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EXAMINING NIGERIAN GOVERNMENT COMMITMENT TO R2P PRINCIPLE IN RELATION TO MILITARY ACTIONS IN THE SOUTH EAST, FOCUSING ON EGWU EKE AND OPERATION UDOKA.

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Abstract: The study examined Nigerian Government Commitment to R2P principle in relation to military actions in the South East, focusing on Egwu Eke and Operation Udoka. The Nigerian military has conducted various operations in the South East region of the country to combat pro-separatist groups such as the Indigenous People of Biafra (IPOB) and the Eastern Security Network (ESN). These operations, including "Operation Python Dance" (Egwu Eke) and "Operation Udoka," have resulted in a significant number of casualties and collateral damage on both sides. There have been allegations that the military operations aim to target prominent supporters of the Biafran struggle. Human rights groups have reported killings and torture of unarmed individuals during these operations. The International Criminal Court (ICC) has initiated an investigation into the September 2017 invasion of a community in Abia State by Nigerian soldiers. The Nigerian government claims that the military operations are necessary to address rising criminal attacks in the region. The study explores the applicability of the United Nations Responsibility to Protect (R2P) principle to protect self-determination proponents in the South East. It suggests that if the Nigerian government fails in its responsibility to protect its citizens, similar to the case of the Rwandan genocide, the United Nations should invoke the R2P doctrine. The study recommends negotiation and/or a referendum as better approaches to address the Biafra agitation rather than a solely kinetic approach by the Nigerian government.

Keywords: Biafra, Nigeria; Insurgency, Self-determination; Rights and Obligations.

Introduction

The South East region of Nigeria has witnessed a series of military actions carried out by the Nigerian army to address the rise of pro-separatist movements, particularly the Indigenous People of Biafra (IPOB) and their military wing, the Eastern Security Network (ESN). Among these military operations, two prominent ones have been "Egwu Eke" (Operation Python Dance) and "Operation Udoka." These operations have generated significant attention and raised concerns regarding their impact on the region, human rights violations, and the overall stability of the area.

"Egwu Eke," which translates to "Operation Python Dance" in Igbo, was initially launched in November 2016 with the objective of addressing security challenges and maintaining law and order in the South East region. This military exercise aimed to counter threats posed by secessionist movements and restore peace. However, subsequent iterations of Egwu Eke were carried out in subsequent years, often under different names such as Exercise Golden Dawn and Operation Udoka, but with similar objectives.

Critics have expressed concerns about the impact of these military operations, citing a high toll of casualties and collateral damage on both sides. Human rights organizations, including the International Society for Civil Liberties and the Rule of Law (Intersociety), have alleged the occurrence of extrajudicial killings, torture, and other human rights abuses during these operations. Such allegations have fueled debates surrounding the legality and proportionality of Nigeria's military actions in the South East.

Moreover, the Nigerian government's response to the pro-separatist movements and its implementation of these military operations have attracted international attention. The International Criminal Court (ICC) launched an investigation into a specific incident in Abia State during one of the military exercises, further highlighting the need for a comprehensive analysis of Nigeria's military actions in the South East.

This analysis aims to delve into the dynamics and implications of Nigeria's military operations in the South East, with a particular focus on Egwu Eke and Operation Udoka. By examining the motivations behind these operations, their impact on the region's security and stability, and the allegations of human rights violations, this study seeks to provide a comprehensive understanding of the complex situation.

Furthermore, this analysis will explore the applicability of international frameworks, such as the United Nations Responsibility to Protect (R2P) principle, in addressing the challenges arising from these military actions. The R2P principle, which asserts that states have a responsibility to protect their populations from mass atrocities, raises questions about the role of the international community, including the United Nations, in safeguarding the rights and well-being of individuals affected by Nigeria's military operations in the South East.

By critically examining the military actions undertaken by the Nigerian army and assessing their compliance with international legal standards, human rights norms, and the potential for alternative approaches, this analysis aims to contribute to the ongoing discourse surrounding Nigeria's military interventions in the South East region.

Wale Odunsi Biafra: Nothing will stop ongoing operation in Southeast – Nigerian Army September 17, 2017

Military Operations to Stop IPOB, ESN Attacks In South-East Will Be Sustained –Buhari Sahara Reporters New; May 1, 2022

Ameh Comrade Godwin Biafra: Daily Post, ICC to investigate alleged killings during 'Operation Python Dance' Daily Post March 28, 2018

Statement of the Problem

The study addresses the Nigerian Government's commitment to the Responsibility to Protect (R2P) principle in the context of military actions conducted in the South East region, specifically focusing on operations such as "Egwu Eke" and "Operation Udoka." These military operations have been carried out to counter pro-separatist groups, notably the Indigenous People of Biafra (IPOB) and the Eastern Security Network (ESN). While these operations aim to address security concerns, they have led to significant casualties and collateral damage, sparking allegations that they target prominent supporters of the Biafran struggle. Human rights organizations have documented instances of killings and torture of unarmed individuals during these operations.

Additionally, the International Criminal Court (ICC) has initiated an investigation into a 2017 incident involving Nigerian soldiers in Abia State. The Nigerian government argues that these military operations are necessary to combat rising criminal activities in the region.

The central issue examined in this study is whether the United Nations Responsibility to Protect (R2P) principle is applicable to safeguard the rights of self-determination proponents in the South East. Furthermore, it considers the scenario wherein the Nigerian government fails in its responsibility to protect its citizens, drawing parallels with the Rwandan genocide. In such a situation, the study explores whether the United Nations should invoke the R2P doctrine. Ultimately, the research recommends alternative approaches such as negotiation or a referendum as potentially more effective means of addressing the Biafra agitation, rather than relying solely on kinetic measures by the Nigerian government.

Objectives of the Study

The main objective of the study is to examining Nigerian government commitment to R2P principle in relation to military actions in the south east, focusing on Egwu Eke and operation Udoka. The following specific objectives are expected to be achieved:

a. to appraise the challenges faced by the self-determination groups in the south east in the face of the unending military exercise by men of the security forces Nigeria;
b. to examine Nigerian government's commitment to the principle of R2P

Conceptual Review and Theoretical Underpinning

Concept of Military Operation

The military operation known as "Operation Python Dance" (Egwu Eke) was initiated in the South East region of Nigeria from 27 November to 27 December 2016. Since its inception, similar exercises with different code names like Egwu Eke, Exercise Golden Dawn, and Operation Udoka have been conducted annually in the South Eastern Region, all with the same objective. Unfortunately, the security and violence situation in the South East has drastically changed as a result.

Disturbing reports of killings, torture, and various human rights violations allegedly committed by the security forces have emerged, resembling crimes such as genocide and ethnic cleansing. According to the United Nations' definition of the responsibility to protect (R2P), it primarily encompasses crimes of genocide, crimes against humanity, ethnic cleansing, and war crimes. Considering that the exercise is conducted by the Nigerian Government, there are concerns of possible complicity, prompting calls for the United Nations to invoke the R2P doctrine and intervene to assist the affected group.

This situation becomes even more distressing when we consider that the most affected individuals are predominantly the youth and vulnerable groups, including women, children, and the elderly.

Concept of Self-determination:

Self-determination, therefore, broadly means the right of a people to change, decide or specify their political status, control their natural resources and their socio-eco and cultural development. The origin of self-determination has been ascribed to the Post-World War I Europe. It is based on the principles of nationality and democracy, with the object of minority protection at its crux. Although it was given wide recognition by President Woodrow Wilson (a leader of the Progressive Movement, was the 28th President of the United States (1913-1921) and the USSR, it was not included in the League of Nations Covenant. it was long applied through plebiscite in the Savoy (1872) and Nice (1873) cases. It only got to the colonial territories after the 2nd World War (1939 –

1945) during which it was associated with national liberation and, therefore, a grandiose "… battle - cry for anti-colonialism" (Umozurike, 1972). Without doubt, self-determination has been recognized as one of the lawful means of achieving independence, for example, Zimbabwe in 1980 and Bangladesh in 1976. Its lack, among other factors, caused the non-recognition of Southern Rhodesia as a State before 1965, or the Turkish Cypriot (Turkish Republic of Northern Cyprus) in 1983.

Like an election, which it actually is, the populace makes their choice on strategic national issues, in the exercise of their right of self-determination, usually through referendum or plebiscite. There could be no true democracy, especially for the minorities, without due regard for self-determination. Thus, although, self-determination is argued to be inapplicable "in a non-colonial context" (Harris, 2004:112), a government that lacks democratic base equips the minorities with opportunities to seek political autonomy. Recent examples include Czechoslovakia, Yugoslavia, Ethiopia and Sudan. Such examples show that, even though the UN is vehemently against self-determination that disrupts, either partially or totally, the national unity and territorial integrity of a sovereign State, it could still apply in circumstances of "extreme and unremitting persecution," coupled with the "lack of any reasonable prospect for reasonable challenge" (Shaw, 2010:522 – 3; Cassese, 1995; Castellino, 2000; Knop, 2002; Kohan, 2006).

Accordingly, the 1966 International Covenants on Human Rights (ICHR) (in force in 1976), in their Common Article 1, provide that "all peoples have the right of self-determination of their political status…" It also provides that State parties thereto, "… including those having responsibility for the administration of Non-Self-Governing and Trust Territories…," shall promote the realization of that right. The combined effect of these provisions is that the peoples' right and States' obligation thereunder are mandatory and that not only in colonial territories are these rights and obligations available or enforceable. The International Covenant on Civil and Political Rights 1966 (ICCPR) further avails Nigeria and her peoples as co signatory, to the effect that discriminatory derogation therefrom "solely on the ground of race, colour, sex, language, religion or social origin" is precluded (Art. 4(1)), and the "Covenant shall extend to all parts of Federal, States without any limitations or exceptions" (Art. 50).

However, Art. 1, para. (3), ICHR, appears to turn the table, or relapse this right and obligation to the 1945 United Nations Charter. The latter, without any authoritative text on self-determination, gave the concept mere political and moral status, as affirmed in the *Faulkland Islands* case. This is because, Para. (3) Provides, inter alia, that respect of the right to self-determination "shall" be "in conformity with the provisions of the Charter of the United Nations." And, accordingly, the said Charter addressed the right in general terms. Articles 1(2) and 55, and Chapters XI (on non-self-governing/colonial territories) and XII (on trust territories) do not particularly and unequivocally invest the concept with enforceable legal rights. However, the 1960 Colonial Declaration, the 1966 ICHR and the 1970 Declaration on Principles of International Law, including several Resolutions by the United Nations General Assembly and the Security Council, particularly UNGA Resolution 1514 (xv) of 14 December, 1960, irrefutably purport the concept to be a right in international law and binding on States. Take for for instance, it was applied as a legal right in the cases of Southern Rhodesia, Zimbabwe, Bangladesh, Turkish Cypriot, Namibia, Western Sahara, and indeed in East Timor (*Portugal v. Australia*) where it was held a legal right with *erga omnes* (one of the essential principles of contemporary international law) character. The Court noted its status beyond 'Convention' in the *Reference Re Secession of Quebec* case. However, notwithstanding the UN role in developing the self-determination principle, it appears to limit the concept to decolonization processes in favour of inhabitants of non-independent territories," thereby conferring no right of secession from an already

independent State except in proven extreme circumstances (Shaw, *Ibid*; 522 – 3). Even the UN is not allowed to intervene in a matter essentially within the domestic jurisdiction of any State (Art. 2 (7)), nor States allowed to forcibly assisting secession as "… other States are under … duty of non-recognition …" of the new State (Crawford, 2006:99).

Therefore, oppressed peoples should work out their own political status/ salvation through self-determination which is perceptibly available to all peoples (Common Art. 1, ICHR, 1966), whether in metropolitan or colonial territories. Even though "All" as applied in its logic, is selective or not all-embracing, Therefore, "All peoples" in Common Article 1, ICHR 1966, and more so "of peoples" in Arts 1(2) and 55, including Chapters XI and XII, of the UN Charter, do not directly, or by necessary implication, confine the right of self-determination to either colonial, trust or self-governing territory peoples. It is applicable even in independent States which are not "… conducting themselves in compliance with the principle of equal right and self-determination of peoples…" (UN Declaration on Friendly Relations, 1970).

State Succession:

State succession is governed by the principles of international law (Harris, 2004:123), however much will depend upon the circumstances of the particular case. Although complex, and "… one of the most disputed areas of international law" (per German Federal Supreme Court in the *Espionage Prosecution* case), State succession is lawful and enforceable. It is not like succession of governments in municipal law, by either revolution or rebellion, which may be a criminal act. However, all these acts – revolution, rebellion and succession – involve "… the devolution of rights and obligations on both internal and external changes of sovereignty" (Umozurike, 2007:176).

State succession, under international law, specifically refers to the assumption of competence, rights and obligations by a new State over a territory hitherto under the jurisdiction of another subsisting or extinguished State (Utobo, 2019). Such assumption or succession can arise from States merger or unification, dissolution or disintegration due to cession, secession, cessation, annexation, absorption, adjudication, or revolution. Whatever the mode, what is material is that the predecessor state ceases to exist, partly or wholly, while a new, successor, sovereign emerges.

The Federal Republic of Germany emerged from the unification of East and West Germany in August 1990 and so did the USSR in 1922 from the unification of 15 republics under the 1917 Bolshevik Revolution; and the secession of Iceland and Bangladesh from Denmark and Pakistan respectively, among others. Common Article 2 of both Conventions defined State succession as "the replacement of one state by another state in responsibility or the international relations of that territory." The date of that replacement becomes the date of independence of the new state, except the Baltic States (Estonia, Latvia and Lithuania) whose case was the 1991 restoration of their post-World War I independence, lost in 1941 due to annexation in 1940, by the Soviet Union.

This replacement or assumption upon succession, of responsibility or relations, is not automatic or peremptory. This is because the new government or new sovereign reserves the right to inherit or disclaim all or some of the obligations of the predecessor state or government. For example, the 1917 Bolshevik Revolution-born USSR disclaimed obligations created by the overthrown Tsarist Government of Russia. Also, Nigeria disclaimed obligations undertaken by the intercepted secessionist Biafra. Nonetheless, a *de jure* government will neither disclaim obligations entered into when it was *de facto*, nor could a new state be legally compelled to inherit obligations incurred by its predecessor *de jure* government towards crushing the rebellion.

Insurgency

Per Kilcullen, "Insurgency is a struggle to control a contested political space, between a state (or a group of states or occupying powers), and one or more popularly based, non-state challengers" (Kilcullen 2006: 112). Kilcullen tried to characterize classical and contemporary insurgencies thus: "while the latter seek to replace the existing order, the former sometimes strive for the expulsion of foreign invaders from their territory or seek to fill an existing power vacuum"(Kilcullen 2006: 112). Contemporary Insurgencies seek to overthrow the existing social order and reallocate power within the country. They may also seek to;

(1) Found an autonomous national territory within the borders of a state.

(2) Establish government without a follow-on social revolution.

(3) Cause the removal of an occupying power.

(4) Extract political recognition that is unattainable through less violent means.

The common denominator for most insurgent groups is their objective of gaining control of a population or a particular territory, including its resources. This objective differentiates insurgent groups from purely terrorist organizations.

Oxford English Dictionary defines insurgency as "an armed rebellion against a constituted authority" when those taking part in the rebellion are not recognized as belligerents." According to this definition, "an insurgent is one who rises in revolt against constituted authority; a rebel who is not recognized as a belligerent." The British Army Counter-insurgency Manual, Army Field Manual defined insurgency as: The actions of a minority group within a State who are intent on forcing political change by a means of a mixture of subversion, propaganda and military pressure, aiming to persuade or intimidate the broad mass of the people to accept such a change. It is an organized, armed political struggle, the goals of which might be diverse. The British Armys definition is in *pari materiea* with the US Army-Marine Corps Counter-insurgency Field Manual (FM 3-24) which defined insurgency as "an organized, protracted politico-military struggle designed to weaken the control and legitimacy of an established government, occupying power, or other political authority while increasing insurgent control" (Petraeus & Amos 2006: 1). Apart from the definition by Kilcullen and to an extent that of Oxford dictionary, the author does not totally agree with the other definitions as they fail to reflect the complexities of modern insurgencies especially with regards to their political, economic and social dimensions which Kilcullen simply describe as "struggle."

The definition of insurgency by the Department of Defence (DOD) spotlights the nature of violence employed (usually illegitimate) towards a specified goal which may be ideological, political or religious. This description did not succeed in addressing the argument focusing moral relativity that "one man's terrorist is another man's freedom fighter." In essence, this objection to a suitable definition submits that while violence may be "unlawful" in accordance with a victim's statutes, the cause served by those committing the acts may represent a positive good in the eyes of neutral observers.

By implication, the other definitions branded insurgency as a predominantly military problem. However, in what seems to be a replacement of the 2006 FM 3-24 definition of insurgency. The 2009 Joint Publication 3-24 Counter-insurgency Operations, defined insurgency as "the organized use of subversion and violence by a group or movement that seeks to overthrow or force change of a governing authority. The Army Field Manual 3-24, *Counterinsurgency*, provided a much-needed course change for American forces in Iraq and Afghanistan by focusing the attention of commanders on factors that are not traditionally the concern of the American military. While many commanders had already recognized that conventional tactics were ill-matched to dealing with

insurgencies and had adapted accordingly, others were still fighting the insurgents on an ad hoc and counterproductive manner in 2006. Matthew Cancain spotlighted that The "Neo-Classical" framework that underpins the FM 3-24, however, is based on political science about the revolutionary insurgencies of the Cold War. This "classical" school of Cold War–era counterinsurgency focused on defeating communist and anti-colonial insurgencies by strengthening weak governments that are seen by a critical mass of people in the host nation as illegitimate as was the case of the United States of America in Iraqi war and the Afghanistan experiment. Generally, insurgency connotes an internal uprising often outside the confines of state's laws and it is often characterized by socio-economic and political goals as well as military or guerrilla tactics. To launch their anger on the state, insurgents often target civilians and infrastructures. Traditionally however, insurgencies seek to overthrow an existing order and replace it with one that is commensurate with their political, economic, ideological or religious goals (Gompert & Gordon 2008: 23).

Counterinsurgency Operation

Counterinsurgency Operation in Nigeria as elsewhere frequently referred to by the acronym COIN—is the combination of measures undertaken by a government to defeat an insurgency. Effective counterinsurgency integrates and synchronizes political, security, legal, economic, development, and psychological activities to create a holistic approach aimed at weakening the insurgents while bolstering the government's legitimacy in the eyes of the population.

Often times, the quest for power by insurgents does not necessarily mean replacing the sovereign government, instead it may prefer a breakdown of a legitimate government so as to incapacitate it enough to make local militias have control. Insurgency too depends on the perspectives from where one describing it sees it. A typical example to this truism was during the American Revolution when "Patriots" were labelled as "insurgent" and their activities were considered treasonable by the British whom they fought against. Again for the British, the then situation in Malaya (now Malaysia) was time and again branded the "Malayan insurgency. An insurgency may connote ethnic or religious ideology, or sometimes political or economically motivated. Characteristically, insurgents are less likely equipped militarily to withstand the superior fire power of the States and more often they adopt (*guerrillas*) like tactics such as bombing, kidnapping, hostage taking including hijacking. Legal and political scholars concurring, canvasses the point that insurgents by today's definition need not be part of a highly organized movement hence miscreants and simple criminals have been implicated in insurgency. Some are networked with only loose objectives and mission-type orders to enhance their survival. Most are divided and factionalized by area, composition, or goals. Many of these enemies do not currently seek the overthrow of a constituted government. Weak government control is useful and perhaps essential for many of these "enemies of the state" to survive and operate.

The definitional attempt made by the Third Geneva Convention and other Geneva Conventions as to the true meaning of insurgency envisage a conflict involving nation-states, and only loosely address irregular forces which rank *pari pasu* with insurgency. However, this characterization failed to address the argument or moral truism that "one man's terrorist is another man's freedom fighter to the effect that an action considered "unlawful" unto a victim serve a good purpose unto those committing the acts. For instance, while the United States. Media were predisposed to regarding insurgencies (so styled) as the villains in different situations against their interest; Great Britain regarded the (rebellious) American colonists or freedom fighters as insurgents.

In all, insurgencies imply an internal uprising time and again outside the confines of state's laws and it is often characterized by socio-economic and political objectives as well as military or guerrilla tactics. Put differently, it is a protracted struggle carefully and methodically carried out to achieve certain goals with an eventual aim of replacing or weakening the existing power structure of the target state. To launch their anger on the state, insurgents often target civilians and infrastructures. Once insurgency as a term is used, it denotes actions unlawful in nature by not being authorized by or in conformity with the law of the extant State. It frequently also carries an implication that their cause is illegitimate, but those dissenting will see the authority on the other side as being illegitimate. Nevertheless, other than the violence of insurgency are its political and socio-economic dimension, where often lies its causes and effects. Traditionally however, insurgencies seek to overthrow an existing order and replace it with one that is commensurate with their political, economic, ideological or religious goals (Gompert & Gordon 2008: 23). Insurgency such as seen in the North East Nigeria started as skirmishes between two opposing forces which has today engulfed Nigeria.

Theoretical Framework

State Fragility Theory

This work adopts the State Fragility Theory to explain the self-determination activities of different separatist group in south east like the Indigenous People of Biafra (IPOB) and her military wing – the Eastern Security Network (ESN) for which the Nigerian Government has set her security forces against in different military operations in the south east, The State fragility theory speaks to the fundamental failure of a State to perform functions essential to meet citizen's basic needs and expectations. DFID Policy Paper (2005), "Why We Need to Work More Effectively in Fragile States"

It also shows the failure of government in assuring indispensable security, maintaining rule of law and justice, or providing basic services and economic opportunities for her citizens. In a fragile state, there is a propensity for increased criminal violence which further weakens the states' authority. Ayres, Robert L (2002), "Low-Income Poorly Performing States: The Challenge for the US", Memorial Lectures, LSE, which can be accessed on line from the website below: *http://www.lse.ac.uk/collections/LSEPublicLecturesAndEvents/events/2004/20031222t0946z001.htm*

Weak and beleaguered institutions are the central driver of state fragility and works in concert with other factors such as economic development, natural resources, violent conflict, external shocks and the international system. The features of weakness coalesce in diverse ways and change over time, but include the following: state collapse, loss of territorial control, low administrative capacity, political instability, conflict, pervasive corruption, and low acceptance of the rule of law (Chinweuba, 2015).

Each case in point of fragility is distinctive, but there are common denominators that can be identified to further elucidate better responses to the theory. Not all regimes show the same characteristics of fragility Ayres, Robert L (2002), "Low-Income Poorly Performing States: The Challenge for the US", Memorial Lectures, LSE, Available at: *http://www.lse.ac.uk/collections/LSEPublicLecturesAndEvents/events/2004/20031222t0946z001.htm*. An unwavering political system have institutions that mutually reinforce one another and are therefore proficient to manage tensions – both domestic and international without the population resorting to violence. Crucial to understanding fragility in itself is to understand where weaknesses exist in a state's institutions often measured by incentives and indicators governing the behaviour of social groups, mostly those with political power. While

considering the balance of state institutions, reference will primarily be made to three key elements, which make up what may be called political regimes . These are participation, selection and control:

Participation:

Participation speaks to the degree of involvement of the public in the political process within their country. It is assumed that participation is best when there are relatively stable and enduring political groups (not necessarily parties), and that it is institutionalized when they regularly compete for national political influence. Participation can be factional where intense, often violent, competition exists between those groups that hold power and those that do not.

Selection:

This refers to the method of selecting and replacing the government leaders. This ranges from the most open (competitive elections) to the most closed (royal succession). Midway to the two above are mixed methods such as designation (a small group chooses its leaders without formal competition). Lastly there is self-selection through seizure of power, usually by force.

Control:

There are limits on the executive's power by holding it accountable. Some examples of checks and balances on executive behaviour include parliaments, a single state-party (i.e. Communist Party in China) or a separate judiciary.

Responsibility to Protect (R2P)

The Responsibility to Protect – also known as R2P – is an international norm that seeks to ensure that the international community never again fails to halt the mass atrocity crimes of genocide, war crimes, ethnic cleansing and crimes against humanity. The principle embodies a political commitment to end the worst forms of violence and persecution. All Heads of State and Government in a ground breaking event adopted the responsibility to protect principle as articulated in the 2005 World Summit Outcome Document (A/RES/60/1). In 2007 the Secretary-General also addressed a letter (S/2007/721) to the President of the Security Council in which he recognized the need to further operationalize the Responsibility to Protect principle and designated a Special Adviser on the Responsibility to Protect with the main task of conceptual development and consensus- building. As above, it is evident that individual states government should protect their citizens from armed conflict. The subsequent report of the High Level Panel on Threats, Challenges and Change, entitled "A More Secure World: Our Shared Responsibility" (A/59/565) and the Secretary-General's 2005 report 'In Larger Freedom: Towards Development, Security and Human Rights for all (A/59/2005) endorsed the principle that State sovereignty carried with it the obligation of the State to protect its own people, and that if the State was unwilling or unable to do so, the responsibility shifted to the international community to use diplomatic, humanitarian and other means to protect them. However, either report contemplated the Use of Force (UoF) for this purpose other than Security Council authorization under Chapter VII of the Charter as a last resort, in the event of genocide and other serious international crimes.

In paragraphs 138 and 139 of the 2005 World Summit Outcome Document (A/RES/60/1) Heads of State and Government avowed their responsibility to protect their own populations from genocide, war crimes, ethnic cleansing and crimes against humanity and accepted a collective responsibility to encourage and help each other uphold this commitment. They also declared their unalloyed preparedness to take timely and decisive action, in accordance with the United Nations Charter and in cooperation with relevant regional organizations, when

national authorities manifestly fail to protect their populations. From the above concept of R2P, it is evident that national government has the mandate of protecting its citizens from ethnic cleansing, war crimes, crimes against humanity, and the overall safety of every individual in that country but when the home government fails to protect its citizens, it is considered as an exception, entitling foreign government to intervene. Ultimately, the Responsibility to protect principle reinforces state sovereignty status by helping states to meet their existing responsibilities. Additionally, it offers fresh programmatic opportunities for the United Nations system to assist states in preventing the listed crimes and violations and in protecting affected populations through capacity building, early warning, and other preventive and protective measures, rather than simply waiting to respond if they fail. Member States have also regularly considered implementation of the principle during formal and informal meetings and the principle has been repeatedly referenced and reaffirmed in relevant United Nations resolutions. Nigeria being a signatory to both the UN resolutions on R2P and the Kampala Convention is obligated to uphold the Responsibility to Protect (R2P) principles to within her territory.

Implementation of the responsibility to protect

2005 UN World Summit Final Document represented the political approval of the principle at the international level. The document The Responsibility to Protect Report of the International Commission on Intervention and State Sovereignty (ICISS)," was released in December 2001vividly setting out the framework for the responsibility to protect. The report underlines the primary responsibility of sovereign states to protect their own citizens from mass murder, large scale loss of life, rape and more. The major trust of the report is that when states are unwilling or unable to protect their populations the responsibility must be borne by the broader community of states to prevent genocides as was seen in Rwanda and Srebrenica. This report is about the aphorism "right of humanitarian intervention:" the question of when, if ever, it is right for states to take coercive – and in particular military – action, against another state for the purpose of protecting people at risk in that other state. At least until the horrifying events of 9:11 and the American declaration on Global war on Terror (QWOT) and it's corollary Counterinsurgency (COIN) operation which brought to center stage the international response to terrorism, the issue of intervention for human protection purposes has been seen as one of the most controversial and difficult of all international relations questions.

The effect the ICISS report would have on the global polity was indefinite following its publication on December 2001. It was still uncertain whether the international community would accept this principle as a substitute for humanitarian intervention and perhaps more importantly, to what extent would international organizations and sovereign states are willing to domesticate it through its adoption as a legal doctrine? The ICISS akin to the Brundtland Commission which in the previous years had presented a definition of "sustainable development" to promote a more just economic growth from an ecological point of view, ensured the authors that at least the report would set off a debate in which the actors would have to think over its elements, and in the best case scenario, take sides. In the case of the responsibility to protect, African states were the first to take sides. Two bold steps taken by the African Union manifested in the AU doctrine, established in 2002, and the creation of the Peace and Security Council (PSC) of the African Union in 2004. Additionally, African states were the first to support the principle, given that they had already previously vehemently supported, through the Organisation of African States, the principle of non-interference.

In the United Nations, the Report of the High-level Panel on Threats, Challenges and Change, under the chairmanship of Thailand's former President Anand Panyarachun and composed of other renowned former

politicians, acknowledged the principle of responsibility to protect and supported the promotion of measures to ensure its validity: In signing the Charter of the United Nations, States rights and responsibility are conterminous and as such states not only benefit from the privileges of sovereignty but also accept its responsibilities In this present circumstances, the principles of collective security demands that some portion of those responsibilities should be taken up by the international community, acting in accordance with the Charter of the United Nations and the Universal Declaration of Human Rights, to help build the necessary capacity or supply the necessary protection, as the case may be". *General Assembly, Report of the High-level Panel on Threats, Challenges and Change. A more secure world: Our shared responsibility, 2 December 2004, [A/59/565], http://www.un.org/secureworld/report.pdf , pp.21-22*.

In spite of the support received by the African Union and the Highlevel Panel on Threats, Challenges and Change, the responsibility to protect principle was only approved after a long debate in which the voices of reason prevailed among member nations. The Security Council resolutions in relation to the Protection of Civilians in Armed Conflict and to the Darfur conflict, the Security Council resolution 1674 on the protection of civilians in armed conflict reasserts and speaks to the responsibility to protect made in the 2005 UN World Summit Final Document urging states to fulfill their responsibilities towards their citizens and international community respectively. Since then, other important resolutions have been approved and the debate around this issue has continued.

While states progressively understand the full implication of responsibility to protect requires, , the words of UN Undersecretary-General for Humanitarian Affairs and Emergency Relief, John Holmes, after an open debate on the protection of civilians in armed conflict, show that there is still dragging of feet to adopt a new vision of sovereignty when he posited thus:

"We should not focus too exclusively on the possible actions of last resort in the responsibility to protect. There are many stages before that in helping countries to exercise the responsibility to protect their own civilians". "Excerpted Statements on R2P at the 3rd Open Debate on the Protection of Civilians", 22 June 2007, http://www.responsibilitytoprotect.org/index.php/government_statements/

The first time the principle of responsibility to protect was invoked in a resolution relating to a conflict by the United Nations Security Council Resolution was in Resolution 1706. Outside the specific mention of the word in the paragraphs of the 2005 World Summit Final Document, the terminology with regards to sovereignty and the responsibilities of states has morphed over time. In Resolution 1706, the responsibilities granted to the United Nations Mission in the Sudan (UNMIS) authorized, the mission to protect civilians who were subjected to threats of physical violence, "without prejudice to the responsibility of the Government of the Sudan" Security Council Resolution 1706, adopted by the Security Council at its 5519th meeting, 31 August 2006, [S/RES/1706 (2006)], http://daccessdds.un.org/doc/UNDOC/GEN/N06/484/67/PDF/N0648467.pdf?OpenElement. The phrasing of the mandate speaks a lot as to the scope of the operation and the purpose set to accomplish. The phrase in the previous resolution concerning Darfur signals the importance of mandates in the implementation of the responsibility to protect. Previously, mandates had not been as explicit, often allowing for "circumstances to shape the mandate and not the other way around" (Mariano Aguirre, "War and peace operations; playing on words?", Política Exterior No118, July-August 2007, p. 2.)

A typical example will suffice here, in the mandate of the United Nations Protection Force (UNPROFOR) in the Balkans, the protection of civilians in "security zones" was only implicitly present. UNPROFOR was furthermore

not authorized to intervene when civilians were attacked. All the same, the planning and the mandate for situations concerning the protection of civilians had taken a turn for good in the past ten years between the fall of Srebrenica and attacks in Darfur by the janjaweed. Inside the UN, peace operations in Sierra Leona, the Democratic Republic of Congo (DRC), Liberia, Haiti, Burundi and the Ivory Coast, the terminology as used was such that authorized the protection of civilians in some cases such as the return of internally displaced persons (IDP) and the provision of humanitarian aid. The aforementioned Brahimi report contributed greatly to the changes, which happed in the area of peace operations by urgently calling for improvement in the planning of missions (integrated missions, resources etc.) and the creation of clearer mandates and doctrines. The fundamental message was that the UN Secretariat had to tell the Security Council "what it needs to know, not what it wants to hear" (Report of the Panel on UN Peace Operations).

The phraseology or terminology during the application of the Responsibility to protect requires clarity to avoid any ambiguity especially where United Nations or any other continental force is involved. For example, in June 2004 the African Union (AU) announced plans to deploy 60 to 80 military observers to monitor a ceasefire agreement in Darfur, Sudan, accompanied by a 300-man protection force. Worldwide, many welcomed this news, especially those who thought the AU Mission in Sudan (AMIS) would help to protect civilians. Days before Rwandan troops were to arrive in Darfur in August 2004, a BBC journalist interviewed the Rwandan Foreign Minister Charles Murigande about the mission thus;.

"If [troops] come across militias attacking civilians...wouldn't they have a moral duty to protect the civilians under attack?" the journalist asked. "Yes, they would have a moral duty," Murigande responded. The journalist pressed, asking if they would protect the civilians and fire on the militia. "I am not sure... Let's allow them to go there to play out their mission," Murigande said, given "their mandate." Rwandan Foreign Minister Charles Murigande, interview with the BBC World Service Newshour News, broadcast over WAMU Radio, 13 August 2004, Washington, DC

The initial mandate for AMIS authorized the force to protect only the monitors of the ceasefire -not the Sudanese civilians population. However, by late 2004, the gap in the AU mandate was apparent, necessitating that it is expanded to include the protection of civilians whom AMIS forces "encounter under imminent threat and in the immediate vicinity, within resources and capability, it being understood that the protection of the civilian population is the responsibility of the government of Sudan." Per the mandate of AMIS, the Government of Sudan remained "responsible" for "the protection of the civilian population," even when the government's role was unmistakable in terms of aiding and abetting the raging violence and how AMIS could offer any protection to the population at large when it was instructed in clear terms to focus only on those "under imminent threat" and "in the immediate vicinity?"

Under this daunting difficulty, the Rwandan Foreign Minister's predicament and prevarication was perhaps understandable that he was not "sure" about the role of his nation's troops in crushing the Darfur violence. Anyone else could flutter when mandate is not couched in explicit wordings with attendant near inoperable difficult nature of such military interventions no matter how well-intentioned. The Darfur crisis added more than two million people to Africa's displaced persons and over 400,000 killed.

Conclusively, the international community, have to brace up for operations in which the protection of civilians is central and a core component of the mandate. According to the Holt and Berkman Report, some missions, such as the United Nations Mission in the Democratic Republic of Congo (MONUC), "operate in a gray zone between

more traditional peacekeeping missions and military interventions, navigating questions of sovereignty, consent, impartiality, and mission goals". *Victoria K. Holt and Tobias C. Berkman, Op. Cit., p. 181*.

Conclusion

In conclusion, the study highlights a complex and contentious situation in Nigeria's South East region, where military operations aimed at countering pro-separatist groups have raised serious concerns about human rights violations and the responsibility of the Nigerian government to protect its citizens. The examination of Nigerian Government Commitment to the Responsibility to Protect (R2P) principle in this context underscores the need for careful consideration of the application of international norms in situations of internal conflict.

The allegations of extrajudicial killings, torture, and collateral damage in the South East region are troubling and require thorough investigation and accountability. The initiation of an investigation by the International Criminal Court (ICC) into the 2017 incident in Abia State underscores the international community's concern about the situation.

The study also draws attention to the potential application of the R2P principle, which asserts that if a state fails in its responsibility to protect its citizens from mass atrocities, the international community has a responsibility to intervene. However, invoking R2P is a complex and politically charged decision that requires careful assessment of the situation on the ground.

The study's endorsement for negotiation and/or a referendum as alternative approaches to address the Biafra agitation is a significant one. These peaceful, diplomatic methods may offer a more constructive path toward resolving the underlying issues and grievances. It underscores the importance of dialogue and inclusive decision-making processes in addressing complex ethnic and separatist tensions.

In essence, the study calls for a reevaluation of the Nigerian government's approach to the South East situation, urging it to prioritize peaceful means of conflict resolution, respect human rights, and address the legitimate concerns and aspirations of the region's inhabitants. It also highlights the responsibility of the international community, including the United Nations, to closely monitor and engage with the situation to ensure the protection of all citizens while seeking a sustainable and peaceful resolution to the ongoing challenges in the South East.

Recommendations

The recommendations for this study included:

i. immediate de-escalation or militarization of South east Nigeria removal of checkpoints that are unnecessary,

ii. Abandoning of the all kinetic approach and adoption of peace building strategy as an option to dissuade youths from the wrong perception of arms bearing as a panacea to perception of marginalization of the people of south east

iii. Enthronement of inclusive governance and democracy bereft of policies that fuel suspicion of any tribe as inferior

iv. Government should support operational basic/vocational education that is real and functional, focusing on youth's employment after school as an alternative to arms bearing and violence.

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