rights records, that it sent a special rapporteur to the country to investigate cases of extra-judicial killings. This was immediately after the Apo-six were killed. Prof. Phillip Alston, special rapporteur of the United Nations Commission on Human Rights on Extra-judicial, summary or arbitrary, executions, in his report, indicted the police. In his words, “unfortunately, many of the ingredients – the false labeling of people as armed robbers, the shooting, the fraudulent placement of weapons, the attempted extortion of the victims’ families...are all too familiar” (Stone, 2007). Alston’s report cited figures, compiled by the Legal Defense and Assistance Project of Nigeria, for the numbers of extra-judicial killings by the police: 997 people in 2003 and 2987 people in 2004. There were 19 prosecutions for these killings in 2003 and none in 2004 (Stone, 2007).

The latest case of extra-judicial killings, which is the thrust of this paper, is the *Boko Haram* leaders that have now rattled the police hierarchy. According to media reports, which published the life photograph of the suspects, when Yusuf, the leader of *Boko Haram*, Islamic fundamentalist group that recently engaged a combined team of military and police in a duel for five days, in six states in the North, was caught, his courage deserted him. He passionately pleaded with his captors to spare his life. The man was, perhaps, afraid that the military men, who led the operation, might give him a lethal treatment. They did not. Rather, they handed him over to the Borno state police command. Ben Ananotu, a Colonel and leader of the military team, told a foreign news agency that his team handed the man over to the police with only a fracture in his left arm. That Yusuf was arrested alive is given credence by a video

clip, showing him being interrogated by some unseen persons (Tell, 2009). Reports say that Yusuf was still in panic when he arrived at the headquarters of the Borno State Police Command. He was said to have asked policemen present to pray for him. The speculation is that, perhaps enraged by the death of some policemen in the hands of Yusuf's men; rather than pray for that sect leader, the police killed the man to avenge the death of their colleagues. That is not official. The official version is that Yusuf died during a gun fight with security agents. While the police force was struggling to debunk charges of a cover up, it came under fresh attack. This time, for allegedly killing Fugu Mohammed, Yusuf's father-in-law, Babakura Mohammed, eldest son of the deceased, said the man was killed, despite voluntarily reporting to the Police after he was declared wanted. The problem with extra-judicial killing is that if, truly, Yusuf was handed to the Police alive, why would they kill someone who would have given some useful information on the structure, operations, and targets of his sect? (Tell, 2009).

As if to lend greater credence to the empirical claim of the frequency of extra judicial killings, *The Nation* (2009), reported a police killing of an undergraduate of the Lagos State University, Mr. Michael Egwu, at FESTAC, Lagos. According to the media report, the incident occurred when the victim refused to give policemen a N20.00 bribe. Police spokesman, Frank Mba, confirmed the incident, describing it as unfortunate. Mba said the cop who pulled the trigger had been arrested and the case, was referred to the State Criminal Investigation Department (CID), Panti, Yaba for investigation. He said the State Police Command had sent a delegation to commiserate with the deceased family, adding that the police would not condone acts capable of tarnishing its image. Mba added that if the policeman, who pulled the trigger, did not adhere to the "rules of engagement", he will be prosecuted. But the fact still remains that not many of them, in the past, were so prosecuted because of *esprit de corps* coupled with pervasive corruption.

CONCLUDING REMARKS

Despite transition to civilian rule from military autocracy and absolutism, on May 29, 1999 (Onyegbula, 2001; Ojo, 2008), Nigeria's post colonial state still approximates to what Alexander Groth (1971) refers to as a "non-state", where the community is left to the fancies, whims, and caprices of "lawless predators". The state is sometimes, "more or less arbitrary of its treatment of people (Groth, 1971). Rather than observance of the rule of law, the character and behavior of the state conforms to the temperament of those who control the state edifice (Amuwo, 1993). This is not connected with the hang-

over of the colonial state, which was equally dictatorial, which dove-tailed into successive military dictatorships (Ojo, 2009a). The current democratic experiment, since 1999, is yet to sufficiently put off the toga of authoritarianism, not only in terms of abuse of the inalienable rights of man, but also that of groups' rights as obtained in Odi and Zaki-Biam, which was glaring manifestation of state abjection during the administration of Chief Olusegun Obasanjo, between 1999 and 2007 (see, Ojo, 2009b).

To, perhaps, alter the tendency and disposition of the state vis-à-vis human rights positively, state institutions must be animated so that they can be alive to their responsibilities, while civil society organizations equally need to be galvanized in monitoring abuse of human rights and, above all, mounting sufficient campaign to enlighten masses of the people about their inalienable rights. The greatest danger is for considerable number of people not to be aware of their rights. In the same vein, the Nigeria Police also need to be re-orientated to imbibe the virtues of human rights, while dealing with suspects. This becomes necessary, as duly observed by Stone (2007), that police still kill thousands of people every year and use less lethal force against tens of thousands more, but the impunity with which they did so a generation ago, in almost all parts of the world, is receding. Nigeria should, therefore, not be an exception. The judiciary, equally, needs to be harder on the police when suspects are prosecuted, more so when there is a need to discard with evidences and exhibits extracted from suspects under duress which is too common with the Nigerian Police. In criminal cases, most of the suspects went through torture, while the police would claim such suspects made confessional statements.

REFERENCES

Amuwo, K., (1993:87-98), "Transition Planning in Nigeria: A Critique of the Military-Civil Transiting Variant", Africa Development, Vol. 18, No.1.

Dominguez, I.J., (1979), *Enhancing Global Human Rights*, McGraw Hill Book Company, New York.

Elechi, O.O., (2003), "Extra-Judicial Killings in Nigeria – The Case of Afikpo town", being a paper presented to the 17th International Conference of the International Society for the Reform of Criminal Law, the Hague, Netherlands, (24-28 August).

Evan, L., (1967), *The International Protection of Human Rights*, Englewood, Cliffs, N.J. Prentice Hall.

Eze, O., (1984), *Human Rights in Africa: Some Selected Problems*. Lagos, Macmillan, Nigeria Publishers Limited.

Federal Government of Nigeria (1999), *The Constitution of the Federal Republic of Nigeria – 1999*, Government Press, Lagos.

Feinberg, J., (1973). *Social Philosophy*, Englewood Cliffs, New Jersey, Prentice Hall.

Gordon, N., (2004), “rationalizing Extra-Judicial Executions: the Israeli Press and the Legitimation of Abuse”, *International Journal of Human Rights*, Vol. 8 No. 3.

Gross, M.L., (2006), “Assassination and targeted Killing: Law Enforcement, Execution or Self-Defence?”, *Journal of Applied Philosophy*, Vol. 23 No. 3.

Groth, A.J., (1971), *Comparative Politics. A Distributive Approach*, New York. The Macmillan Company.

Irele, D., (1998), *Introduction to Political Philosophy*, Ibadan University Press, Ibadan, Nigeria.

Khan, M.M., (1998), “Human Rights: Myth and Reality”, *Indian Journal of Politics*, Vol. XXXII, Nos. 1-2.

Kretzmer, D., (2005), “Targeted Killing of suspected Terrorists: Extra-Judicial Executions or Legitimate Means of Defence?”, *the European Journal of international Law*, vol. 16 No. 2.

M’Baye, K., (1982), “Human Rights in Africa”, in *The International Dimension of Human Rights*, Paris, UNESCO.

Nigerian Compass, (2009), News item, July 27, Isheri, Lagos.

Nigerian Compass, (2009), News item, August 5, Isheri, Nigeria.

Newswatch, (2009), August 17, Lagos, Nigeria.

Newswatch, (2009), August 24, Lagos, Nigeria.

Obey, A., (2004), “Citizenship, Individual Rights and the Nigerian Constitution” in Adigun A.B. Agbaje, Larry Diamond and Ebere Onwudiwe (eds), *Nigeria’s struggle for Democracy and Good Governance*, Ibadan University Press, Ibadan, Nigeria.

Ojo, E. O., (1995), “The Right to Life”, in *Third Eye Daily*, Ibadan, Nigeria (26th July), Nigeria.

Ojo, E.O., (2000), *The Rights of the Citizens in the 21st Century Nigeria: A Comment*”, being a paper presented to National Conference on the theme: “The Nigerian Citizen in the 21st Century”, organized by the National Association of Social Studies Educationists, held between 10th-13th May, 2000 at the University of Ilorin, Nigeria.

Ojo, E.O., (2006), “Human Rights and Sustainable Democracy in Nigeria (1999-2003)”, *Journal of Social Sciences*, Vol. 13, No.1, Delhi, India.

Ojo, E.O., (2008), “Imperatives of Sustaining Democratic Values”, in Ojo, E.O. (ed), *Challenges of Sustainable Democracy in Nigeria*, John Archers (publishers) Limited, Ibadan, Nigeria.

Ojo, E.O., (2009a), "Guarding the 'Guardian': A Prognosis of Panacea for Evolving Stable Civil-Military Relations in Nigeria", *Armed Forces and Society*, Vol. 35, No.4.

Ojo, E.O., (2009a), *Mechanisms of National Integration in a Multi-Ethnic OFederal State: The Nigerian Experience*, John Archers (Publishers) Limited, Ibadan.

Ojo, E.O., (2009b), "New Missions and Roles of the Military Forces: The Blurring of Military and Police Roles in Nigeria", *Journal of Military and Strategic Studies*, Fall and Winter, 2008/9, Vol. II, Issues 1 and 2.

Ojo, E.O., and Azeez, A. (2007), "Mechanism for the Safeguard of Human Rights in Nigeria's Nascent Democracy: Lessons from the Past", *Indian Journal of Politics*, Vol. XLK Nos. 1&2 (Jan.-June).

Okunade, B., (1987), "A Critique of the Banjul Charter on Human and People's Rights", *Plural Societies*, Vol. XVII, No.1 (May).

Okunade, B., (1997), "The African Commission on Humana Rights and People's Rights and Human Rights in Africa: The Way Forward", *African Notes*, Vol. 21, Nos 1&2.

Onyegbula, S., (2001), "The Human Rights Situation in Nigeria Since the Democratic Dispensation", in *Development Policy Management Network Bulletin*, Vol. XIII No. 3.

Osaghae, E.E., (1992), "Ethnicity and Democracy", in Ayo Fasuro (ed.). *Understanding Democracy*, Bookcraft Limited, Ibadan, Nigeria.

Osaghae, E.E., (1996), "Human Rights and Ethnic Conflict Management: The case of Nigeria", *Journal of Peace Research*, Vol. 33, No. 2 (May).

Shivji, I.G., (1989), *The Concept of Human Rights in Africa*, CODESRA publication, Dakar.

Stone, C., (2007), "Tracing Police Accountability in Theory and Practice", *Theoretical Criminology*, Vol. 11 No. 2.

Suberu, R.T., (2009), "Religion and Institutions: Federalism and the Management of Conflicts over Sharia in Nigeria", *Journal of International Development*, Vol. 21 (published on-line 9th March).

Sunday Punch, (2009), News item, August 2, Lagos, Nigeria.

The Guardian, (2009), "Boko Haram: Mattters Arising" (Editorial Comment), August 11, Lagos, Nigeria.

The Guardian, (2009), News item, August 1, Lagos.

The Guardian, (2009), News item, August 5, Lagos.

The Nation, (2009), "Panel Demands Reports in 24 hrs on Sect Leader's Death", August 6, Lagos, Nigeria.

Welch, C.E. (Jr.), (1991), "Promoting Human Rights", *West Africa*, London, 4-10 November.