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ECOWAS Protocol on Free Movement of Persons and Cross-Border Dimensions of Armed Banditry in Nigeria

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Abstract: The dialectics that have led to explosion of free movement of persons within ECOWAS borders largely constitute a new dimension of security threats in the region. The security threats emanating from incessant human migration within the region have predictably distorted security architecture of Nigeria, thereby posing colossal pressures on the Nigerian armed forces, as well as leading to loss of human lives, properties and financial resources. The study investigated how ECOWAS protocol on free movement of persons and porous borders in West African region orchestrate armed banditry in Nigeria. The work

was anchored on Qualitative-Descriptive method of analysis, and ‘inelastic political will’ was adopted as an analytical construct that explains the inability of ECOWAS member governments as well as the Nigerian government to employ sustainable strategies in tackling the ever-changing security threat dimensions within the region. It was revealed that chaotic and explosive cross border migration of persons in West Africa has a relationship with the new dimension of armed banditry in Nigeria. The study recommended that the ECOWAS framework that promotes free movement of people is to be reviewed and amended to address current security crises in the region. Also, there is need for the Nigerian government to reinforce a viable and strong diplomatic tie with the neighbouring countries such as Benin, Chat, Niger and Cameroon regarding border infrastructure development and security enhancement mechanisms to cover ungoverned spaces in the Chad Basin Region.

Keywords: Porous Borders, ECOWAS Protocol, Human Movement, Armed Banditry, Kidnapping, Armed Robbery, transnational crime

Introduction

The ECOWAS Protocol on Free Movement of Persons, Residence and Establishment encourages ECOWAS member states to remove obstacles to free movement of persons, services and capital (ECOWAS, 1979). The establishment of ECOWAS in 1975 by the newly independent states within the sub-region was made manifest by virtually autocratic governments, Nigeria inclusive. The emergence of these new states in African region gave rise to what seemed to be new socio-political and economic challenges that confronted the continent. For years, dealing with historical contradictions in African nations have more or less remained problematic. Empirical studies have shown that there have been acute internal human security crises bedevilling national economies especially in the post-cold war African states and beyond. Obikaeze and Ifeanyiichukwu (2016), argue that the pervasiveness of terrorism, intra-state conflicts and transnational

crime has continued to pose a colossal threat to global peace and security in the post-cold war world order.

In strict terms, the exacerbation of humanitarian crisis in West African sub-region has often attracted public discourses especially in the 21st century where domestic problems trigger cross-border human migration. As push-pull theory argues that possible negative phenomenal situations are likely to drive people out from their original inhabitations to more human security friendly environment(s). For instance, governance deficits in virtually all the ECOWAS member states have remained one of the explanatory factors sabotaging the architectural structure of effective and efficient management of available scarce resources. Hence, unemployment, poverty and hunger; pervasive internal conflicts; the emergence of violent non-state actors; insecurity of lives; as well as the struggle for survival have affected peace and security. For instance, political tension, terrorism and wars have forced people to move within countries or

abroad in search of basic safety and security (Adepoju, 2008). Sadly, creating escape route to challenges remains far-fetched, unofficial movement of people continues to grow astronomically within ECOWAS.

Population explosion in Africa and West Africa in particular left much to be desired. Africa is projected to have the largest population growth of any geographical region by 2050, which, perhaps have far-reaching consequences for international migration regime, and major implications for the continent's economic development (United Nations Conference on Trade and Development (UNCTAD, 2018). Specifically, internal human migration in ECOWAS has posed further human security challenges in the entire region. Sadly, inadequate border security system in West Africa has led to immense unofficial movement of persons within outside the region. For instance, in 2015, 52% (18 million) of the 34 million Africa-born migrants lived within Africa (United Nations, 2015). In 2016, Gonzalez-Garcia et al. (2016) state that Côte d'Ivoire, South Africa and Nigeria are the leading destination countries hosting 2.3, 2 and 0.9 million African migrants respectively. Today, it is a fact that human migration trend remains in the upward curve due to internal contradictions in ECOWAS member states.

Confronted with security threats and instability in West Africa, it seems that inadequate political attention has not been given by ECOWAS member states to effectively and sustainably review the community's migration Protocol and institutionalise policy frameworks that gear towards providing lasting solutions to trans-national organised crime in the region. Aside this, it appears that the

behavioural governance patterns in Nigeria have demonstrated 'inelastic political will' in its policy and legislative framework towards protecting the Nigerian borders and its citizenry. This study, in this regard, is generally aimed at investigating how cross-border movement of people in ECOWAS has posed a security threat to Nigeria. Specifically, this study is poised to examine the nexus between unregulated human migration orchestrated by porous borders and armed banditry in Nigeria. Hence, armed robbery and kidnapping are proxies for armed banditry in this study.

Conceptualising Organised Transnational Crimes

Organised crime has been identified as a major threat to West African economies and politics as well as global peace (Koroma, Diallo, Gueye and Ikoh, 2013). Transnational organised crime has continued to remain an issue of global concern, and a major security threat in West Africa. There are many forms of transnational organized crime perpetrated in Africa – from human, drug, and wildlife trafficking to natural resource theft and poaching; piracy; and smuggling of licit and counterfeit goods (Africa Center for Strategic Studies, 2020). Although, there is no generally accepted definition of organized crime, a number of illegal activities conducted by organized groups or networks of people over time and for profit are considered to be organised crimes (Shaw, 2017). The United Nations Convention against Transnational Organized Crime (the Palermo Convention), defines transnational organized crime as 'a structured group of three or more persons, existing for a period of time and acting in

concert with the aim of committing one or more serious crimes or offenses ... in order to obtain, directly or indirectly, a financial or other material benefit' (United Nations Office on Drugs and Crime-UNODC, 2004). The term 'structured group' currently seems to be overtaken by the new dimension of transnational organised crimes. Briscoe, Perdomo and Uribe Burcher (2014) argue that the new structures of these groups tend to be diffuse, informal and horizontal, so the notion of networks (rather than structured groups) is increasingly gaining traction. By and large, group networks (structured or unstructured) have an international operation, organized crime is considered 'transnational' (Dordevic, 2009). Simply put, organized crime becomes transnational when networked activities cut across official territorial boundary.

Regardless of the perspective organised transnational crime is understood, the bottom line is that the problems it has caused West Africa, Nigeria inclusive, are manifold, as Bevan, Bosetti, Dawson-Faber, Ford, Izadifar, Leggett, Mayer, Pietschmann, and Phillips (2013) argue that some, like fraudulent medicines, may pose a greater threat to public safety than illicit drugs; others, like firearms trafficking, make violent uprisings possible; and others, like petro-piracy, could blossom to become much greater problems than the situation currently reflects. Nonetheless, transnational organised crimes like armed robbery, cattle rustling, kidnapping appear to be overlooked.

Theoretical Perspective

This approach interprets borders not as static lines but as multidimensional bordering processes.

Then, territorial borders are explained in their fuller complexity as a form of differentiation separate from the differentiation of functional and symbolic borders.

ECOWAS Framework on Free Movement of Persons, Residence and Establishment

The ECOWAS Protocol that supports Free Movement of Persons, Residence and Establishment was established in ECOWAS Treaty which encourages ECOWAS member states to abolish obstacles to free movement of persons, services and capital (ECOWAS, 1979). In line with African Union (AU) migration framework, the protocol expressly supports migration of people within the sub-region. Specifically, ECOWAS protocol is generally aimed at ensuring free movement of ECOWAS citizens from their countries of origin to other parts of ECOWAS without hindrances. To achieve this, the protocol attempted at abolishing any form of migration obstacles within ECOWAS by making emphasis on the right of residence and establishment. By and large, there are three-phased approach in achieving this, namely; (i) the right of entry and abolition of visas; (ii) the right of residence; and (iii) the right of establishment. In fact, the establishment of ECOWAS in 1975 was aimed mainly to unify West African countries as an economic community. To achieve this, certain policy frameworks were put in place by the 16 sovereign member states of ECOWAS, namely Benin, Burkina Faso, Cape Verde, Côte d'Ivoire, The Gambia, Ghana, Guinea, Guinea-Bissau, Liberia, Mali, Niger, Nigeria, Senegal, Sierra Leone and Togo.

The free movement of persons of member states are promoted as an agenda for economic cooperation and regional integration. Thus, borders within ECOWAS are relatively porous, thereby posing a security threat.

According to the protocol, any citizen of ECOWAS who holds a valid travel document and international health certificate can visit another member state for up to 90 days under the free visa requirement. To facilitate the free movement of people, the protocol also includes movement of vehicles for the transportation of persons. Accordingly, private vehicles are allowed to enter the territory of another member state and remain for a maximum of 90 days, if the following is provided: valid driver's licence, ownership certificate and insurance policy, and an international customs carnet recognised in the community. Commercial vehicles are allowed to enter the territory of another member state for a maximum of 15 days and all the documents stated under private vehicles must be presented. Commercial vehicles are not allowed to engage in commercial activities while in the territory of a member state other than their own. The protocol also reserves the right of member states to refuse entry to community citizens belonging to the category of inadmissible immigrants (Abebe, 2017).

Accordingly, achieving the above stated protocol as advanced by ECOWAS is predicted on four adopted supplementary protocols namely:

- i. Supplementary Protocol on the Code of Conduct for the Implementation of the Protocol

on Free Movement of Persons, the Right of Residence and Establishment (1985)

- ii. Supplementary Protocol on the Second Phase (Right of Residence) (1986)
- iii. Supplementary Protocol Amending and Complementing the Provisions of Article 7 of the Protocol on Free Movement, Right of Residence and Establishment (1989)
- iv. Supplementary Protocol on the Implementation of the Third Phase (Right to Establishment) (1990).

However, Nigeria's involvement in the establishment of ECOWAS in 1975 has been a major development in integrating West African countries. Various protocols have been instituted and all countries have ratified the protocols but the ECOWAS protocol on free movement of Persons and the Right of Residence and Establishment has caused widespread condemnation owing to embedded challenges. The protocol allows easy movement of people from one place to another without difficulties but through this, people easily carry with them weapons, drugs, and on getting to their destinations, cause havocs. It gives room for establishment of companies and citizens can live peacefully without any problem. The essence of the protocol is to improve the relationship that exists between West African countries in terms of trade, commerce, politics, and social events among others. However, it has been argued that the protocol has adverse effect apart from creating a free room for

movement, criminals have availed themselves of this initiative to perpetrate their nefarious activities (Mobolaji & Alabi, 2017). These have a lot of implications for the security of the sub-region. There has been a threat to security of lives and properties as weapons are readily available as a result of the proliferation of small arms and light weapons through ECOWAS borders (Opanike, 2015).

Porous Borders in ECOWAS and Cross Border Armed Banditry in Nigeria

In recent years, international criminal organizations (ICOs) in West Africa, or perpetrated by West Africans elsewhere in the world, have become a matter of major international concern (Ezeanyika and Ubah, 2012). Perhaps, the criminality is most noticeable in the areas of armed robbery, drug-trafficking, human-trafficking and fraud, and, there is internationalisation of armed banditry particularly in Nigeria. It was alleged that some criminal gangs in northern Nigeria have included demobilized ex-combatant groups from neighbouring countries (Vines, 2004). In Sierra Leone too, demobilized fighters are recorded as forming armed gangs such as the West Side Boys who may possibly receive fire arms from the regular armed forces. This is also the case with the Guinea-Bissauans, Liberians, Sierra Leoneans, and Senegalese gendarmerie reports groups of up to 15, armed with automatic weapons, involved in trans-border criminal activities (Ezeanyika and Ubah, 2012). This takes place in Casamance but also close to the northern borders with Mali and Mauritania. These transnational

criminal groups are involved in cattle-rustling, smuggling and armed robbery etc. For example, between 2000 and 2003, the Senegalese authorities, prosecuted 2,400 members of crime groups, 1,500 charged with armed robbery, 600 with cattle rustling, and 300 for smuggling (Niang, 2004). In Benin, there also a multinational criminal gang Hamani Tidjani that specializes in car-jacking and car theft in several West African countries, as well as Nigeria-based oil bunkering syndicates that are highly international, including but not limited to Moroccans, Venezuelans, Lebanese, French and Russians (Ezeanyika and Ubah, 2012). In fact, oil bunkering is another notorious pattern of transnational organized crime in recent years, and has been a colossal threat to socio-economic and security environment in Nigeria. Of course, it suffices to know that illegal firearms trafficking has also posed enormous threats to Nigeria's national security, and has undoubtedly fuelled ethnic/religious armed conflicts as well as armed robbery in Nigeria. This scenario has resulted to monumental security challenges with far-reaching implications. Firearms trafficking is believed to have close relationship with armed robbery perpetrated by holders in possession of illicit arms.

The global drug trafficking market was worth US\$426 billion to \$652 billion in 2014. It represents about one-third of the total retail value of the transnational crimes. This market was worth US\$1.7 billion to \$3.5 billion in 2014, which represents 10 to 20 percent of the legal arms trade. Twenty-one million men, women, and children around the world are currently thought to be victims of human trafficking, which the

International Labour Organization estimates generates US\$150.2 billion in profits each year. The Asia-Pacific region is responsible for US\$51.8 billion of this market, with around 11.7 million victims. Developed Economies and the European Union is responsible for another third of the market value with US\$46.9 billion, even though there are “only” 1.5 million victims, one-eighth as many as the Asia-Pacific region. Organ trafficking conservatively generates approximately US\$840 million to \$1.7 billion annually from around 12,000 illegal transplants. This estimate comprises the “sales” of the top five organs: kidney, liver, heart, lung, and pancreas. Crude oil theft is estimated to be worth at least US\$5.2 billion to US\$11.9 billion annually as of 2015. However, this only includes data from six countries: Colombia, Indonesia, Mexico, Syria, Russia, and Nigeria, all of which have high levels of theft as well as available statistics. Nigeria has in recent years been the epicenter of worldwide crude oil theft (May and Clough, 2017)

Trans-border armed robbery activities have severally been reported in Nigeria, and the robbers take advantage of the porous borders to specialize in the theft of cars (Koroma, Diallo, Gueye and Ikoh, 2013). In Benin, armed bandits usually target government vehicles used to convey staff salaries.

In a report by the UNODC, some criminal gangs in Nigeria which include ex-combatants from the neighbouring countries engage in highway robbery and dispossess Nigerians of their expensive cars, and then move across the border to Niger or Chad where the vehicles are either dismantled and sold as spare parts or wholly sold to unsuspecting customers. Nigerians also suffered from

the activities of Hammani Tidjani's criminal gang from the Republic of Benin. Tidjani and his gang specialized in car-jacking and theft. The gang would move into Nigeria in a convoy and rob Nigerians of their cars and thereafter move back to their base in Benin. For several years, the gang operated unhindered because of collaboration with security officials in Benin Republic. Before Tidjani, there was another trans-border armed robbery gang led by Shina Rambo who also had his operation base in Benin Republic (Koroma, Diallo, Gueye and Ikoh, 2013).

The challenge of piracy and maritime insecurity in the Gulf of Guinea threatens Nigeria's national security as well as regional stability (Adetula, 2015). In this regard, as advanced by the author, Nigeria has shown commitment to working with other countries within the West African sub-region to address the menace of transnational criminality including smuggling, human trafficking and cross-border banditry. He further maintains that it is observed that the Nigeria's security agencies have been grappling with the incidents of arms smuggling, armed banditry and human trafficking along the country's 773-kilometre (460-mile) Cotonou-Badagry road. However, Adetula (2015) submits that:

While the collective efforts of Nigeria and other West and Central African states at combating transnational organised crime and the spread of terrorism are yielding some gains, lack of political will, bad governance, and poorly equipped and motivated military and security agencies, coupled with other problems such as the porosity of borders and non-involvement

of the people continue to inhibit real progress. For example, some of the regional initiatives towards curbing transnational criminality and addressing security threats are lacking the required financial resources.

According to Eme (2018), the prevalent view, however, is that it stems from a multiplicity of sources which aggregate to a complex dimension of no love lost amongst the security agencies. The escalating incidences of clashes amongst these security agencies in Nigeria pose the complex question of who guards the guards. This stems from the fact that while the security agencies paradoxically abdicate their statutory responsibility of securing life and property to dissipating their professional skills and material resources in prosecuting debilitating acrimonious rancour, the society that depends so much on them is invariably exposed to the vagaries of security threats (Eme, 2018). Beyond this very deficiency, there appears to be obvious lack of 'political will' by politicians to face the challenges posed by Nigeria's porous borders serious. Corruption and other primordial variables have remained factors sabotaging security of Nigeria, especially in the areas of trans-border organised armed banditry, human and arms trafficking, oil bunkering, piracy etc.

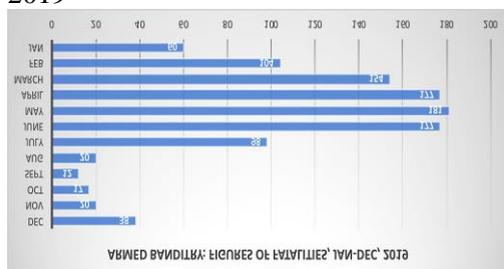
Crime overtook political and religious issues as the most important cause of lethal violence in Nigeria in 2018, with 3,425 fatalities recorded in 1,191 incidents (Nigeria Watch, 2018). Zamfara state was most hit with fatalities from lethal criminal incidents as it recorded 896 victims, seconded by Kaduna state with 262 casualties. Both

states are from the North-West region which has largely been ravaged by banditry and cattle rustling. Lagos state came third in the ranking with 225 fatalities as it witnessed numerous incidents of cultism, domestic violence, hooliganism and extra-judicial killings. States with the least lethal crime incidents included Yobe, Borno and Gombe states, all in the North East. Other causes of lethal violence in 2018 included land issues (2,106 fatalities), cattle grazing (1,867 fatalities) and road accidents (1,302 fatalities).

Largely, the rate of trans-border crime in ECOWAS has arguably taken the place of political and religious issues as major cause of violent death in Nigeria. Kidnapping, cultism, and armed robbery have remained a threat to peace and security across the 36 states of Nigeria. Out of 3,425 fatalities caused by criminal incidents, banditry resulted in 930 across 15 states, with Zamfara (714) and Kaduna (100) states accounting for over half of the total (Nigeria Watch, 2018). The situation in Zamfara and other northern state have defied government's efforts to overcome. In the Nigerian government efforts to combat armed banditry, it drafted Special Armed Forces which provided alternative means of fighting crimes. In 2018, there was special security formation outfit which jointly combined various security providing services including the Nigerian Army, the Nigerian Air Force, the Nigerian Navy. Also, the State Security Service, the Nigeria Police and the Nigerian Security and Civil Defence Corps to combat banditry especially in Zamfara which the study classifies as crime zone state.

Figure 4: Armed Banditry in Nigeria: Figures of Fatalities (January-December

2019



The situation is further exacerbated by the existence of largely unregulated borders and ungoverned spaces in the region. For instance, border areas between Nigeria and neighbouring countries such as Chad, Niger, Cameroon, and Benin are evidently under-policed. Obviously, the porous nature of these borders serves as veritable aid to cross-border movement of criminals. Further, has been argued that illicit small fire arms from post-Gadhafi Libya and other parts of the Maghreb and the Sahel regions have found their ways into ECOWAS through the porous borders exploited by criminal syndicates.

Conclusion

The dialectics of human migration, new dimension of security threats and the attendant synthetic approaches by the ECOWAS as well as Nigerian government have pointed to “inelastic political will” of both regional and national governments to sustainably tackle cross border crimes. The phenomenal diversities and complexities of West African region in the post-colonial era are quite worrisome. The region has for decades experienced trinity of military incursions, civil wars and institutionalised corruption. In this regard, Bauer and Taylor (2005) noted

that West Africa, a region that has seen more than its share of tragedy and upheaval in four decades of independence, and a historically volatile region. Today, in this 21st century, the free movement of persons across national borders as promoted by ECOWAS Protocol has more or less been a phenomenon that has continued to impact on the security architecture and composition of the different ECOWAS member states, Nigeria inclusive. Sadly, Nigeria has in serious terms taken its share of this phenomenon.

In the light of this, the current study has drawn a connection between the porosity of West African borders and the ills of criminal activities in Nigeria. In this study, the impacts of border insecurity in the region have been theoretically and empirically examined and the trends and patterns of human migration investigated. The study reveals that human migration in West Africa has largely led to trans-border crime, thereby posing colossal security challenges through armed banditry. In specifics, kidnapping and armed robbery have become a pervasive trend in Nigeria. For instance, the current criminal activities in the North East and North West in Nigeria and other regional crises are claimed to be as a result of unregulated movement of persons and illegal movement of small fire arms to Nigeria. Although, there are conflicting sentiments on the dimension of armed banditry in the country, there seems to be a consensus agreement among scholars and policy makers that the fragmented bandit groups do not have any form of political interests rather; their individual activities are fundamentally tied to their quest for economic survival through illegal and criminal means.

Recommendations

International relations within ECOWAS region are to some extents cordial and coordinated, though not without some identifiable contradictions. Thus, the relationship that exists among the ECOWAS countries is expected to entrench sustainable security architecture that can withstand both internal and external security challenges. However, the protocol that promotes free movement of persons and materials within the region has in by implication encouraged unofficial and illegal movements of persons through the natural and porous borders in West Africa.

It is within this premise that the study recommends that, considering the volatility of the region it is timely for the ECOWAS members to demonstrate strong political will to redefine ECOWAS framework on the movement of persons within the region. Hence, the Protocol that offers free movement of people is suggested to be amended in a manner that can empower member states of ECOWAS to protect their borders against illegal movements.

In addition, the study suggests that Nigerian government has the option of redefining its relationship and partnership with neighbouring countries in terms of infrastructure development. In this case, there is need for the government of Nigeria to develop a strong tie, through its foreign policy goals, with neighbouring countries such as Benin, Chat, Niger and Cameroon regarding infrastructure development and security enhancement. It is observed that poor infrastructure development facilitates free movement of criminals who move from one country to another. For instance, inadequate security lights at the borders can facilitate unregulated

movement of persons who may attempt to smuggle dangerous weapons and other small arms.

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