

Introduction: The Islamic State and International Terrorism – The Architecture of Response

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On April 15, 2016, the American Bar Association Section of International Law (ABASIL) organized a blue ribbon panel titled “The Islamic State and International Terrorism: The Architecture of Response.” This distinguished panel addressed questions concerning the architecture of response to, as well as the methodologies of control and incursion employed by, the Islamic State (IS) and its affiliates. The organizers brought together both U.S.-based and other international organizations in engendering a “canopy” or “canopies” to effectuate effective and coordinated responses.

The Panel was comprised of personnel from the North Atlantic Treaty Organization (NATO), USAID, and former United States government employees representing the intelligence community. In addressing questions concerning arising existential threats, the participants posited their opinions as to how the international legal order may address such phenomena as transnational violence, non-state actors and the rise of the Islamic State. Further, the panelists opined as to what legal structures are required to coordinate effective responses to the spread of international violence from the Levant to the African continent, and how such “localized” phenomena as Al-Shabaab and Boko Haram are to be addressed. Further, whether an article VII enforcement action is required pursuant to Security Council authorization, and if so, what architecture is required to coordinate the responses of Allied and regional organizations in enforcing such Security Council authorization(s)?

The panel concluded with participants addressing questions concerning the contextualized responses required pursuant to differing country conditions, including, but not limited to economic embargo and quarantine.

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NATO Approaches in Response to ISIL and International Terrorism

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The North Atlantic Treaty Organization (NATO) and its member states consider international terrorism to be a threat to the Alliance because of the threat international terrorism represents to their constituent populations.¹ International terrorism striking NATO states and their populations has been on the rise through the 1970s and 80s, from discotheque bombings in Germany,² radical political group kidnappings and assassinations in Greece,³ “the troubles” in the UK and Northern Ireland,⁴ through 9/11,⁵ train and bus bombings in Spain⁶ and the UK,⁷ to more recently shooting/bombing attacks in Paris⁸ and Brussels.⁹ The stakes have escalated as groups like Al Qaeda, al-Qaeda affiliated franchise, and the Islamic State in Iraq and the Levant (also known as ISIL, ISIS, and Daesh) have shown tendencies toward an unwillingness to respond to traditional negotiated political solutions toward all-out war with a solely military dimension.

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1. Press Release, NATO, NATO Wales Summit Declaration Issued by the Head of State and Government Participating in the Meeting of the North Atlantic Council in Wales (Sept. 5, 2014) *available at* http://www.nato.int/cps/en/natohq/official_texts_112964.htm.

2. 1986: *Berlin Disco Bombed*, BBC HOME (Apr. 5, 2005) http://news.bbc.co.uk/onthisday/hi/dates/stories/april/5/newsid_4357000/4357255.stm.

3. *Greek Domestic Terrorism*, National Counterterrorism Center (NCTC) Counterterrorism Guide, https://www.nctc.gov/site/groups/greek_domestic.html.

4. Joshua Hammer, *In Northern Ireland, Getting Past the Troubles*, SMITHSONIAN MAGAZINE (Mar. 2009), *available at* <http://www.smithsonianmag.com/people-places/in-northern-ireland-getting-past-the-troubles-52862004/?no-ist>.

5. *See generally* The 9/11 Commission Report, The National Commission on Terrorist Attacks Upon the United States (July 22, 2004), *available at* <http://govinfo.library.unt.edu/911/report/911Report.pdf>.

6. *Spain Train Bombings Fast Facts*, CNN (Mar. 4, 2016), <http://edition.cnn.com/2013/11/04/world/europe/spain-train-bombings-fast-facts>.

7. *7 July London Bombings: What Happened That Day?*, CNN (July 3, 2015), <http://www.bbc.com/news/uk-33253598>.

8. Andrew Higgins and Kimiko de Freytas-Tamura, *Paris Suspect Drafted an Elaborate Plot of Terror Across Europe*, N.Y. TIMES (Nov. 20, 2015), http://www.nytimes.com/2015/11/20/world/europe/paris-attacks.html?_r=0.

9. Griff Witte, Souad Mekhennet and Michael Birnbaum, *Islamic State Claims Responsibility for the Brussels Attacks*, WASH. POST (Mar. 22, 2016), https://www.washingtonpost.com/world/brussels-on-high-alert-after-explosions-at-airport-and-metro-station/2016/03/22/b5e9f232-f018-11e5-a61f-e9c95c06edca_story.html.

While certain member states see terrorism as a hybrid problem inviting military, law enforcement, diplomatic, economic and political solutions, other member states, particularly in Europe, deemphasize the military component of counterterrorism.¹⁰ As a consensus-based organization, NATO therefore has adopted a counterterrorism stance that uses military capabilities indirectly against terrorism, even as it seeks new and inventive ways to apply military capabilities to address this seemingly intractable and persistent problem.¹¹

If NATO were to organize a military response to a terrorist event, it could act only under Article 51 of the U.N. Charter (collective self-defense), or under Chapter VII, when authorized by the Security Council.¹² Media commentators often “invoke Article 5” of the North Atlantic Treaty as legal authority to act under international law, a common misunderstanding of the meaning and utility of this provision.¹³ The North Atlantic Treaty alone confers no authority under international law to undertake an armed attack or use of force against a state or international non-state actor. The Treaty does not even define NATO as a “regional agency” under Chapter VIII of the UN Charter. Rather, NATO, per the terms of the North Atlantic Treaty, is merely a mutual defense pact, such that where Article 51 of the UN Charter authorizes the use of force in self-defense, it authorizes it for all NATO member states by virtue of the state’s multilateral commitment to NATO.¹⁴ Regional organizations include OAS, ECOWAS, AU, ASEAN, Arab League, etc. – but not NATO, for this purpose.

I. NATO Responses to Mass Maritime Migration

One recent, ongoing NATO “activity” touching on the issue of the mobility of potential terrorist actors through Europe’s borders is the NATO response to the mass migration from North Africa and the Levant, through southeastern Europe, into the heart of the continent.¹⁵ In response, NATO authorized the deployment of Standing NATO Maritime Group 2 assets to provide assistance to the refugee/migrant crisis in eastern Mediterranean.¹⁶

10. Patryk Pawlak, *Understanding Hybrid Threats*, EUROPEAN PARLIAMENTARY RESEARCH SERVICE BLOG (June 24, 2015), <https://epthinktank.eu/2015/06/24/understanding-hybrid-threats>.

11. *Countering Terrorism*, NATO (Dec. 3, 2015), http://www.nato.int/cps/en/natohq/topics_77646.htm.

12. See U.N. Charter ch. VII.

13. Ilya Somin, *Using Article 5 of the North Atlantic Treaty to Legalize the War Against ISIS [Updated with Response to Julian Ku]*, WASH. POST (Nov. 15, 2015), https://www.washingtonpost.com/news/volokh-conspiracy/wp/2015/11/15/using-article-5-of-the-nato-treaty-to-legalize-the-war-against-isis/?utm_term=.8ae260471732.

14. See U.N. Charter art 51, para. 1.

15. *NATO’s Maritime Activities*, NATO (July 12, 2016), http://www.nato.int/cps/en/natohq/to pics_70759.htm.

16. Yuri M. Zhukov, *NATO’s Mediterranean Mission: What the Alliance is Doing in the Aegean Sea*, FOREIGN AFFAIRS (Feb. 21, 2016), <https://www.foreignaffairs.com/articles/europe/2016-02-21/natos-mediterranean-mission>.

This current expanded “activity” includes interdicting people-smuggling of migrants at sea and returning them to Turkey for repatriation by national coast guards, with NATO *support* only – that is, there is no authorized, direct interdiction by NATO forces *unless* a mariner is in distress.¹⁷ On February 10-11, 2016, at a regularly scheduled NATO Defense Ministers’ meeting, the Secretary General stressed that this activity¹⁸ is “not about stopping or pushing back refugee boats,” but about contributing “critical information and surveillance to help counter human trafficking and criminal networks.”¹⁹ As part of the agreement, NATO will cooperate closely with national coastguards and the European Union to stop human trafficking, provide situational awareness of migrants taking to the seas on their own, and working to screen potential terrorists out of migrant populations allowed to enter Europe’s borders.²⁰

NATO’s focus is on deterring people-smugglers through intelligence and surveillance, sharing information with Greek and Turkish coast guards, and EU border control agency.²¹ The Greeks and Turks have agreed to wary cooperation, as each traditional rival concurred not to operate in the other’s territorial waters.²² Political reaction to NATO’s response has been varied, with the UNHCR Europe Bureau concerned that a military response may “undermine the institution of asylum for people in need of international protection.”²³ Another concern posited by humanitarian groups is the prospect of NATO ships in the Aegean may *encourage* people to take to the Aegean Sea for passage, if they see NATO as a guarantor against the

17. *Id.*

18. NATO sometimes weathers criticism about its decision cycles and timeliness of action. See Uwe Benecke, *Reconsidering NATO’s Decision Making Process*, US ARMY WAR COLLEGE STRATEGY RESEARCH PROJECT (Mar. 30, 2007), available at <http://www.dtic.mil/cgi-bin/GetTRDoc?AD=ADA467165>. But consider on February 8, German Chancellor Merkel and Turkish PM Davutoglu announced they would seek NATO’s help with migration crisis calling on alliance to monitor the flow of smuggler ships destined for Europe. By February 10-11, the Defense Ministers had convened to discuss this topic and, acting as the North Atlantic Council, authorize action, among others, and by February 11, the Supreme Allied Commander Europe (SACEUR) had ordered three ships from SNMG-2 to begin patrols in Aegean Sea. Work is ongoing to refine rules of engagement, caveats, and procedures and obligations (national) for rescue at sea, differentiating between economic migrants and political refugees.

19. *Statement by the NATO Secretary General on NATO Support to Assist with the Refugee and Migrant Crisis*, NATO (Feb. 25, 2016), available at http://www.nato.int/cps/en/natohq/opinions_128372.htm.

20. John Vandiver, *British Warships Joining NATO Mission to Combat Human Trafficking in Aegean*, STARS AND STRIPES (Mar. 7, 2016), <http://www.stripes.com/news/british-warships-joining-nato-mission-to-combat-human-trafficking-in-aegean-1.397996>.

21. Michael S. Schmidt and Sewell Chan, *NATO Will Send Ships to Aegean Sea to Deter Human Trafficking*, N.Y. TIMES (Feb. 11, 2016), <http://www.nytimes.com/2016/02/12/world/europe/nato-aegean-migrant-crisis.html>.

22. Robin Emmott, *NATO Overcomes Greek-Turkish Tensions to Agree Aegean Mission*, REUTERS (Feb. 25, 2016) <http://www.reuters.com/article/europe-migrants-nato-idUSL8N1640TR>.

23. *The Syrian Refugee Crisis and the Need for U.S. Leadership, Executive Summary*, HUMAN RIGHTS FIRST (Feb. 2016), <http://www.humanrightsfirst.org/sites/default/files/HRF-Syrian-Ref-Crisis-ExSum.pdf>.

dangerous journey, feeding hopes of safe passage.²⁴ Finally, some of the opposition has occurred from within the alliance itself: Military Committee Chairman, Czech General Petr Pavel, observed “If we are to pick the more significant of the two threats (refugees and Russia) then a government with an exceptional military arsenal, including nuclear weapons, which unabashedly violates international agreements, undoubtedly takes the top position.”²⁵ Even so, NATO’s measured response to the migrant crisis is ongoing.

It is important to note NATO has not been engaged in stopping or turning away migrant boats. Rather, NATO’s role has been to monitor and report maritime flows of migrants from Turkey to Greece, collecting and sharing intelligence on smuggling networks with national law enforcement and coast guards.²⁶ NATO ships encountering boats in distress defer to Turkish or Greek coast guards to handle any rescue, intervening only as the last resort when necessary, as the duty to rescue by warships arguably is required by international maritime law.²⁷

Human rights law, of course, looms large over the issue of handling migrants. The European Court of Human Rights (ECtHR) case of *Hirsi Jamaa v. Italy* is one monumental case that causes concern to the allies, and, by extension, to the Alliance. In *Jamaa*, three vessels with twenty-four Somali and Eritrean nationals bound for Italy from Libya were intercepted by Italian Guardia di Finanza (law enforcement) and Coast Guard within thirty-five nautical miles of Agrigento, in Sicily, May 2009.²⁸ They were returned to Tripoli under the provisions of an Italian/Libyan bilateral agreement, with no attempt to identify their nationality.²⁹ Italy’s stated “Push Back Policy” is designed to reduce “clandestine immigration” and criminal people smuggling.³⁰ Fourteen of the applicants were granted refugee status by UNHCR in 2009.³¹

After exhausting their appeals under Italian law, the ECtHR accepted the case and found the court had territorial jurisdiction based on Italian law noting ships are Italian sovereign territory, therefore, the European Convention on Human Rights, and the court’s jurisdiction, applied.³² The court found that Italy violated Article 3 of the European Convention on Human Rights by exposing refugees to risk of inhuman and degrading treatment in Libya, or by potential return to country of origin – an arbitrary

24. Zhukov, *supra* note 16.

25. Zhukov, *supra* note 16.

26. *Id.*

27. *Id.*

28. *Hirsi Jamaa and Others v. Italy*, App. No. 27765/09, Eur. Ct. H.R., 3 (2012).

29. *Id.*

30. *Id.* at 4

31. *Id.*

32. *Id.* at 16.

refoulement, an elementary principle of refugee law in which states are not allowed to return refugees to locations where abuse is likely.³³

The 1951 Geneva Convention on Refugees defines a refugee as the following:

a person who owing to well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group or political opinion, is outside the country of his nationality and is unable or, owing to such fear, is unwilling to avail himself of the protection of that country. . .or is unable or, owing to such fear, is unwilling to return to it.³⁴

Article 33 notes “no Contracting State shall expel or return (‘refouler’) a refugee in any manner to the frontiers of territories where his life or freedom would be threatened on account of his race, religion, nationality, membership of a particular social group or political opinion.”³⁵ The court found there was a real risk to the migrants they would be abused in Libya, with no real protections for refugees in that state as the situation there deteriorated.³⁶

The court also found, on the issue of mere potential repatriation to Eritrea and Somalia, there was real danger of violence and torture with repatriation to either country, so the court looked at whether Libya could offer guarantees against arbitrary repatriation.³⁷ The court noted that collective expulsion’s lack of legal basis constitutes a violation of Article 4 to Protocol 4 to the European Convention on Human Rights and ruled against Italy on that point, as well.³⁸ The court found that Italy’s failure to permit the petitioners to seek a national remedy within the national system of Italy per Article 13 of the Convention, constituted a denial to the petitioners any Italian forum before expelling them.³⁹

Finally, under Articles 46 and 41 of the Convention, the court bound Italy to abide by the final judgment, requiring the Italian government to seek assurances from Libya regarding the treatment of the petitioners, no further forced repatriation to Eritrea and Somalia, and a money judgment of 15,000 Euro and costs and interest for each petitioner.⁴⁰ The case constituted a complete victory for the petitioners over the Italian government, a fact widely noticed in the NATO capitals and which has guided national policy on handling and interacting with refugees since the *Jamaa* judgment.

Examining the applicability of *Jamaa* to the current situation in Eastern Mediterranean, it stands to reason if Turkey intercepts migrants originating

33. *Id.* at 38.

34. Convention Relating to the Status of Refugees art. 1, July 28, 1951, 189 U.N.T.S. 150.

35. *Id.* at art. 33.

36. Hirsi Jamaa, App. No. 27765/09, at 38.

37. *Id.*

38. *Id.* at 48.

39. *Id.* at 54.

40. *Id.* at 56.

in Turkey in Turkish territorial waters and takes them back to Turkey, there is no violation, as this is an internal law enforcement issue. Similarly, if Turkey intercepts migrants originating in Turkey on the high seas and returns them to Turkey, presumably there is no problem for the same reason. Even if they are refugees, there is no *refoulement* by definition because the migrants originated in Turkey. However, there is an open question as to whether other participating NATO nations have a *potential Jamma* type issue if they intercept migrants (potential refugees) on the high seas and return them to Turkey, depending on what eventually happens to the migrants once they return to Turkey⁴¹ For example, what if the Syrian war eventually subsides, Turkey repatriates the migrants to Syria, the violence in Syria intensifies again, and the migrants are harmed or killed? Does *Jamma* establish precedent for human rights liability in such a case for a state party to the European Human Rights Convention? Is the situation different if the migrants set sail from Syria, or Lebanon?

II. Maritime Counterterrorism Operations in Mediterranean

Since 9/11, NATO has undertaken maritime patrols of the Mediterranean to “deter, defend, disrupt and protect against terrorist activity.”⁴² Operation Active Endeavor is NATO’s only current Article 5 operation focused on counterterrorism.⁴³ The operation focuses on tracking “suspect vessels,” building a common operating picture of Mediterranean maritime activity, and conducting regular queries of maritime vessels at sea.⁴⁴ “As of March 2015 NATO had hailed over 122,000 merchant vessels and boarded about 166 suspect ships” (master consent or flag state consent) to inspect documentation, manifests, and cargo.⁴⁵

Sixty-five percent of the oil and natural gas consumed in Western Europe and a huge, unknown portion of energy resources headed to North America pass through the Mediterranean.⁴⁶ The Operation Active Endeavor mission is counterterrorism-oriented, focusing on counter-proliferation and preventing attacks on commercial ships at sea, but ships and helicopters have also rescued several hundred civilians on stricken oil rigs and sinking ships.⁴⁷ The operation has also contributed to the “Mediterranean Dialogue” security cooperation, which is a NATO partnership program.⁴⁸ As a result of

41. See *EU: Don't Send Syrians Back to Turkey*, HUMAN RIGHTS WATCH (June 20, 2016), <https://www.hrw.org/news/2016/06/20/eu-dont-send-syrians-back-turkey>.

42. *Operation Active Endeavour*, NATO (July 12, 2016), http://www.nato.int/cps/en/natolive/to pics_7932.htm.

43. *Id.*

44. *Id.*

45. NATO Shipping Centre (March 2015), <http://www.shipping.nato.int/operations/AE/Pages/Results.aspx>.

46. *Operation Active Endeavour*, *supra* note 42.

47. *Id.*

48. *Id.*

this security cooperation program, Mediterranean Dialogue countries routinely share “intelligence about suspicious shipping.”⁴⁹

Task Force Endeavour operates in the Mediterranean, but NATO command and control (OPCON, or operational control) resides with the NATO Maritime Command (MARCOM) in the UK.⁵⁰ A rotating array of surface units, submarines, and maritime patrol aircrafts constitute the task force.⁵¹ For a while, the task force provided escorts through the Straits of Gibraltar to ships requesting to prevent an MV Limburg (suicide boat ramming an oil tanker near Yemen) type incident.⁵² The escort operation was later suspended, but could be revived quickly as threat assessments indicate their necessity.⁵³ The operation’s principal contributors are Germany, Greece, Italy, Spain and Turkey, but occasionally the U.S., Denmark and Norway participate.⁵⁴ Some non-NATO states have participated in varying degrees, including Israel, Morocco, Russia, Georgia and Ukraine, and even New Zealand.⁵⁵

III. NATO Member State Obligations Under Convention on Genocide

The US has described ISIL activities against certain minority groups (Yazidis, Christians and Shia Muslims) as genocide,⁵⁶ but the UN has not done so in any formal or official way. For example, neither the UN General Assembly nor the UN Security Council has used the term “genocide” in any resolution, even though the Office of the UN High Commissioner for Human Rights has obliquely characterized ISIL’s activities vis-à-vis the Yazidis with the word “genocide,” specifically that ISIL’s actions “possibly constitute genocide” and “may constitute genocide.”⁵⁷

If the Security Council made such a determination, it could authorize action against ISIL on this basis. Yet even without a Security Council resolution definitively establishing the existence of genocide, the Genocide Convention places affirmative obligations on signatory states to undertake the prevention of genocide – but it does not tell them how or under what circumstances. From the UN report:

49. *Id.*

50. *Id.*

51. *Id.*

52. *Id.*

53. *Operation Active Endeavour*, *supra* note 42.

54. *Id.*

55. *Id.*

56. Amanda Holpuch, Harriet Sherwood, and Own Bowcott, *John Kerry: ISIS is Committing Genocide in Syria and Iraq*, THE GUARDIAN (Mar. 17, 2016), <https://www.theguardian.com/world/2016/mar/17/john-kerry-isis-genocide-syria-iraq>.

57. *ISIL May have Committed War Crimes, Crimes Against Humanity and Genocide: UN Report*, UNITED NATIONS HUMAN RIGHTS OFFICE OF THE COMMISSIONER (Mar. 19, 2015), <http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=15720>.

All States are required to determine how to implement their obligations to ensure respect for international humanitarian law, especially in the framework of their obligation to investigate and prosecute allegations of war crimes and genocide. The Government of Iraq has a duty to investigate all allegations, which concern ISIL, ISF and affiliated armed groups, as well as other armed militias and to prosecute perpetrators, including responsible commanders and other superiors.⁵⁸

Article I of the Genocide Convention defines genocide as a crime under international law which the Contracting Parties “undertake to prevent and to punish.”⁵⁹ Article V places an obligation on states to enact domestic legislation giving domestic effect to the Convention,⁶⁰ and Article VIII empowers any contracting party to call upon the Security Council to take action “appropriate for the prevention and suppression of acts of genocide,” with no geographical restrictions in the treaty.⁶¹ No state has done so.

These are national obligations flowing from the treaty, and NATO is not a party to the Convention — yet all twenty-eight member states are parties to the agreement and are bound by it as a function of international law.⁶² Is there an optional (political) role for NATO to organize the response in fulfillment of national obligations? What would trigger NATO’s role? Perhaps only a UNSC resolution inviting NATO to act, or an invitation by a nation-state for NATO intervention, could cause NATO to act within the “spirit” of the convention to prevent genocide.

IV. Other Aspects of NATO Cooperation Against Terrorism

It is clear NATO either is a military alliance with a political component — or, after the Cold War, it has evolved into a political alliance with a military component.⁶³ But terrorism and counterterrorism are not exclusively, or perhaps not even primarily, military problems. As we can see, coalition uses of force, such as aviation delivered fires and SOF raids, have affected ISIL but have not stopped them from attacks in France, Belgium and Turkey. What can NATO do to affect ISIL?

First things first: Article 5 of the North Atlantic Treaty is the *raison d’être* for NATO in this context:

58. Rep. of the Office of the U.N. High Comm’r for Human Rights on the Human Rights Situation in Iraq in the Light of Abuses Committed by the So-Called Islamic State in Iraq and the Levant and Associated Groups, 28th Sess., ¶73, U.N. Doc. A/HRC/28/18 (Mar. 27, 2015).

59. Convention on the Prevention and Punishment of the Crime of Genocide art 1., Dec. 9, 1948, 78 U.N.T.S. 277 [hereinafter Convention on Genocide].

60. *Id.* at 281.

61. *Id.* at 282.

62. *Status of Treaties, Convention on the Prevention and Punishment of the Crime of Genocide*, UNITED NATIONS TREATY COLLECTION (Aug. 27, 2016), https://treaties.un.org/pages/ViewDetails.aspx?src=TREATY&mtdsg_no=IV-1&chapter=4&clang=_en.

63. See *NATO’s Purpose After the Cold War*, BROOKINGS.EDU (Mar. 19, 2001), <https://www.brookings.edu/wp-content/uploads/2016/06/reportch1.pdf>.

The Parties agree that an armed attack against one or more of them in Europe or North America shall be considered an attack against them all and consequently they agree that, if such an armed attack occurs, each of them, in exercise of the right of individual or collective self-defence recognised by Article 51 of the Charter of the United Nations, will assist the Party or Parties so attacked by taking forthwith, individually and in concert with the other Parties, such action as it deems necessary, including the use of armed force, to restore and maintain the security of the North Atlantic area. Any such armed attack and all measures taken as a result thereof shall immediately be reported to the Security Council. Such measures shall be terminated when the Security Council has taken the measures necessary to restore and maintain international peace and security.⁶⁴

There are a few important points to consider regarding this language. First, inconsistent with imprecise media reporting, this is NOT *necessarily* a mutual defense obligation. Rather, it is an obligation to take “such action as it deems necessary, including the use of armed force”⁶⁵ leaving up to the nations to decide individually what they can afford politically, militarily and maybe financially to use to assist.

Second, in order for Article 5 to be triggered, the NAC has to meet and unanimously agree. This happened only once following 9/11, and it was actually announced by Lord Robertson on 12 September 2001⁶⁶ and no NATO nation “broke silence” in the NAC on the issue.⁶⁷

Third, Article 5 probably is not going to be triggered by low-yield one-off attacks like Charlie Hebdo or Brussels, as horrible as they may have been and will continue to be. It will likely take a strategic attack, such as a massive yield attack on a sensitive political target, like a national legislature, or an attack with casualties in the thousands to trigger Article 5, or perhaps an asymmetric event like a CBRN attack, or a strike on a nuclear power plant.

The 2010 Strategic Concept (Lisbon) and the 2014 Wales Declaration concluded “[t]errorism poses a direct threat to the security of the citizens of NATO countries, and” committed Allies to enhance capacity to detect and defend against international terrorism, including enhanced threat analysis, more consultations with NATO partners (not Alliance members) and “the development of appropriate military capabilities.”⁶⁸ For example, NATO

64. North Atlantic Treaty art. 5, Apr. 4, 1949, 63 Stat. 2241, 34 U.N.T.S. 243.

65. *Id.*

66. Press Release, NATO, NATO Treaty Commitments in Dealing with Terrorist Attacks Against the U.S. (Sept. 12, 2001), *available at* <http://www.nato.int/docu/update/2001/0910/e0912a.htm>.

67. Eric R. Terzuolo, *Regional Alliance, Global Threat: NATO and Weapons of Mass Destruction, 1994-2004*, NATO (June 29, 2004), <http://www.nato.int/acad/fellow/03-04/terzuolo.pdf>.

68. Gabor Iklody, *The New Strategic Concept and the Fight Against Terrorism: Challenges & Opportunities*, Centre of Excellence Defence Against Terrorism, 3 DEF. AGAINST TERRORISM REV. 3 (2010), *available at* http://www.coedat.nato.int/publication/datr/volume6/01-The_New_Strategic_Concept_and_the_Fight_Against_Terrorism_Challenges&Opportunities.pdf.

encourages sharing of information – military and even national (strategic) intelligence – though, EU privacy laws and European political and social preferences may loom large over this issue. At the February 2016 Defense Ministers’ meeting, NATO member states also “agreed to step up NATO support for the international coalition to counter ISIL.”⁶⁹ “*We agreed in principle to use NATO AWACS surveillance planes to backfill national AWACS capabilities,*” said SECGEN Stoltenberg.⁷⁰ “He noted that this decision will increase the coalition’s ability to ‘*degrade and destroy the terrorist group ISIL, which is our common enemy.*’”⁷¹ NATO also works in close coordination with EU, OSCE, and the Global Counterterrorism Force, and develops capabilities within NATO including reach back support by the JCBRN COE to operational forces and the Very High Readiness Joint Task Force (VJTF), which focused on “three capability umbrellas to defeat asymmetric threats, incident management, force protection . . . , and network engagement.”⁷²

In conclusion, NATO has maintained an active stance in counterterrorism policy and operations, applying military capabilities where warranted to assist national authorities in dealing with migrant populations among whom terrorists attempt to blend for safe passage. NATO’s ongoing counterterrorism mission, Operation Active Endeavour, complements other areas of NATO cooperation in counterterrorism within the limits imposed by international and national law. For NATO to take a more active role – to engage in decisive military action against transnational terrorist groups such as ISIL – would require authority under international law, either in the form of a Security Council resolution or an invocation of Article 51 collective self-defense. Either act is a precondition to the NAC invoking the Article 5 mutual obligations to assist in national and collective defense against large-scale terrorist attacks.

69. *NATO Defence Ministers Agree on NATO Support to Assist with the Refugee and Migrant Crisis*, NATO (Feb. 11, 2016), http://www.nato.int/cps/en/natohq/news_127981.htm.

70. *Id.*

71. *Id.*

72. *Countering Terrorism*, *supra* note 11.

Combating Terrorism and Violent Extremism in Nigeria: Defining a New Approach to Winning Modern Jihadist Conflict

STEVEN E. HENDRIX*

I. Introduction

A plume of smoke billows from what used to be the mosque. Dead male bodies lay in the street in various states of undress and mutilation. The women and children have been taken off. Community leaders—the imam, the mayor, respected elders—have been impaled, the bank looted, the school burned, the jailhouse opened, and the prisoners freed to join the insurgents. The town is dead. This is the suffering of countless communities across Borno State and parts of Yobe, Adamawa, and Gombe states in northeastern Nigeria over these past three years.¹

How can Nigeria defeat terrorism?² This is a pivotal time to ask. Over the past six years, Boko Haram has killed over 20,000 people.² It captured the world's attention when, in 2011, it blew up part of the United Nations offices in Abuja, the capital, with a suicide bomb.³ In April 2014, it took

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1. For a visual image of the destruction, see *Nigeria: Pain and Promise*, PBS (Nov.–Dec. 2015), <http://www.pbs.org/newshour/tag/nigeria-pain-and-promise/>. Do not watch these videos if you are sensitive to graphic images.

2. *Nigeria's Boko Haram Kills 49 in Suicide Bombings*, ASSOCIATED PRESS (Nov. 19, 2015, 6:41 PM ET), <http://www.nbcnews.com/news/world/nigerias-boko-haram-kills-49-suicide-bombings-n466606>. Exact statistics are complex and often contradictory. While this paper uses the conservative estimates, others have much higher figures. For example, one source puts the number killed at 40,000. *The U.S. Role in Helping Nigeria Confront Boko Haram and Other Threats in Northern Nigeria: Hearing Before the H. Subcomm. on Africa, Global Health, Global Human Rights and Int'l Org.*, 1 (May 11, 2016) (statement of Chris Fomunyoh, Senior Associate and Regional Director for Cent. and West Afr. Nat'l Democratic Inst.), <http://docs.house.gov/meetings/FA/FA16/20160511/104907/HHRG-114-FA16-Wstate-FomunyohC-20160511.pdf>.

3. Martin Plaut, *Abuja attack: Car bomb hits Nigeria UN building*, BBC NEWS (Aug. 27, 2011), www.bbc.com/news/world-africa-14677957.

control of the small Christian town of Chibok, kidnapping 276 school girls,⁴ leading to the international #bringbackourgirls campaign championed by U.S. First Lady Michelle Obama.⁵ In early 2015, the jihadist group declared itself a caliphate,⁶ pledged allegiance to the Islamic State (Boko Haram now, sometimes, calls itself the Islamic State of West Africa),⁷ and controlled an area larger than West Virginia or Belgium.⁸

Contrary to what popular media would have us believe, Boko Haram is currently the world's most deadly terrorist organization, killing 6,600 in 2014,⁹ more than the Islamic State.¹⁰ The guerilla outfit has struck in Niger, Chad, and Cameroon, but is based mainly in Nigeria where it carries out asymmetrical bombings and attacks across the northern half of the country and conventional assaults particularly in the northeast.¹¹ In towns like Mubi, Adamawa State, there are no Christian churches left.¹² Nevertheless, contrary to popular wisdom, three-quarters of Boko Haram victims are

4. Kevin Sieff, *Boko Haram kidnapped 276 girls two years ago. What happened to them?*, WASH. POST (Apr. 14, 2016), <https://www.washingtonpost.com/news/worldviews/wp/2016/04/14/boko-haram-kidnapped-276-girls-two-years-ago-what-happened-to-them/>.

5. Terrence McCoy, *Michelle Obama's #BringBackOurGirls picture sparks criticism of American drone strikes*, WASH. POST (May 15, 2014), <https://www.washingtonpost.com/news/morning-mix/wp/2014/05/15/michelle-obamas-bringbackourgirls-picture-sparks-criticism-of-american-drone-strikes/>.

6. Farouk Chothia, *Boko Haram crisis: How have Nigeria's militants become so strong?*, BBC NEWS (Jan. 26, 2015), <http://www.bbc.com/news/world-africa-30933860>.

7. See Adam Withnall, *Boko Haram renames itself Islamic State's West Africa Province (Iswap) as militants launch new offensive against government forces*, INDEPENDENT (Apr. 26, 2015), <http://www.independent.co.uk/news/world/africa/boko-haram-renames-itself-islamic-states-west-africa-province-iswap-as-militants-launch-new-10204918.html>.

8. Drew Hinshaw & Gbenga Akingbule, *Boko Haram Extends Its Grip in Nigeria*, WALL ST. J. (Jan. 5, 2015, 8:39 PM ET), <http://www.wsj.com/articles/boko-haram-overruns-villages-and-army-base-in-northeast-nigeria-1420467667>.

9. Soonest Nathaniel Soonest, *Boko Haram and the herdsman war: can Buhrai win?*, NAIJ.COM (May 2016), <https://www.naij.com/813367-boko-haram-fulani-herdsmen-nigeria-still-attack.html>.

10. INST. FOR ECON. & PEACE, GLOBAL TERRORISM INDEX 2015: MEASURING AND UNDERSTANDING THE IMPACT OF TERRORISM 4 (2015).

11. Samuel Smith, *Boko Haram Mimics ISIS in Brutality, Creating Caliphate With 20,000-Square-Mile, Belgium-Sized Territory, Warns Open Doors Head*, CHRISTIAN POST (Feb. 6, 2015, 7:22 AM), <http://www.christianpost.com/news/boko-haram-mimics-isis-in-brutality-creating-caliphate-with-20000-square-mile-belgium-sized-territory-warns-open-doors-head-133663/#YXD4k8IcLiTEuMBS.99>; David Blair, *Boko Haram is now a mini-Islamic State, with its own territory*, TELEGRAPH (Jan. 10, 2015, 6:55 PM GMT), <http://www.telegraph.co.uk/news/worldnews/africaandindianocean/nigeria/11337722/Boko-Haram-is-now-a-mini-Islamic-State-with-its-own-territory.html>.

12. *Civilians are caught in the middle of the war against Boko Haram*, PBS (Nov. 30, 2015, 6:35 PM EDT), <http://www.pbs.org/newshour/bb/civilians-are-caught-in-the-middle-of-the-war-against-boko-haram/>.

Muslim.¹³ It uses a few towns and the Sambisa Forest in southern Borno State as its safe haven and base of operations.¹⁴

At the time of the Chibok kidnapping, then-President Goodluck Jonathan's administration was toothless in the fight. When military and governmental leadership siphoned off too much in graft, Jonathan's armed forces lacked food or bullets and sometimes went without pay. When a group of soldiers took matters into their own hands by detaining a local commander to protest their plight, the response was to court-martial the soldiers and hand out the death penalty to the "mutineers" (later commuted to ten-year sentences).¹⁵ But no one was prosecuted for stealing the military funding that caused the "revolt."¹⁶

In 2014, Finance Minister Ngozi Okonjo-Iweala called donor organizations to an urgent meeting to tell them to stop talking about Internally-Displaced Persons (IDPs) and refugees because it was projecting a negative investment climate. Public teachers and hospital workers went months without pay.¹⁷ Long gas lines remained for months at the few petrol stations that actually sold gas—the result of embezzlement of funds to pay for subsidized gasoline.¹⁸ When the Central Bank President presented a report documenting the theft of billions of dollars from the Petroleum Ministry, President Jonathan removed him.¹⁹

But change came. In 2015, President Jonathan tried to delay elections, but was thwarted not only by coordinated actions by the European Union Foreign Minister and the U.S. Secretary of State, but also by public opinion.²⁰ For the first time in Nigerian history, an opposition candidate for

13. *Id.*

14. Moki Edwin Kindzeka, *Sambisa Forest: An Ideal Hiding Place for Boko Haram*, VOA NEWS (May 24, 2016, 11:27 AM), <http://www.voanews.com/a/the-forest-concealing-boko-haram/3343895.html>. For additional background, see generally *Southern Borno Rapid Assessment*, MERCY CORPS (Feb. 2016), https://www.humanitarianresponse.info/en/system/files/documents/files/nga_mercy_corps_southern_borno_rapid_need_assessment_022016.pdf.

15. *Nigerian military commutes death penalty of 66 soldiers to jail terms*, PREMIUM TIMES NIGERIA (Dec. 19, 2015), <http://www.premiumtimesng.com/news/headlines/195425-nigerian-military-commutes-death-penalty-of-66-soldiers-to-jail-terms.html>.

16. *See id.*

17. *See, e.g.*, Damilare Okunola, *Shame: Workers now resort to begging in Bayelsa state*, NAIJ.COM (Apr. 2016), <https://www.naij.com/799169-shame-read-nigerian-state-govt-workers-now-beg-survival.html>.

18. *See* Adam Nossitter, *Governor of Nigeria's Central Bank Is Fired After Warning of Missing Oil Revenue*, N.Y. TIMES (Feb. 20, 2014), http://www.nytimes.com/2014/02/21/world/africa/governor-of-nigerias-central-bank-is-fired-after-warning-of-missing-oil-revenue.html?_r=0.

19. *Id.*

20. Press Release, Secretary of State John Kerry, Postponement of Elections in Nigeria (Feb. 7, 2015), <http://www.state.gov/secretary/remarks/2015/02/237290.htm> (noting that the United States was "deeply disappointed by the decision to postpone Nigeria's presidential election, which had been scheduled for February 14"). Coordinated U.S. and E.U. diplomacy followed this statement to get Nigeria back on track. *See id.*

president defeated an incumbent in what was a mostly free and fair contest.²¹ When President Jonathan considered postponing the transition, international pressure and Nigerian public opinion again intervened to assure the changeover.²²

The new president, Muhammadu Buhari, ran on a campaign to end corruption and terrorism.²³ His challenge now is to defeat Boko Haram, even as he sets governance on a new course.²⁴ Yet, even if Nigeria were to defeat Boko Haram on the battlefield, another group could emerge tomorrow to take its place.²⁵ Therefore, President Buhari must defeat the underlying causes of the conflict—the factors that drive young, disaffected, alienated men and women, boys and girls, to join Boko Haram in the first place.²⁶

Nigeria is important as a global experiment on how to fight Jihadist extremism. Like many countries facing violent extremism, Nigeria today is a hollowed out state, following decades of pervasive corruption and neglect of governance.²⁷ “We used to be a proud people,” as one Nigerian professor put it.²⁸ Unlike Afghanistan or Iraq, where the U.S. was willing to spend

21. Alexander Smith, *Nigeria Elections: Muhammadu Buhari Elected President in Historic Vote*, NBC NEWS (Apr. 1, 2015, 2:44 AM ET), <http://www.nbcnews.com/news/world/nigeria-elections-muhammadu-burhai-elected-president-historic-vote-n333106>. U.S. President Obama praised outgoing Nigerian President Jonathan for allowing such a process to take place. See Press Release, PR-017/2015, Office of the Press Secretary, White House (Apr. 1, 2015), <http://photos.state.gov/libraries/nigeria/487468/pdfs/PR-017-StatementByThePresidentonTheNigerianElections.pdf>.

22. U.S. elections assistance proved vital to assure a free, fair, transparent, and credible election in Nigeria. See Audra Lykos, Felicia Genet, Tara Thwing, & Christopher White, *Elections Assistance: A Case Study from Nigeria's 2015 Elections*, USAID at 2-5 (Nov. 2015), http://pdf.usaid.gov/pdf_docs/PA00M4S3.pdf.

23. See Mohammed Lere, *I'll Battle Corruption, Buhari Vows*, PREMIUM TIMES NIGERIA (Apr. 1, 2015), <http://www.premiumtimesng.com/news/top-news/180449-ill-battle-corruption-buhari-vows.html>.

24. Suraj Oyewale, *Boko Haram will be Buhari's biggest problem* (Y! FrontPage), Ynaija.com (Apr. 7, 2015), <http://ynaija.com/mcjarus-boko-haram-will-buharis-biggest-problem-y-front-page/>.

25. See generally Stephanie Schwartz, *Is Nigeria a Hotbed of Islamic Extremism?*, U.S. INST. OF PEACE (May 4, 2010), <http://www.usip.org/sites/default/files/PB%2027%20Is%20Nigeria%20a%20Hotbed%20of%20Islamic%20Extremism.pdf>.

26. See generally Freedom Onuoha, *Why Do Youth Join Boko Haram?*, U.S. INST. OF PEACE (June 9, 2014), http://www.usip.org/sites/default/files/SR348-Why_do_Youth_Join_Boko_Haram.pdf.

27. *Nigeria and its Militants: Avengers Unite*, ECONOMIST (June 25, 2016), <http://www.economist.com/news/middle-east-and-africa/21701165-violence-delta-has-cut-oil-output-third-it-may-get-even>.

28. Jide Osuntokun, *Lord have mercy*, THE NATION (Oct. 18, 2012), <http://thenationonlineng.net/lord-have-mercy/>; *My Public Profile View*, REDEEMER'S U., <http://staff.run.edu.ng/process.php?active=myprofile&usrid=RUN%2FREG%2FSS%2FPF%2F005> (last visited Sept. 19, 2016).

billions, that fiscal willingness to intervene is unlikely to be repeated often.²⁹ As the struggle for the heart of global Islam continues and, as countries look to better share the benefits of democratic society, these conflicts are emerging from Libya to Egypt to Mali.³⁰ Nigeria looks like the front line of a new engagement approach. Nigeria could well define a successful approach to contain conflict and incubate alternatives to violence.

II. Why Become a Nigerian Terrorist?

Nigeria has the largest Gross Domestic Product (GDP) in Africa and is the United States' largest African trading partner, making it one of the wealthiest in Africa.³¹ But its income distribution is highly skewed, leaving the vast majority in poverty.³² It is also poorly governed.³³ For years, the central government ignored the humble Northeast.³⁴ Ten and a half million Nigerian school-aged children are out of school, more than any other country in the world,³⁵ with the North having more out-of-school children than the South.³⁶ For the kids who do go to public schools, the quality of that education is dismal.³⁷ For the few that manage to graduate from primary school, only a quarter of those go on to secondary school.³⁸

29. *U.S. Spends More Rebuilding Iraq, Afghanistan than Post-WWII Germany*, FACE THE FACTS USA (Jan. 18, 2013), <http://www.facethefactsusa.org/facts/us-spends-more-rebuilding-iraq-afghanistan-than-post-wwii-germany>.

30. Freedom C. Onuoha, *Attacks on Hotels in Africa*, AL-JAZEERA (Mar. 16, 2016), <http://studies.aljazeera.net/en/reports/2016/03/hotels-africa-terrorist-targets-160316133226875.html>.

31. Daniel Magnowski, *Nigerian Economy Overtakes South Africa's on Rebased GDP*, BLOOMBERG (Apr. 7, 2014, 8:19 AM CDT), <http://www.bloomberg.com/news/articles/2014-04-06/nigerian-economy-overtakes-south-africa-s-on-rebased-gdp>.

32. *Nigeria*, ECONOMIST (Sept. 12, 2014), <http://country.eiu.com/article.aspx?articleid=1432272327&Country=Nigeria&topic=politics>.

33. See Sewell Chan, *David Cameron Calls Nigeria Corrupt, and Its President Agrees*, N.Y. TIMES (May 11, 2016), <http://www.nytimes.com/2016/05/12/world/europe/david-cameron-calls-nigeria-corrupt-and-its-president-agrees.html>.

34. Jim Mitchell, *Remember Paris, but don't ignore Boko Haram's killing spree*, DALLAS MORNING NEWS (Jan. 15, 2015, 4:29 PM), <http://dallasmorningviewsblog.dallasnews.com/2015/01/remember-paris-but-dont-ignore-boko-harams-killing-spreed.html/>.

35. Mijinyawa Ahmed, *Over 10.5 Million Nigerian children out of school—Actionaid*, PREMIUM TIMES NIGERIA (Sept. 16, 2015), <http://www.premiumtimesng.com/news/top-news/190212-over-10-5-million-nigerian-children-out-of-school-actionaid.html>.

36. *Global Initiative on Out-of-School Children: Nigeria Country Study*, UNICEF at xiv (Mar. 2012), <http://www.uis.unesco.org/Library/Documents/out-of-school-children-nigeria-country-study-2012-en.pdf>.

37. Dayo Adesulu, *Who cares for public schools in Nigeria*, VANGUARD (Sept. 16, 2010, 12:00 AM), <http://www.vanguardngr.com/2010/09/who-cares-for-public-schools-in-nigeria>.

38. *Global Initiative on Out-of-School Children*, *supra* note 36, at vi.

Only a quarter of Nigerians are fully immunized³⁹ and a third of all deaths in the world for malaria are in Nigeria.⁴⁰ One-fourth of northern children will die before their fifth birthday due to preventable illnesses. The malaria prevalence rate is forty-two percent. Seventy-seven million Nigerians lack safe drinking water, and ninety-five million lack electricity.⁴¹ One hundred million Nigerians lack toilets and only two percent have running water.⁴² Startlingly, despite the discovery of oil in the 1970s, Nigerians today are twice as likely to be poor as they were thirty years ago.⁴³ While half of Nigeria's population is under the age of thirty,⁴⁴ the North is younger still.⁴⁵ The country has installed the capacity to generate 12,000 megawatts of electricity, but,⁴⁶ due to corruption and inefficiency, can only muster 3,800 megawatts at any one time,⁴⁷ and even that is with frequent blackouts.⁴⁸ Sixty percent of Nigerians live below \$1.25 per day, with most of them again being in the North.⁴⁹ Joblessness and hopelessness are most acute in the Northeast.⁵⁰

In conflicts like Nigeria's northeast, in so-called "asymmetric warfare," civilians are no longer bystanders: they are the battlefield, the objective, and

39. *Multiple Indicator Cluster Survey: Nigeria*, NAT'L BUREAU OF STATISTICS, UNICEF, UN POPULATION FUND 54 (Apr. 2013), http://www.unicef.org/nigeria/Multiple_Indicators_Cluster_Survey_4_Report.pdf.

40. Jimoh Amzat, *Assessing the Progress of Malaria Control in Nigeria*, 12 WORLD HEALTH & POPULATION 42, 43 (Feb. 2011), https://www.researchgate.net/publication/51223283_Assessing_the_Progress_of_Malaria_Control_in_Nigeria.

41. Obinna F. Muoh, *When 95 million Nigerians are living without electricity something needs to change*, BUS. INSIDER (July 14, 2016, 5:00 AM), <http://www.businessinsider.com/95-million-nigerians-are-living-without-electricity-and-something-needs-to-change-2016-7>.

42. Paul Obi, *Nigeria: UNICEF- One Hundred Million Nigerians Lack Access to Sanitary Toilets*, ALL AFRICA (Nov. 18, 2013), <http://allafrica.com/stories/201311190230.html>.

43. *Protests in Biafra: Go your own way*, ECONOMIST (Nov. 28, 2015), <http://www.economist.com/news/middle-east-and-africa/21679210-half-century-after-war-angry-biafrans-are-agitating-again-go-your-own-way>.

44. *Multiple Indicator Cluster Survey: Nigeria*, *supra* note 39, at xiv.

45. For additional statistics on the Northeast, see *Multi-Sector Rapid Assessment of Host Communities in Borno and Yobe States, North East – Nigeria, Assessment Final Report*, NAT'L BUREAU OF STATISTICS & UNICEF (Dec. 2015), https://www.humanitarianresponse.info/sites/www.humanitarianresponse.info/files/assessments/multisector_assessment_in_host_communities_in_borno_and_yobe_states_final_16122015.pdf.

46. *Nigeria has capacity to generate 12,000 MW of electricity – Fashola*, PREMIUM TIMES NIGERIA (May 19, 2016), <http://www.premiumtimesng.com/business/business-news/203683-nigeria-capacity-generate-12000-mw-electricity-fashola.html>.

47. Daniel Magnowski, *Power-Starved Nigeria Cuts Electricity Bills Before Elections*, BLOOMBERG (Mar. 18, 2015, 6:40 AM CDT), <http://www.bloomberg.com/news/articles/2015-03-18/power-starved-nigeria-cuts-electricity-bills-before-elections>.

48. Heather Murdock, *Nigeria's silent killer: its energy shortage*, PRI (Apr. 18, 2012, 10:00 AM UTC), <http://www.pri.org/stories/2012-04-18/nigerias-silent-killer-its-energy-shortage>.

49. Candice Hughes, *Poverty in Lagos, Nigeria*, BORGEN PROJECT (Apr. 15, 2015), <http://borgenproject.org/poverty-lagos-nigeria/>.

50. See AOVAV & NWGAV, *The Violent Road: Nigeria's North East*, ACTION ON ARMED VIOLENCE (Dec. 12, 2013), <https://aoav.org.uk/2013/the-violent-road-nigeria-north-east/>.

target.⁵¹ When taking a town, Boko Haram's modus operandi is to gather up all traditional religious and political leaders, regardless of their professed faith, and kill them.⁵² Combining asymmetrical attacks with conventional combat into hybrid warfare, Boko Haram burns down the police station and tears down any structure that implies authority.⁵³ The message is clear: the new authority is Boko Haram. They take over the local mosques and preach their new ideology—one of hate and conflict, a narrative filled with victimization, suffering, and vengeance.⁵⁴ They burn down prisons and liberate those who would join them.⁵⁵ Put succinctly, Boko Haram cannot be defeated until the civilian population is fully protected.⁵⁶

Fleeing Boko Haram are 2.3 million Internally Displaced Persons (IDPs)⁵⁷ and tens of thousands more in refugees escaping the conflict zone.⁵⁸ November 2015 marked the third year in a row that displaced persons were unable to plant their crops, exacerbating a food security crisis.⁵⁹ Much of Borno, Yobe, Adamawa States, and informal settlements in greater Maiduguri (capital of Borno State) are expected to be in the Integrated Food Security Phase Classification "Crisis" (IPC Phase 3) through mid-2016.⁶⁰ Nigeria's northeast has 1.5 million malnourished children under five years old.⁶¹ In the hardest hit areas, malnutrition rates for children less than five

51. See James Adewunmi Falode, *The Nature of Nigeria's Boko Haram War, 2010-2015: A Strategic Analysis*, 10 PERSPECTIVES ON TERRORISM, (2016), <http://www.terrorismanalysts.com/pt/index.php/pot/article/view/488/html>.

52. See *id.* For a chronicle of the rise of Boko Haram, see Kevin Uhrmacher & Mary Beth Sheridan, *The brutal toll of Boko Haram's attacks on civilians*, WASH. POST (Apr. 3, 2016), <https://www.washingtonpost.com/graphics/world/nigeria-boko-haram/>.

53. See Falode, *supra* note 51.

54. See *id.* Women, in particular, suffer as victims. See Kevin Sieff, *They were freed from Boko Haram's rape camps. But their nightmare isn't over*, WASH. POST, (Apr. 3, 2016), https://www.washingtonpost.com/world/africa/they-were-freed-from-boko-harams-rape-camps-but-their-nightmare-isnt-over/2016/04/03/dbf2aab0-e54f-11e5-a9ce-681055c7a05f_story.html.

55. See Falode, *supra* note 51.

56. For how this perspective translates more generally into countering violent extremism and the use of development assistance as a tool for intervention, see generally, Eelco Kessels & Christina Nemr, *Countering Violent Extremism and Development Assistance: Identifying Synergies, Obstacles, and Opportunities*, GLOBAL CENTER ON COOPERATIVE SECURITY (Feb. 2016), <http://www.globalcenter.org/wp-content/uploads/2016/01/Feb-2016-CVE-and-Development-policy-brief.pdf>.

57. *Lake Chad Basin - Complex Emergency*, USAID at 1 (Aug. 31, 2016), https://www.usaid.gov/sites/default/files/documents/1866/lake_chad_ce_fs12_08-31-2016.pdf.

58. See *id.* at 3. While the international donor community worked with a 2.3 million figure, an official report put the estimate at 2.1 million. MINISTRY OF FOREIGN AFFAIRS, Consolidated Report of the 2nd Regional Security Summit Meeting of Experts Between the 12th to the 13th of May 2016 at 5 (May 2016).

59. *Crisis in West Africa threatens millions*, OXFAM AMERICA (Aug. 29, 2016), <https://www.oxfamamerica.org/explore/stories/crisis-in-west-africa-threatens-millions/>.

60. *Nigeria: Emergency Food Security Assessment*, WORLD FOOD PROGRAMME at 2 (May 2016), <http://reliefweb.int/sites/reliefweb.int/files/resources/wfp285922.pdf>.

61. *Nigeria - Complex Emergency*, USAID at 1 (July 23, 2015), https://www.usaid.gov/sites/default/files/documents/1866/nigeria_ce_fs02_07-23-2015.pdf.

years old surpass the World Health Organization's threshold for "emergency."⁶² Eleven million Nigerians suffer from stunting.⁶³ With poor water and unsanitary conditions, most deaths are from diarrheal illness rather than BH bullets.⁶⁴ Cholera lurks not only in the IDP camps, but also in the communities that host IDPs.⁶⁵

The conflict has produced the world's biggest camp of displaced persons.⁶⁶ Just a few years ago, Maiduguri was once a city of just less than a million inhabitants.⁶⁷ Today, it has more than two million – the change being an influx of IDPs.⁶⁸ This has overwhelmed the city and its infrastructure.⁶⁹ Everywhere there are people standing, doing nothing. While no one knows for sure, the best guess calculations show that, at best, only ten percent of IDPs receive food assistance.⁷⁰ How are the other ninety percent surviving? Security conditions on the ground do not allow humanitarian relief workers to go to Maiduguri and find out.⁷¹

This misery invites disaffection. And Boko Haram uses that to lure recruits.⁷² With high unemployment in the North and Northeast, youth lack opportunity.⁷³ Meanwhile, Boko Haram pays its volunteers.⁷⁴ Boko Haram gives its members a feeling of belonging, of family. It gives its

62. *Id.* at 2.

63. *Malnutrition: Nigeria's Silent Crisis*, FED. MINISTRY OF HEALTH, NIGERIA at 1 (2015), <http://www.prb.org/pdf15/nigeria-malnutrition-factsheet.pdf>.

64. See Emeka Anuforo, *Nigeria: '210,557 Kids Died From Pneumonia, Diarrhoea in 2015'*, GUARDIAN, (Nov. 19, 2015), <http://allafrica.com/stories/201511191295.html>.

65. See Press Release, *Doctors Without Borders, Nigeria: Cholera Spreads in Camps for Displaced People in Borno State* (Sept. 17, 2015), <http://www.doctorswithoutborders.org/article/nigeria-cholera-spreads-camps-displaced-people-borno-state>.

66. See Sarah Silverman, *Kenya and Nigeria Struggle with Increasing Numbers of Internally Displaced*, FUND FOR PEACE (Aug. 13, 2015), <http://library.fundforpeace.org/blog-20150813-idps>.

67. *About the crisis*, U.N. OFFICE FOR THE COORDINATION OF HUMANITARIAN AFFAIRS, <http://www.unocha.org/nigeria/about-ocha-nigeria/about-crisis> (last visited Sept. 20, 2016).

68. *Id.*

69. See Elizabeth J. Rushing & Joe Read, *Nigeria: multiple displacement crises overshadowed by Boko Haram*, INTERNAL DISPLACEMENT MONITORING CENTRE (Dec. 9, 2014), <http://www.internal-displacement.org/sub-saharan-africa/nigeria/2014/nigeria-multiple-displacement>.

70. Precisely because of the insecurity, exact figures are hard to find. For general reports, see, e.g., *Nigeria Humanitarian Situation Report*, UNICEF at 2 (Apr.-May, 2016), <http://reliefweb.int/sites/reliefweb.int/files/resources/UNICEF%20Nigeria%20Hum%20SitRep%20April%20-%20May%202016.pdf>. See also *The IDP Situation in North-Eastern Nigeria: Displacement Tracking Matrix Report (DTM)*, NAT'L EMERGENCY MGMT. AGENCY & INT'L ORG. FOR MIGRATION at 7 (Dec. 2014).

71. See *Nigeria attack: 'Hundreds of militants' target Maiduguri barracks*, BBC NEWS (Mar. 14, 2014), <http://www.bbc.com/news/world-africa-26575428>.

72. See Alyssa Cogan, *New report investigates how Boko Haram recruits youth*, MERCY CORPS (Apr. 8, 2016), <https://www.mercycorps.org/articles/nigeria/new-report-investigates-how-boko-haram-recruits-youth>.

73. See *id.*

74. See *id.*

members hallucinate drugs both for recreation and for fighting.⁷⁵ Boko Haram combatants get a feeling of adventure and power from their exploits.⁷⁶ In traditional African culture, older and wealthier men get the marriageable women and poor, male youth lack a clear path to marriage.⁷⁷ Boko Haram kidnaps girls and gives them to its soldiers as brides.⁷⁸ Boko Haram men brand their female victims with tattoos to show ownership and to remind the victims to whom they belong.⁷⁹ Drugs and human trafficking make up part of the economy for the insurgents.⁸⁰

Boko Haram also uses forced conscripts. Boko Haram kidnaps boys and girls and presses them into service.⁸¹ These child soldiers are then hardened through ideology and trauma.⁸² If they try to leave, they are often told their family members will be tortured and killed.⁸³ Boko Haram has used children to blow up markets, mosques, and bus stations.⁸⁴ Once children are in Boko Haram, their former communities are loath to take them back, fearing that they have been lost to the guerrillas and their way of thinking.⁸⁵ That child soldiers are victims is not the way communities think about them.⁸⁶

While the vast majority of Boko Haram fighters come from the illiterate poor, usually the Hausa or Kanuri tribes, some are more educated and become radicalized through extremist ideology.⁸⁷ Traditional Muslim mullahs and religious leaders denounce Boko Haram, but often pay for that with their lives.⁸⁸ One outspoken critic of Boko Haram, the Emir of Kano,

75. Robert J. Bunker, *BLOOD SACRIFICE: VIOLENT NON-STATE ACTORS AND DARK MAGICO-RELIGIOUS ACTIVITIES* 44 (Robert J. Bunker ed., 2016).

76. “*Motivations and Empty Promises*”: *Voices of Former Boko Haram Combatants and Nigerian Youth*, MERCY CORPS at 12-13 (Apr. 2016), https://d2zyf8ayvg1369.cloudfront.net/sites/default/files/Motivations%20and%20Empty%20Promises_Mercy%20Corps_Full%20Report_0.pdf.

77. *Id.*

78. See “*Motivations and Empty Promises*”, *supra* note 76, at 8.

79. *Id.*

80. See Moses Atogo Unongu, *Terrorism and Human Trafficking: Defining the Nexus*, WEST AFR. REGIONAL TRAINING CENTER, <https://www.westafricartc.org/general/alumni-submitted-content-terrorism-and-human-trafficking> (last visited Sept. 20, 2016); Zayyad I. Muhammad, *Aisha Buhari and the North East Development Commission*, NIGERIA VILLAGE SQUARE (May 16, 2016), <http://www.nigeriavillagesquare.com/articles/aisha-buhari-and-the-north-east-development-commission.html> (highlighting the particular plight of women).

81. See “*Motivations and Empty Promises*”, *supra* note 76, at 11.

82. See *id.* at 14.

83. *Id.*

84. *Id.*

85. *Id.*

86. For further background on Former Boko Haram fighters, see generally “*Motivations and Empty Promises*”, *supra* note 76.

87. Alex Thurston, *The Brookings Project on U.S. Relations with the Islamic World*, “*The Disease is Unbelief: Boko Haram’s Religious and Political Worldview*” 15 (No. 22, Jan. 2016), available at https://www.brookings.edu/wp-content/uploads/2016/01/iwr_20160114_boko_haram.pdf.

88. *Id.*

escaped death when an attack took place at his mosque when he just happened to be traveling out of the country.⁸⁹

The extremist theology often comes from Islamic Almajiri schools common in rural areas.⁹⁰ These unregulated, itinerate schools are often led by self-proclaimed teachers who have students memorize verses from the Koran while having the kids panhandle to collect money to pay the teachers.⁹¹ In some cases, the schools radicalize the youth, teaching an intolerant brand of Islam, sometimes with non-canonical texts with eschatological interpretations.⁹² This fuels a supply of potential Boko Haram fighters infused with religious conviction and a sense of righteousness, regardless of whether the interpretation is authentic or not.⁹³

III. Immediate Issues

In December 2014, President Jonathan announced that the conflict would end—an obvious electoral ploy.⁹⁴ But he may have actually believed it if that is what his generals promised. When President Buhari made a similar three month pledge in May 2015 and again in August, he too probably believed it.⁹⁵ But guerilla wars are never like that. They tend to require a more integrated, holistic, longer approach.⁹⁶ This is not just about the conventional threat from Boko Haram in terms of clearing militants and IEDs from the Sambisa Forest, but rather protecting the civilian population from asymmetrical attacks.⁹⁷ The Nigerian military is capable of fighting the conventional struggle and, if given the right policy and leadership context, can succeed in the longer term asymmetrical warfare.⁹⁸

89. Boko Haram has attempted to kill both Emri Ado Bayero (1930-2014; ruled 1963-2014) and Emir Muhammadu Sanusi II (born in 1961; took office in 2014). See Will Ross, *Nigeria: Kano Reels after Emir attack*, BBC NEWS (Feb. 7, 2013), <http://www.bbc.com/news/world-africa-21340480>. See also *Nigeria unrest: Kano mosque attack kills dozens*, BBC NEWS (Nov. 28, 2014), <http://www.bbc.com/news/world-africa-30250950>.

90. See THURSTON, *supra* note 87, at 15.

91. *Id.*

92. *Id.*

93. For an interesting overview of the beliefs of Boko Haram fighters, see generally THURSTON, *supra* note 87.

94. This was not the first time President Jonathan had promised quick resolution of the threat. See *Nigeria's Goodluck Jonathan Vows to Defeat Boko Haram*, BBC NEWS (Jan. 1, 2015), <http://www.bbc.com/news/world-africa-30652581>.

95. See Alissa Greenberg, *New Nigerian President Buhari Pledges Renewed Fight Against Boko Haram*, TIME (Jun. 4, 2015), <http://time.com/3908486/nigeria-niger-boko-haram-muhammadu-buhari/>.

96. See T.X. Hammes, *The Way to Win a Guerrilla War*, WASH. POST (Nov. 26, 2006), <http://www.washingtonpost.com/wp-dyn/content/article/2006/11/24/AR2006112401113.html>.

97. See “*When We Can’t See the Enemy, Civilians Become the Enemy*”: *Living Through Nigeria’s Six-Year Insurgency*, CENTER FOR CIVILIANS IN CONFLICT at 4 (2015), http://civiliansinconflict.org/uploads/files/publications/NigeriaReport_Web.pdf.

98. See, e.g., Ayodele Daniel, *Nigeria Army Trains Officers, Men in Asymmetric Warfare*, INFORMATION NIGERIA (Dec. 8, 2012), <http://www.informationng.com/2012/12/nigeria-army-trains-officers-men-in-asymmetric-warfare.html>.

Local populations in the northeast have formed the Civilian Joint Task Force (CJTF) to provide community self-defense, reinforce military operations, and help the military to separate out who are really Boko Haram as opposed to victims; while in the short term the CJTF is a welcome addition to the Nigerian force, it is an irregular and undisciplined force with potential for human rights abuses.⁹⁹ In the longer term, if Boko Haram is defeated, the CJTF will have to be demobilized and reintegrated.¹⁰⁰ The Borno Governor has already started planning for this by proposing ways some of these fighters could be merged into the formal security structure.¹⁰¹ Still this remains a concern.

While Boko Haram is based overwhelmingly in Nigeria, it does have activities in the Lake Chad region involving Niger, Chad, and Cameroon.¹⁰² These three countries, plus Benin and Nigeria, have all contributed troops to the Multi-National Joint Task Force (MNJTF), which has received technical support from France, Britain, and the United States.¹⁰³ Given Nigeria's history of participation in United Nations peacekeeping operations, Nigeria will welcome the MNJTF so long as it remains under Nigerian command.¹⁰⁴ International efforts to add an additional African Union force are unlikely to pan out given Nigeria's sovereignty interests.¹⁰⁵ Nigeria has, however, brought in mercenaries from South Africa to augment its own force and provide additional training and leadership.¹⁰⁶

99. See *Civilian vigilante groups increase dangers in northeastern Nigeria*, IRIN (Dec. 12, 2013), <http://www.irinnews.org/news/2013/12/12/civilian-vigilante-groups-increase-dangers-north-eastern-nigeria>. For a broader discussion on the needs of victims, see Francisca Vigaud-Walsh, *Nigeria's Displaced Women and Girls: Humanitarian Community at Odds, Boko Haram's Survivors Forsaken*, REFUGEES INT'L (Apr. 21, 2016), <http://static1.squarespace.com/static/506c8ea1e4b01d9450dd53f5/t/572ce8f8f699bb5f617d2319/1462561020546/20160421+Nigeria.pdf>.

100. See Jennifer G. Cooke, *Now Comes the Hard Part: Five Priorities in the Continuing Fight against Boko Haram*, CENTER FOR STRATEGIC AND INT'L STUD. (Feb. 5, 2016), <https://www.csis.org/analysis/now-comes-hard-part-five-priorities-continuing-fight-against-boko-haram>.

101. See *id.*

102. Ludovica Iaccino, *Boko Haram suspects kill 50 in Chad and Cameroon as Nigeria claims army closing in*, INT'L BUS. TIMES (Oct. 12, 2015, 9:58 BST), <http://www.ibtimes.co.uk/boko-haram-suspects-kill-50-chadcameroon-nigeria-claims-army-closing-1523536>.

103. Landry Signé, *Why Obama's military deployment against Boko Haram is too little, too late*, WASH. POST (Oct. 28, 2015), <https://www.washingtonpost.com/news/monkey-cage/wp/2015/10/28/why-obamas-military-deployment-against-boko-haram-is-too-little-too-late/>.

104. See Thomas Fessy, *Boko Haram: Can regional force beat Nigeria's militant Islamists?*, BBC NEWS (Mar. 3, 2015), <http://www.bbc.com/news/world-africa-31695508>.

105. See *id.*

106. Colin Freeman, *South African mercenaries' secret war on Boko Haram*, TELEGRAPH (May 10, 2015, 9:20 PM BST), <http://www.telegraph.co.uk/news/worldnews/africaandindianocean/nigeria/11596210/South-African-mercenaries-secret-war-on-Boko-Haram.html>.

IV. Transition and Governance

Asymmetrical warfare is no longer like the wars of old, when one side surrendered to the other.¹⁰⁷ In Nigeria, there will be no formal disarmament or peace deal and no laying down of arms in front of the cameras.¹⁰⁸ There will be no United Nations observation or peace-keeping mission.¹⁰⁹ In fact, Nigeria has the opportunity to write the book on how to win asymmetrical warfare, advance peace and prosperity, and counter violent ideology.

For much of the past six years, there have been large parts of Nigeria's northeast where there has been no functional government.¹¹⁰ For decades, corruption and neglect meant that the region received little in terms of education, healthcare, infrastructure, electricity, or other public services.¹¹¹ Given its size, it might be logical to assume that Nigeria had state capacity similar to Indonesia, Russia, or Brazil.¹¹² But across Nigeria, public institutions have been hollowed out, with corrupt politicians taking away the spoils and neglecting the rot until the country got to this crisis.¹¹³ After twenty years of theft on a grand scale, Nigeria has been left without institutions or the ability to deliver.¹¹⁴ And it is still worse in the North and Northeast.¹¹⁵

The Borno State Government had been in hands of the political party in opposition to the central President, meaning that party politics accentuated the divide. Today, that has changed. The governors in the Northeast are from the same political party as the presidency and the majority in the national congress. With a clearly articulated strategy from the president, the nation should be able to coalesce to concentrate effort in the frontline states and the North more broadly. Key to this will be tangible investments that yield benefits for people who are suffering most. Prominent themes that Nigerians will have to negotiate will be transitional justice, reintegration,

107. See Ryan Cummings, *Boko Haram and the Symmetry of Asymmetric Warfare*, IPI GLOBAL OBSERVATORY (Dec. 10, 2014), <https://theglobalobservatory.org/2014/12/boko-haram-asymmetrical-warfare/>.

108. See *id.*

109. See *id.*

110. Dr. Johnson I. Agbinya, *A Chronicle of How 20 of 27 LGAS in Borno State Were Taken by Boko Haram From the Nigerian Government: Terrorism in Review*, NEWSRESCUE.COM (Jan. 1, 2015), <http://newsrescue.com/chronicle-20-27-lgas-borno-state-taken-boko-haram-nigerian-government-terrorism-review-dr-johnson-agbinya/#axzz4IxpHZCz1>.

111. See generally Patricio Asfura-Heim & Julia McQuaid, *Diagnosing the Boko Haram Conflict: Grievances, Motivations, and Institutional Resilience in Northeast Nigeria*, CENTER FOR NAVAL ANALYSES (Jan. 2015), https://www.cna.org/CNA_files/PDF/DOP-2014-U-009272-Final.pdf.

112. *Nigeria: Country Overview*, NATIONS ENCYCLOPEDIA, <http://www.nationsencyclopedia.com/economies/Africa/Nigeria.html> (last visited Sept. 21, 2016).

113. *Agbinya*, *supra* note 110.

114. *Id.*

115. About the crisis, U.N. OFFICE FOR THE COORDINATION OF HUMANITARIAN AFFAIRS, <http://www.unocha.org/nigeria/about-ocha-nigeria/about-crisis> (last visited Sept. 21, 2016).

and terms for amnesty.¹¹⁶ Given that President Buhari indicated when elected that the treasury and central bank were bare, there is the challenge of budgetary resources needed to finance some of the proposals presented, and the World Bank and others have stepped in with lending options to cover at least part of the reconstruction cost.¹¹⁷

V. Democracy Not Delivering for Ordinary Nigerians

So far, no government of Nigeria entity has managed the emergency effectively. President Jonathan's Office of the National Security Advisor (ONSA) produced the President's Initiative for the North East (PINE) and a related plan.¹¹⁸ The plan lacked prioritization, budget, sequencing or even ownership for operationalization.¹¹⁹ The governors' rival North East States Transformation Strategy (NESTS) was produced when President Jonathan and the various northern governors were from different political parties.¹²⁰ The PINE and NESTS plans were both desk studies without data or public consultation. A fresh Buhari plan now must integrate strategy and reflect both commitment and realism. Fortunately, President Buhari has formed a new President's Commission on North East Interventions (PCNI) to undertake just such an effort, working much more closely with the donor community and across ministerial and organizational lines.¹²¹

In charge, he named one of his personal confidants, the aging Gen. T.Y. Danjuma, who is now retired.¹²² President Buhari also moved operational programs from ONSA to the Vice President, allowing ONSA to concentrate on strategy and inter-institutional coordination.¹²³ The new approach seems

116. Tarila Marclint Ebiede, *Amnesty and Disarmament, Demobilization and Reintegration for Boko Haram?*, AFRICAN ARGUMENTS (June 11, 2015), <http://africanarguments.org/2015/06/11/amnesty-and-disarmament-demobilization-and-reintegration-for-boko-haram-by-tarila-marclint-ebiede/>.

117. *Nigeria seeking World Bank Loan*, BBC NEWS (Feb. 1, 2016), <http://www.bbc.com/news/world-africa-35458459>.

118. Bjarte Reve & Hafsati Abiola-Costello, *Three key steps to making schools safe in Nigeria*, WORLD ECONOMIC FORUM (July 23, 2014), <https://www.weforum.org/agenda/2014/07/safe-schools-nigeria/>.

119. See generally The Pine Long-Term Economic Reconstruction and Redevelopment Plan (Initiatives, Strategies and Implementation Framework), *Presidential Initiative for the North East* (July 2015), https://www.humanitarianresponse.info/fr/system/files/documents/files/pine_the_north_east_err_plan_-_full_-_pine_-_july_2015_2015_2020.pdf.

120. See generally Sylvester Ugwuanyi, *North-East governors demand resettlement, re-integration of Boko Haram victims*, DAILY POST (July 1, 2015), <http://dailypost.ng/2015/07/01/north-east-governors-demand-resettlement-re-integration-of-boko-haram-victims/>.

121. See Amina Alhassan, *FG unveils website to coordinate North-East rehabilitation*, DAILY TRUST (Oct. 23, 2015, 8:48 PM), <http://www.dailytrust.com.ng/news/general/fg-unveils-website-to-coordinate-north-east-rehabilitation/116274.html>.

122. See *Buhari Names TY Danjuma, Dangote in committee on North-East rehabilitation*, PREMIUM TIMES NIGERIA (Jan. 1, 2016), <http://www.premiumtimesng.com/news/196053-breaking-buhari-names-ty-danjuma-dangote-in-committee-on-north-east-rehabilitation.html>.

123. See generally *Buhari: I will keep my promise on Boko Haram*, VANGUARD (Aug. 23, 2016, 6:12 PM), <http://www.vanguardngr.com/2016/08/buhari-will-keep-promise-boko-haram/>.

calibrated to be more successful than what Nigeria had before under President Jonathan. Having said that, President Buhari is still beholden to an elder system in Nigeria in which, culturally, Nigerians must “wait” for a leader of anything—even a younger, better general or better administrator—because the culture gives deference to the elders.¹²⁴ Out-dated ideas continue to be used until someone is literally dead before new, modern ideas can be tried.¹²⁵

Part of the problem is trying to differentiate between damage from the insurgency and what was rotten beforehand. This will not be a program for “reconstruction,” but rather “construction.”¹²⁶ For example, the schools were never in good shape before the conflict.¹²⁷ In northern states, for example, many classrooms have dirt floors, lack desks or chairs, pencils, pens, or paper.¹²⁸ Kids do not have bus transportation—they walk along unpaved roads and paths for miles to and from school.¹²⁹ Girls risk abductions or rape on the journey.¹³⁰ When they get to school, if there are latrines, there are not separate bathrooms for girls and boys.¹³¹ When teachers do show up, the quality of instruction is often dubious.¹³² Understandably, many parents think it was better for kids to start work and help the family rather than waste time in such miserable schools.¹³³ “Boko

124. See generally DIANE LEMIEUX, NIGERIA - CULTURE SMART!: THE ESSENTIAL GUIDE TO CUSTOMS & CULTURE (Geoffrey Chesler ed. 2011), available at <https://books.google.com/books?id=abc-AQAAQBAJ&pg=PT43&lpg=PT43&dq=nigeria+culture+deference+to+elders&source=bl&ots=aFoEBAOhB7&sig=VR5dctNH6LzC7I9emzJABAEhZYI&hl=en&sa=X&ved=0ahUKEwiYgJz0jO3OAhVKzmMKHb1PA2QQ6AEIQDAG#v=onepage&q=nigeria%20culture%20deference%20to%20elders&f=false>.

125. See Atane Ofiaja, *Why elders deserve only earned respect*, THIS IS AFRICA (Mar. 6, 2014), <http://thisisafrika.me/why-elders-deserve-only-earned-respect/>.

126. See Halimatu Muhammadu, *Shettima Co-host First Annual Dialogue On Rebuilding Borno State*, NAIJA247NEWS (Apr. 2016), <http://naija247news.com/2016/04/shettima-co-host-first-annual-dialogue-on-rebuilding-borno-state/>.

127. *The Children: Education*, UNICEF NIGERIA, http://www.unicef.org/nigeria/children_1937.html (last visited Sept. 21, 2016).

128. See Kevin Watkins, *Too Little Access, Not Enough Learning: Africa's Twin Deficit in Education*, BROOKINGS (Jan. 16, 2013), <https://www.brookings.edu/opinions/too-little-access-not-enough-learning-africas-twin-deficit-in-education/>.

129. See Funmi Ajumobi, *Children going to schools far away from home*, VANGUARD (Apr. 21, 2016, 5:39 PM), <http://www.vanguardngr.com/2016/04/children-going-to-schools-far-away-from-home/>.

130. See Margee Ensign, *Nigerians defy terror to keep learning*, BBC NEWS (May 15, 2014), <http://www.bbc.com/news/business-27374146>.

131. See Anthonia Soyingbe, *Nigeria: The Girl-Child and Challenge of Toilet Facilities in Public Schools*, ALLAFRICA (July 28, 2014), <http://allafrica.com/stories/201407290618.html>.

132. See Watkins, *supra* note 128.

133. See generally Aramide Kazeem, Leif Jensen, & C. Shannon Stokes, *School Attendance in Nigeria: Understanding the Impact and Intersection of Gender, Urban-Rural Residence and Socioeconomic Status*, 54 COMP. EDUC. REV. 295 (May 2010), <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC4593499/>.

Haram” itself is sometimes translated as “western education is forbidden.”¹³⁴ If by “western education” northern families understand the education system they have, they could be forgiven for not valuing it. But now schools are even worse. Borno State schools have been closed for three years (albeit with limited openings in Maiduguri in November 2015).¹³⁵ Many schools were burned and gutted; official records lost.¹³⁶ The schools will need to be re-built, new teachers recruited (and paid!), and parents’ faith restored in the education system.¹³⁷

Healthcare faces similar challenges. One-fourth of the worldwide malaria cases are Nigerians.¹³⁸ About half of Nigerians carry the disease, with even higher concentrations in the Northeast.¹³⁹ Nigeria ranks among the top ten countries in terms of global tuberculosis (TB) burden, with an estimated 610,688 incident cases of TB in 2014.¹⁴⁰ Only seventeen of one hundred cases are diagnosed and treated each year.¹⁴¹ If you are Nigerian and HIV positive and you are on treatment, that treatment is paid for by the U.S. Government via the U.S. President’s Emergency Plan for AIDS Relief (PEPFAR).¹⁴² In Bauchi State, for example, 35,637 are HIV positive and only 6,813 are on treatment – all paid for by PEPFAR.¹⁴³ In other words, through 2015, the Nigerian government has invested close to zero to help its HIV positive population.¹⁴⁴

Among all African countries, only Nigeria still has polio.¹⁴⁵ Thanks to the U.N. Global Fund, the Gates Foundation, Rotary International, and the U.S. Agency for International Development (USAID), Nigeria has had

134. Mausi Segun, “*They Set the Classrooms on Fire,*” *Attacks on Education in Northeast Nigeria*, HUMAN RIGHTS WATCH (Apr. 11, 2016), <https://www.hrw.org/report/2016/04/11/they-set-classrooms-fire/attacks-education-northeast-nigeria>.

135. See *Parents Beg Borno Gov to Reopen Closed Public Schools*, METRO WATCH (July 24, 2016) <http://metrowatchonline.com/parents-beg-borno-gov-reopen-closed-public-schools/>.

136. Segun, *supra* note 134.

137. *Id.*

138. Nigeria, WORLD HEALTH ORG. (2009), http://www.who.int/malaria/publications/country-profiles/2009/mal2009_nigeria_0033.pdf.

139. See UNICEF *says malaria still number-one killer of children under five in Nigeria*, UNICEF NIGERIA (Apr. 25, 2010), http://www.unicef.org/nigeria/media_4221.html.

140. See generally Olarewaju Sunday Olakunle et al., *Knowledge Gap About Tuberculosis Case Detection Among Patent Medicine Vendors in Osogbo: Implications for Social Work*, 3 EUR. J. PHARM. & MED. RES. 89 (2016), http://www.ejpmr.com/admin/assets/article_issue/1456820888.pdf.

141. See generally *id.*

142. See Myra Sessions, *Overview of the President’s Emergency Plan for AIDS Relief (PEPFAR)*, CTR. FOR GLOBAL DEV., <http://www.cgdev.org/doc/HIVAIDSMonitor/OverviewPEPFAR.pdf> (last visited Sept. 21, 2016).

143. See generally *FY 2015 Nigeria Country Operational Plan*, U.S. DEP’T OF STATE (July 17, 2015), <http://www.pepfar.gov/documents/organization/250298.pdf>.

144. See Emmanuel Elebeke, ‘*USAID Spends \$700m Fighting HIV/AIDS in Nigeria*’, VANGUARD (Mar. 16, 2016, 9:11 PM), <http://www.vanguardngr.com/2016/03/usaids-spends-700m-fighting-hiv-aids-in-nigeria/>.

145. See Press Release, WORLD HEALTH ORG., *WHO Removes Nigeria from Polio-Endemic List* (Sep. 25, 2015), <http://www.who.int/mediacentre/news/releases/2015/nigeria-polio/en/>.

massive polio vaccination campaigns.¹⁴⁶ It has now gone one year without new reported cases, but it must go three years without a recurrence for the nation to be declared “polio free.”¹⁴⁷ Again, this is thanks to foreign aid, not the Nigerian government.¹⁴⁸

If it were a separate country, northern Nigeria might be the worst place on the planet to be a woman.¹⁴⁹ According to some estimates, there are one hundred million poor in Nigeria, skewed heavily toward the North, with many more women than men in poverty.¹⁵⁰ In the North, most women are illiterate.¹⁵¹ Most marry between the ages of twelve and fourteen, drop out of school, and begin having children immediately.¹⁵² Not that staying in school is a solution. The Chibok girls were sitting for their final high school exams when they were kidnapped by Boko Haram.¹⁵³ Because of the poor schools, most of those girls were still functionally illiterate and innumerate after having completed high school.¹⁵⁴ Education systems are tailored to boys rather than girls.¹⁵⁵ Violence against women, psychological and physical, remains chronic.¹⁵⁶ Girls in the Northeast have on average 6.3 children, causing a demographic explosion.¹⁵⁷ While Nigeria accounts for 2.48 percent of the globe’s population, it accounts for fourteen percent of its maternal deaths, again almost all concentrated in the North.¹⁵⁸

146. See *Children’s Health Programme*, U.N. OFFICE FOR P’SHPIS, <http://www.un.org/partnerships/YPACChildHealth.htm> (last visited Sept. 21, 2016).

147. See Agence France-Presse, *India and 10 other Asian countries declared polio free*, GUARDIAN (Mar. 28, 2014, 11:45 EDT), <https://www.theguardian.com/society/2014/mar/28/india-10-other-asian-countries-declared-polio-free>.

148. See *Children’s Health Programme*, *supra* note 146.

149. See generally Agabus Pwanagba, *70% of Nigerian women are living below poverty line-Minister*, DAILY POST (July 13, 2013), <http://dailypost.ng/2013/07/13/70-of-nigerian-women-are-living-below-poverty-line-minister/>.

150. See John C. Anyanwu, *Poverty in Nigeria: A Gendered Analysis*, 11 AFR. STAT. J. 38, 46 (2010), <http://www.afdb.org/fileadmin/uploads/afdb/Documents/Publications/Poverty%20in%20Nigeria%20A%20Gendered%20Analysis.pdf>.

151. *Sanusi Lamido reveals that 93% of girls are illiterate in northern Nigeria*, NIGERIAN WATCH, <http://www.nigerianwatch.com/news/1585-sanusi-lamido-reveals-that-93-of-girls-are-illiterate-in-northern-nigeria> (last visited Sept. 21, 2016).

152. See generally *Information Sheet: Girls’ Education*, UNICEF (Sept. 2007), http://www.unicef.org/wcaro/WCARO_Nigeria_Factsheets_GirlsEducation.pdf.

153. Alexis Okeowo, *Nigeria’s Stolen Girls*, NEW YORKER (Apr. 29, 2014), <http://www.newyorker.com/news/daily-comment/nigerias-stolen-girls>.

154. See *Sanusi Lamido reveals that 93% of girls are illiterate in northern Nigeria*, *supra* note 151.
155. See *id.*

156. See generally Alexandra Z. Safir & Mayesha Alam, *The 2015 Nigeria Elections & Violence Against Women in Politics*, GEORGETOWN INST. FOR WOMEN, PEACE & SEC. (Apr. 2015), <https://giwps.georgetown.edu/sites/giwps/files/Special%20Report%20-%20Nigeria.pdf>.

157. See generally *Nigeria: Demographic and Health Survey*, NAT’L POPULATION COMMISSION (NIGERIA) (June 2015), <https://dhsprogram.com/pubs/pdf/FR293/FR293.pdf>.

158. *Nigeria Population*, WORLDOMETERS (2016), <http://www.worldometers.info/world-population/nigeria-population/>; Obalolu Davies, *Nigeria constitutes 14% of the total Maternal deaths*, PULSE (Dec. 15, 2015), <http://pulse.ng/health/who-nigeria-constitutes-14-of-the-total-maternal-deaths-id4465806.html>.

Approximately 150,000 women of reproductive age currently live with or have previously had obstetric fistula, a leading cause of death during childbirth.¹⁵⁹ Women receive worse healthcare, nutrition, employment, and protection.¹⁶⁰ This all must change.

These kinds of major infrastructure and systems changes will take time and fresh resources. Between the African Development Bank and the World Bank, Nigeria probably has more than a billion dollars in loans already approved by the Nigerian Congress sitting on the books of the Finance Ministry, set to execute, even while Nigeria assesses needs, prioritizes, and sequences future outlays.¹⁶¹ These existing resources should be applied immediately to address infrastructure and systems needs in the Northeast.¹⁶² Nigerians should also open a dialogue between the Presidency and the Congress on how to fund northeast development, respecting the federal (decentralized) system for service delivery and looking to use private sector service providers already in the Northeast to the extent possible—creating investment and jobs for local Nigerians of all stripes.

VI. “Every day is for the thief”

More than anything else, corruption made Boko Haram.¹⁶³ It gave the organization a foil to rail against and a moral indignation.¹⁶⁴ President Buhari will have to take that away by proving Nigeria can stop corruption. Already, President Buhari has given clear instructions to his new ministers that corruption will no longer be tolerated, ordered their motorcades cut, and reduced staff sizes.¹⁶⁵ He has also reinvigorated a previously moribund anti-money laundering commission.¹⁶⁶ But more than anything else, perhaps it is his leadership by example that is changing perceptions.¹⁶⁷ He published his own personal income and wealth statements online and has a reputation

159. Chioma Obinna, *150,000 living with Fistula — Expert*, VANGUARD (Aug. 25, 2016, 3:44 AM), <http://www.vanguardngr.com/2016/08/150000-living-fistula-expert/>.

160. See generally Pwanagba, *supra* note 149; *Sanusi Lamido reveals that 93% of girls are illiterate in northern Nigeria*, *supra* note 151.

161. See generally Chris Kay, *Nigeria Seeks \$3.5 billion in Loans From World Bank*, AfDB, BLOOMBERG (Jan. 31, 2016, 1:53 PM CST), <http://www.bloomberg.com/news/articles/2016-01-31/nigeria-seeks-3-5-billion-of-loans-to-buoy-spending-in-oil-rout>.

162. See generally Press Release, *World Bank, World Bank Scales up Support for Nigeria’s North-East Region* (June 7, 2016), <http://www.worldbank.org/en/news/press-release/2016/06/07/world-bank-scales-up-support-for-nigerias-north-east-region>.

163. See generally Phillip Ikita, *Corruption in Nigeria, not just Boko Haram, is at the root of violence*, GUARDIAN (Jul. 11, 2014, 10:48 EDT), <https://www.theguardian.com/global-development/poverty-matters/2014/jul/11/boko-haram-nigeria-violence-corruption-security>.

164. See generally *id.*

165. Naruddeen M. Abdallah, *Buhari cuts cars in motorcade*, DAILY TRUST (Dec. 28, 2015, 12:37 AM), <http://www.dailytrust.com.ng/news/general/buhari-cuts-cars-in-motorcade/126344.html>.

166. See Olalekan Adetayo, *President seeks speedy passage of anti-money laundering bill*, PUNCH (May 31, 2016), <http://punchng.com/buhari-seeks-speedy-passage-anti-money-laundering-bill/>.

167. See Hassan Adebayo, *Okonjo-Iweala backs Buhari on corruption war, says president leading by example*, PREMIUM TIMES NIGERIA (Oct. 12, 2015), <http://www.premiumtimesng.com/news/>

from his prior turn in office for not allowing abuse.¹⁶⁸ He has also encouraged prosecutors to go after graft regardless of party affiliation.¹⁶⁹ In December 2015, prosecutors charged the Jonathan administration's National Security Adviser for stealing \$2 billion in sham procurements for military equipment.¹⁷⁰ If President Buhari can continue that emphasis, prosecute "big fish" for major theft, while putting systems in place that prevent what Nigerians call a "dash," he will have made a major contribution to denying Boko Haram of one of its key talking points.¹⁷¹

Impunity for human rights abuse has been another driver for Boko Haram.¹⁷² Innocent civilians picked up on the battlefield have been accused of being Boko Haram, imprisoned, and beaten without due process or access to an attorney.¹⁷³ Some suspects die while in custody.¹⁷⁴ In fact, it was the assassination while in police custody of Boko Haram's early leader, Mohammed Yusuf, that was the tipping point, leading the group to turn from being a thuggish political group to an armed insurgency.¹⁷⁵ Nigeria does not allow local or community policing because the earlier Biafra War, occurring from 1967 to 1970, left two million dead and showed the dangers of allowing states or local authorities to have their own armed forces.¹⁷⁶

VII. Policy Recommendations

To combat Boko Haram, the Nigerian government will need a phased strategy of intervention. In the immediate term, it will have to pacify the rural Northeast and take back territory. In the medium term, it needs to reconstitute governance. And, finally, it will have to invest in a longer term strategy to develop the region. The U.S. technical assistance can help assure it is successful.

headlines/191420-okonjo-iweala-backs-buhari-on-corruption-war-says-president-leading-by-example.html.

168. See generally *Sahara Reporters, Presidential and VP Salaries Announced*, SAHARA REPORTERS (Jun. 2, 2015), <http://saharareporters.com/2015/06/02/presidential-and-vp-salaries-announced>.

169. See Wale Odunsi, *Corrupt APC Leaders, Members Will be Prosecuted - Buhari*, DAILY POST (Jul. 26, 2016), <http://dailypost.ng/2016/07/26/corrupt-apc-leaders-members-will-prosecuted-buhari/>.

170. Yomi Kazeem, *Nigeria will arrest its ex-security chief for \$2 billion arms fraud while Boko Haram ran riot*, QUARTZ AFRICA (Nov. 18, 2015), <http://qz.com/553028/nigeria-will-arrest-its-ex-security-chief-for-2-billion-arms-fraud-while-boko-haram-ran-riot/>.

171. See generally Natasha Ezrow, *Why the British PM is Right About Corruption in Nigeria and Afghanistan*, NEWSWEEK (May 14, 2016, 4:10 AM), <http://www.newsweek.com/nigeria-and-afghanistan-hope-reform-459711>.

172. See *World Report 2015: Nigeria, Events of 2014*, HUMAN RIGHTS WATCH (2015), <https://www.hrw.org/world-report/2015/country-chapters/nigeria>.

173. See *id.*

174. See *id.*

175. See George Gorman, *Nigerian Taliban leader killed in custody*, LONG WAR J. (July 31, 2009), http://www.longwarjournal.org/archives/2009/07/nigerian_taliban_lea.php.

176. See generally *Nigerian Civil War*, NEW WORLD ENCYCLOPEDIA, http://www.newworldencyclopedia.org/entry/Nigerian_Civil_War (last visited Sept. 21, 2016).

The Nigerian military must defeat Boko Haram on the conventional battlefield. At the same time, Nigerian intelligence will have to work to infiltrate and prevent asymmetrical tactics like bombings and improvised explosive devices (IEDs). These efforts will require a professionalization of the military, intelligence, and police services.

To reduce the size of the Boko Haram force, Nigeria might look to support a defections program. In Colombia, such a program bled forces from the guerillas, the Revolutionary Armed Forces of Colombia (FARC), and the National Liberation Army (ELN). Key to this is assuring a path whereby combatants can turn themselves in without risk of being killed or hurt. The former fighters would have to give up their arms, renounce their former involvement, and share intelligence about their prior activities. Under such circumstances, a defection program can be a useful tool to reduce the size of enemy forces while demoralizing them at the same time. Without a defections program, fighters who want to lay down their arms have no escape and continue to fight.¹⁷⁷

Nigeria will have to figure out how it can bring peace and security to its civilian population while professionalizing security services. That may not be as hard as it looks. A lot of “conventional wisdom” on conflict suggests that Nigeria should not use southern police or military in the Northeast.¹⁷⁸ The logic suggests that this could give an ethnic, religious, or cultural spin to an already emotive conflict.¹⁷⁹ Why add fuel to the fire? However, my trip to an IDP settlement put paid to that assumption. We asked if IDPs would welcome police or soldiers from the south. “Of course,” they replied. “We would recognize them instantly and know they were not Boko Haram.” Previously, Boko Haram would impersonate police or military and go to communities.¹⁸⁰ When villagers volunteered information on the insurgents, Boko Haram would kill them as traitors.¹⁸¹ Southern law enforcement officers could be trusted in ways their fellow countrymen could not. The Nigerian army has a tradition of participation in peace-keeping operations

177. Many detained Boko Haram fighters who surrendered later died while in Government of Nigeria custody. See, e.g., *Nigeria Giwa barracks ‘a place of death’ says Amnesty*, BBC NEWS (May 11, 2016), <http://www.bbc.com/news/world-africa-36259126>.

178. See generally Femi Famutimi, *Police Deployment to North-East, Officers Beg to Avoid Boko Haram States*, HERALD NG (Mar. 26, 2016, 19:57), <http://www.herald.ng/police-deployment-to-north-east-officers-beg-to-avoid-borno-yobe-and-adamawa/>.

179. See generally Ike Chidi, *Nigeria’s Religious and Cultural Conflict*, <https://webcache.googleusercontent.com/search?q=cache:UmpRyK3xYngJ:web.stanford.edu/class/e297a/Nigeria%27s%2520Religious%2520and%2520Cultural%2520Conflict.doc&cd=9&hl=en&ct=clnk&gl=us> (last visited Sept. 21, 2016).

180. Feldman, *Nigeria Struggles to Cope with and Evolving Boko Haram*, FOREIGN MILITARY STUDIES OFFICE, http://fmso.leavenworth.army.mil/OEWatCh/201311/Africa_02.html (last visited Sept. 21, 2016).

181. See, e.g., *Boko Haram kills 11 ‘traitors’ in northeastern Nigerian town*, CHI. TRIB. (July 3, 2015), <http://www.chicagotribune.com/news/nationworld/ct-boko-haram-20150703-story.html>.

around the globe.¹⁸² Fresh leadership and transparent funding could be the key to reinvigoration of that historic tradition.

Having said that, the Nigerian military cannot be expected to engage in military operations against Boko Haram while serving as the country's de facto police force. The central government will have to figure out how to train and deploy more police. Nigeria has a quota system whereby if one region gets more funding, the other regions must also get a bump up in resources. So just sending 4,000 more police to the Northeast is not so easy without also coming up with similar numbers for all the other regions. Either the administration will have to figure out an exception, or it will have to stand up a much larger national force to pacify former Boko Haram areas. This might not be a bad idea, given other on-going conflicts in the Delta region¹⁸³ (mainly over resource allocation) and Nigeria's middle belt (pastoralists versus farmers).¹⁸⁴

Nigeria will be successful on the battlefield only if it also takes care of people in suffering. To do that, Nigeria's National Emergency Management Agency (NEMA) will need to take a lead role in responding to the IDPs. To date, it has provided limited assistance to IDPs only in formal camps – about ten percent of the IDP population.¹⁸⁵ Under President Jonathan, NEMA handed out bags of rice – confiscated from contraband importers, not actually from the government – in sacks with Jonathan's political campaign logo on them.¹⁸⁶ It was not a serious, comprehensive attempt to feed the displaced population. IDPs desperately need food, healthcare, education, and income. While the military make claims to have re-taken territory from Boko Haram, NEMA should not push IDPs to move back to their home communities until those IDPs feel it is safe enough to return. In northern Adamawa State, NEMA convinced IDPs to return to their former villages.¹⁸⁷ When they were dropped off, they were left without protection. The next day, Boko Haram fighters returned and killed them. Some reports claim

182. See Adesoji Adeniyi, *Peacekeeping Contributor Profile: Nigeria*, PROVIDING FOR PEACEKEEPING, <http://www.providingforpeacekeeping.org/2015/04/24/peacekeeping-contributor-profile-nigeria/> (last visited Sept. 21, 2016).

183. See generally Chris Newsom, *Conflict in the Niger Delta: More Than a Local Affair*, U.S. INST. OF PEACE (June 2011), https://www.usip.org/sites/default/files/Conflict_Niger_Delta.pdf; John Campbell & Asch Harwood, *Why a Terrifying Religious Conflict is Raging in Nigeria*, ATLANTIC (Jul. 10, 2013), <http://www.theatlantic.com/international/archive/2013/07/why-a-terrifying-religious-conflict-is-raging-in-nigeria/277690/>.

184. John Campbell & Asch Harwood, *Why a Terrifying Religious Conflict is Raging in Nigeria*, THE ATLANTIC (Jul. 10, 2013), <http://www.theatlantic.com/international/archive/2013/07/why-a-terrifying-religious-conflict-is-raging-in-nigeria/277690/>.

185. See generally *The IDP Situation in North-Eastern Nigeria: Displacement Tracking Matrix Report (DTM)*, *supra* note 70.

186. See Ayodele Daniel, *APC-NEMA Being Forced to Brand Donations to IDPs With PDP Logo, Jonathan's Slogans*, INFORMATION NIGERIA (Feb. 18, 2015), <http://www.informationng.com/2015/02/apc-campaign-alleges-nema-being-forced-to-brand-donations-to-idps-with-pdp-logo-jonathans-slogans.html>.

187. *NEMA shuts down 6 IDPs camps in Adamawa*, DAILY POST (May 12, 2016), <http://daily.post.ng/2016/05/12/nema-shuts-down-6-idps-camps-in-adamawa/>.

refugees are being involuntarily repatriated from Cameroon.¹⁸⁸ Involuntary movement of displaced persons violates international humanitarian law.¹⁸⁹ This cannot be allowed to happen again.

With the possible exception of the Federal Ministry of Health, the main line federal ministries have not taken ownership or leadership for emergency response and construction programs in the Northeast.¹⁹⁰ That must change. The Education Ministry needs to demonstrate its leadership to get kids into school (not back in school—they never went in the first place). It also needs to get new teachers and pay them, dramatically improve quality, and assure that schools are assessable and safe. The Agriculture Ministry needs to help farmers get inputs for planting, improve market access, and make sure fields are safe from mines that Boko Haram may have left behind. The federal government needs to get families and businesses on the electric grid and then collect from them for usage. In general, the federal government ministries need to “have skin in the game” to show they are responsive to the population’s needs.

VIII. U.S. and International Roles

This conflict is not an American, European, or Asian problem. It is a Nigerian problem. And since Nigeria is not a poor country, it does not need American, European, or Asian financial resources. Nigeria does need technology transfer on how to cut corruption, improve government services, manage and execute budgets, and counter violent extremism. But, even so, Nigeria’s problem is not technical but political.¹⁹¹ Aid will only be effective to the extent it works within the political economy and reinforces (rather than substitutes for) political will to clean up government and improve services. To the extent aid agencies do become involved, much of the Northeast is a non-permissive environment—that is, for security reasons, aid workers cannot go to the hardest hit areas.¹⁹² In fact, outside of Maiduguri and a couple of big cities, most of Borno State will remain a “no go” zone for the foreseeable near future.¹⁹³

188. See generally Michael Olukayode, *Nigeria Signs Pact With Cameroon to Repatriate 80,000 Refugees*, BLOOMBERG (Jun. 12, 2016, 10:24 AM CDT), <http://www.bloomberg.com/news/articles/2016-06-12/nigeria-signs-pact-with-cameroon-to-repatriate-80-000-refugees>.

189. See generally *Protecting Internally Displaced Persons: A Manual for Law and Policymakers*, BROOKINGS at 45 (Oct. 2008), https://www.brookings.edu/wp-content/uploads/2016/06/10_internal_displacement_manual.pdf.

190. See generally *The Pine Long-Term Economic Reconstruction and Redevelopment Plan (Initiatives, Strategies and Implementation Framework)*, *supra* note 119.

191. See ‘Nigeria’s Problem is Simply the Failure of Political Leaders to Rebalance the Federation’, THIS DAY (Jul. 19, 2016), <http://www.thisdaylive.com/index.php/2016/07/19/nigerias-problem-is-simply-the-failure-of-political-leaders-to-rebalance-the-federation/>.

192. Michelle Faul, *UN suspends aid to dangerous areas of northeast Nigeria*, AP: THE BIG STORY (Jul. 29, 2016, 9:25 AM EDT), <http://bigstory.ap.org/article/cb6b7cbacae431c8618495951672549/un-suspends-aid-dangerous-areas-northeast-nigeria>.

193. See Haruna Umar, *Nigerian president has exaggerated the military’s success against Boko Haram, say officials after US commander testifies that Boko Haram still holds territory*, U.S. NEWS

International non-governmental organizations (NGOs) responding to the crisis should not come with their standard relief package—the recipe of what they always do in a conflict. This is not Somalia.¹⁹⁴ Ninety percent of IDPs live with host communities, not in camps. While Nigeria’s National Emergency Management Agency (NEMA) has done an adequate job providing basic necessities (mainly rice and cooking oil) to IDPs in camps, it has done about zero for the remaining IDP population.¹⁹⁵ And most IDPs have been displaced now for a year, two years, or more.¹⁹⁶ So the needs today are different than when the crisis started. Instead of parachuting in with water, sanitation, and health kits, NGOs need to first assess what is needed to have a people-level impact.¹⁹⁷ Meeting directly with IDPs would be the best approach to assess their needs. Many will never return to their original home towns.¹⁹⁸ They may want to stay where they are, or they may want to start a new life in a third location. The only way to find out is to ask. In this process, what will jump out is that this is not a pure humanitarian crisis. Nor is this a pure development problem. It is simultaneously both, and the response must recognize that complexity. Further, the NGO organizations themselves need to be staffed with both humanitarian and development experts, not just one or the other.

In September 2015, USAID signed a \$2.3 billion, five-year agreement to support Nigeria.¹⁹⁹ The agreement implements USAID/Nigeria’s Country Development Cooperation Strategy providing humanitarian, transitional, and development programs.²⁰⁰ About eighty percent of the funding will focus on health.²⁰¹ The balance is split between education, electrification, agriculture, and governance.²⁰²

(Mar. 13, 2016, 9:58 AM), <http://www.usnews.com/news/world/articles/2016-03-13/nigeria-president-accused-of-overstating-boko-haram-losses>.

194. See generally Ben Agande, *I was afraid Nigeria might be like Somalia, says Buhari*, VANGUARD (Jun. 16, 2015), <http://www.vanguardngr.com/2015/06/i-was-afraid-nigeria-might-be-like-somalia-says-buhari/>.

195. See generally Samuel Malik, *Nigerian officials grow rich on the hunger of the poor*, NEW INTERNATIONALIST (Jul. 18, 2016), <https://newint.org/features/web-exclusive/2016/07/18/nigerian-corruption-idp-camps/>.

196. See generally Emmanuel Odunmorayo, *The Number of Internally Displaced Persons (IDPs) in Nigeria is Growing, Quickly*, VENTURES (Sept. 29, 2015), <http://venturesafrica.com/the-number-of-internally-displaced-persons-idps-in-nigeria-is-growing-quickly/>.

197. The NGO community is closely engaging with international donors. See generally *Mission Report: An NGO Perspective on the Response to the Humanitarian Crisis in Northeastern Nigeria*, INTERACTION (May 2016), <https://www.interaction.org/sites/default/files/Nigeria%20Trip%20-%20Mission%20Report%20-%20Final.pdf>.

198. See generally Patricia Weiss Fagen, *Special Report: Refugees and IDPs after Conflict*, U.S. INST. OF PEACE (Apr. 2011), <https://www.usip.org/sites/default/files/SR268Fagen.pdf>.

199. See generally *Nigeria: Country Development Cooperation Strategy*, USAID (Sept. 30, 2015), <https://www.usaid.gov/sites/default/files/documents/1860/Nigeria-CDCS-9-30-15v6.pdf>.

200. See generally *id.*

201. See generally *id.*

202. See generally *id.*

In the immediate term, USAID is investing about \$80 million in IDP shelter, sanitation, education, food assistance, and comprehensive healthcare for displaced populations and host communities.²⁰³ Taking advantage of the surprising fact that markets still seem to work in war-torn parts of the country, since October 2014, USAID has provided more than \$20 million in food assistance to support approximately 150,000 individuals in Gombe, Yobe, Borno, and Adamawa States.²⁰⁴ Displaced populations and host community members are provided with cash or food vouchers to help meet their immediate food needs, supported by sensitization and nutrition messaging.²⁰⁵ Gone are the days when USAID imported sacks of rice! Today, the programs target geographic areas based on the IDP caseload and their impact on host communities, prioritizing households with IDPs, pregnant/lactating women, and children under the age of five.²⁰⁶ Vouchers-for-work activities will be featured as a second phase of the intervention to help rebuild and strengthen community assets.²⁰⁷ These activities represent first world technology adapted to IDP realities.²⁰⁸

USAID's humanitarian investment in the Northeast represents about two-thirds of all international emergency aid. The European Union (E.U.) invests the remaining third. Nearly all international humanitarian assistance in the Northeast is paid for between the U.S. and the E.U., including the work being done by United Nations entities. Many Nigerians complain that the international community is not doing anything visible in the Northeast. That is true—the U.S. and E.U. do not brand their work for security reasons. Observers conclude what is being done must be paid for by the Nigerian government. To the extent the international community wants the Nigerian Government to be seen as viable in the Northeast, that misperception of lack of international involvement may actually be a positive thing.

IX. Final Thoughts

The Boko Haram problem will not be over quickly. Even if the military can root the insurgents from the Sambisa Forest, Boko Haram could also recamp to Cameroon, Chad, or Niger.

More likely, there will be more suicide bombing attacks, especially using girls. Such attacks do not require the holding of territory. A Nigerian military victory in the Sambisa Forest will not end the violence, but it will be a major step forward.

203. See *generally Reports & Data: Nigeria*, USAID, <https://explorer.usaid.gov/country-detail.html#Nigeria> (last visited Sept. 15, 2016).

204. See *generally id.*

205. See *generally Mercy Corps vendors empowered by the Red Rose ONESystem reach more customers*, MERCY CORPS, <http://www.cashlearning.org/downloads/red-rose-onesystem-e-voucher-case-study.pdf> (last visited).

206. See *generally id.*

207. See *generally id.*

208. See *generally id.*

The Nigerian heroes are the IDPs and their host communities. The IDPs have been through hell. The host communities have been extremely generous, but are now exhausted. Neither has much food, healthcare, or income. IDPs that left their homes have neither land titles to show their ownership, nor titles to new land they now occupy. IDPs need a new chance at life—just a bit of help so they can help themselves. The current cash transfer program is allowing people to recover their dignity and regain self-reliance.

The long-term solution is to take away the drivers of the conflict. Nigeria must make tangible, measurable progress against corruption. It must make governance work to the benefit of its own citizens. Education, health, electricity, and economic diversification (mainly agriculture) have to be the Nigerian priorities. When the youth are educated and have jobs, when they feel they belong to broader Nigerian society and economics, then Boko Haram's allure will come to its end. Foreign assistance can move this forward, but it cannot substitute for Nigerian leadership and investment.