

THE IMPACT OF LEGAL REGIMES OF THE ECONOMIC COMMUNITY OF WEST AFRICAN STATES (ECOWAS) ON INSECURITY IN NIGERIA

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Abstract

The need to eliminate all types of obstacles to the guaranteed free movement of goods, capital and persons among the Member States is particularly significant to maintenance of security and one of the objectives behind the establishment of the Economic Community of West African States (ECOWAS). Nigeria, despite being a foundation member state of ECOWAS with the aforementioned aims of the Community, yet the nation wallow in serious instances of insecurity. This paper therefore critically appraises the sub-regional law regime, practices and policies with specific focus on the aspect of insecurity and how far have they positively fight against insecurity in Nigeria. This paper adopts non-doctrinal research method, specifically library-based research. This paper's findings include weaknesses of the legal regime of ECOWAS. It is a finding of this paper that despite Nigeria's huge contributions to the Community's programmes and policies, the Community has not satisfactorily fought against insecurity in Nigeria. Therefore, this paper suggests proper review of the law regime of the Community to take care of insecurity in Nigeria and other member states. It is the conclusion that high probability of arrest of the perpetrators and effective enforcement of the reviewed laws against the crimes will assist the nation in her fight against menace of insecurity.

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1.0 Introduction

The phenomena of insecurity are global issues and more aggravated in African continent as such, the concern of all to make the world a better and peaceful place. Interestingly, Nigeria has a member of the global community is signatory to many regional treaties aimed at addressing the menace of insecurity ravaging the world as well as making it peaceful socially, economically and politically. Nigeria, has being a member of the Economic Community of West African States (ECOWAS), thus, it is not excused from the world efforts at putting in place instruments to address issue of insecurity. Notwithstanding the ratification of and further domestication of some of the legal regimes in the ECOWAS, in particular those that are connected with maintenance of security, the question is whether or not these instruments have impacts in the fight against the problem of insecurity and protection of the Nigerian citizens' fundamental rights.

It is against the above background that this paper gives a critical analysis of legal regime of the ECOWAS on insecurity. This paper examines the extent at which the country's implementation of the regional treaties impacts on the country's synergy at addressing the current state of insecurity in Nigeria. To what extent have the international treaties directly impacted on the fight against insecurity in Nigeria? What are the challenges impeding implementation of the international treaties towards combating pervasion of insecurity in Nigeria? What are the noticeable weaknesses and suggestive recommendations towards improving the effective implementation of the treaties to achieve peace in Nigeria?

2.0 Concepts of Peace and Insecurity

The term 'peace' is used in a wide sphere with variety of meanings that are grounded in their contextual usage. Literally, the word 'peace' is derived from the original Latin word '*pax*', which means a pact, a control or an agreement to end war or any dispute and conflict between two

people, two nations or two antagonistic groups of people.¹ Human beings pay much interest in peace from the ancient time until now because the word 'peace', apart from being a pleasant word, also refers to the peaceful society and the beautiful world. It is the greatest and highest goal that everyone wishes to achieve personally and expects to be created in society and in the world.

Nehru² contends that, "Peace is not a relationship of nations. It is a condition of mind brought about by a serenity of soul, and not absence of war. Lasting peace can come only to peaceful people."³ According to Galtung,⁴ the term 'peace' and 'violence' are linked. Peace is the absence of violence and should be used as the social goal.⁵ Galtung further stated that, like a coin, peace has two sides: negative peace, and positive peace. Negative peace is the absence of personal violence; positive peace is an absence of structural violence or social justice.⁶

In this paper, having considered all the foregoing, peace is regarded as a state of respect for human rights, a state where there is presence of law, justice and order: since all the foregoing are absent in Nigeria, there is no peace in Nigeria.

The concepts of peace and security are often used simultaneously in common parlance. Both concepts are a form of synergy and complementary concepts that are absent in a society where there is violence and conflict. In order to effectively define insecurity, it is relevant to discuss what security is. Akhakpe posits that security could

¹ John Ayto, 'Bloomsbury Dictionary of Word Origins', (Bloomsbury, London 1990) 387 in Ven B Kehmanando, *Buddhism and Peace*, Lazo Print, Calcutta, 1995.

² 1889-1964.

³ Quoted from Fishel Ruth, *Peace in Our Hearts, Peace in the World: Meditations of Hope and Healing* (New Sterling Publishing Co Inc, York 2008) 318.

⁴ Norwegian peace scholar.

⁵ Johan Galtung, 'Violence, Peace, and Peace Research' in Michael Salla and others (ed), *Essays on Peace: Paradigms for Global Order* (Central Queensland University Press, Rockhampton Queensland Australia 1995) 1.

⁶ *ibid* 15.

mean different things at different times to different people.⁷ However, the word security originates from the Latin word “*Se-curus*”, “*Se*” means without and “*Curus*” means uneasiness.⁸ Where there is no security, there must be insecurity as Achumba, Ighomereho and Akpor-Robaro describes insecurity as ‘the antithesis of security.’⁹ According to Achumba, Ighomereho and Akpor-Robaro, essentials of insecurity are: wants of safety, danger, hazard, uncertainty, want of confidence, doubtful, inadequately guarded or protected, lacking instability, troubled, etc.¹⁰ All these describe vulnerability to harm, losses to life, property or livelihood, environmental destruction, and threat to nationhood.¹¹ They contend that these common descriptors point to a condition where there exists a vulnerability to harm, loss of life, property or livelihood.¹²

Werthes, Heaven and Vollnhals briefly stated that Africa, Nigeria inclusive, in recent times has been afflicted with all of the seven dimensions of human insecurity ranging from food insecurity, health insecurity, environmental insecurity, economic insecurity, political insecurity, human insecurity to personal and community insecurity as outlined in the United Nation Development Program (UNDP) Report.¹³

⁷ I Akhakpe, ‘Election crisis, liberal democracy and national security in Nigeria’s fourth republic’ [2012]*European Scientific Journal*

8.<<http://eujournal.org/index.php/esj/article>> accessed 22 April 2022.

⁸O AEjogba, ‘Human Security: The Key to Enduring Security in Nigeria’ [2020]*Journal of Public Administration, Finance and Law* 17.

⁹ I C Achumba and others, ‘Security Challenges in Nigeria and the Implications for Business Activities and Sustainable Development’ [2013]*Journal of Economics and Sustainable Development* 4(2)80 <<http://www.iiste.org/Journals/index.php/.../4262>> accessed 6 July 2021.

¹⁰ I C Achumbe and others, Op cit.

¹¹ Ibid.

¹² Ibid.

¹³S Werthes and others, *Assessing Human Insecurity Worldwide: The Way to Human Insecurity Index* (INEF-Report University of Duisburg-Essen 2011).

From the foregoing definitions, insecurity denotes prevalence of physical and or potential threat of fear, anxiety or danger detrimental to the safety and survival of individuals, groups and the state at large. This can be economic, social, political and environmental. Therefore, in this paper, insecurity is conceived as a situation where security of a state is compromised by internal or external forces or interests exacerbated by the former's weak or poor economic, military and/or human resource development conditions. In Nigeria, all the aforementioned economic, social, political and environmental danger that is detrimental to the safety of Nigerians obviously indicates that insecurity abounds in Nigeria.

2.0 ECOWAS Revised Treaty of 1995

ECOWAS was originally established as a sub-regional economic cooperation organization in 1975. Other purposes for the establishment of ECOWAS included the need for socio-economic development of the Member States; cooperation in the realm of socio-economic development through concerted policy of self-reliance; the need for assessment of economic interests of Member States to achieve progress in the sub-regional economic integration and the need for a fair and equitable distribution of the benefits of cooperation.

However, the menace of insecurity across African states as well as trans-border is affecting ECOWAS from accomplishing their set objectives for socio-economic and political stability and development in the continent. Consequently, ECOWAS established legal frameworks that are directed towards installing peace and security in the sub-region which is very significant to social, economic and political development. The Treaty establishing the ECOWAS was prepared in Lagos, Nigeria on 28 May 1975. It was revised and signed in Cotonou on 24th July 1993 as the ECOWAS Revised Treaty and it entered into force on 23rd August, 1995. Originally, the Treaty of Lagos did not contain components relating to the issues of peace, security and stability. However, the maintenance of regional peace, stability and security through the promotion and strengthening of good neighborliness was incorporated in the Revised

Treaty of ECOWAS in 1993 as one of its fundamental principles and obligations.¹⁴

3.0 Other ECOWAS' Legal Instrument on Insecurity

There are three types of agreement within the framework of the ECOWAS Revised Treaty of 1993 directly connected with the issue of insecurity that: Conventions, Protocols, and Acts.¹⁵ Specifically, the ECOWAS Revised Treaty stipulates that Member States undertake to work to safeguard and consolidate relations conducive to maintenance of peace, stability and security within the sub-region¹⁶ while the objectives of the Supplementary Act on ECOWAS Policy Framework for Security Sector Reform and Governance of 2016 include elimination of threats to individual and group rights, safety, life, livelihoods and property. It also includes orientation on the focus and capacities of institutions, groups engaged in the security sector to make them efficient, effective, responsive and responsible ensuring the emergence and consolidation of accountable, transparent and participatory security systems in Member States.¹⁷

The ECOWAS Vision 2020 identifies peace, security and stability as the basis for regional integration. In the same manner the ECOWAS Conflict Prevention Frameworks (ECPF) 2008 provides for security governance, emergence and consolidation of accountable, transparent and participatory security systems in Member States.¹⁸ Sub-regional arrangements towards combating terrorism which has spread throughout the region are contained also under the ECOWAS Conflict Prevention Framework (ECPF) such as

¹⁴ See Revised Treaty of ECOWAS 1993 Art 4.

¹⁵ A convention is the formal agreement between Member States while a protocol is one of the ways in which a convention can be modified. The Protocols are the modifications as a result of the meetings of the Member States.

¹⁶ ECOWAS Revised Treaty 1993 Art 58.

¹⁷ See Supplementary Act on ECOWAS Policy Framework for Security Sector Reform and Governance of 2016 s 1(D).

¹⁸ See ECOWAS Conflict Prevention Framework 2008 Arts 72-76.

the 1999 Mechanism for Conflict Prevention, Management and Resolution, Peacekeeping and Security. There is also the ECOWAS Warning and Response Network (ECOWARN) that provides the sub-region with capacity to gather information about potential threat (including terrorism threats), and to proactively act to prevent or mitigate such threats.¹⁹ The Supplementary Act relating to a Code of Conduct for the Armed Forces and Security Services of ECOWAS was adopted in 2011 and the ECOWAS Plan of Action to Combat Trafficking in Persons was adopted in 2017.

All the aforementioned instruments are as a result of the ECOWAS conscious efforts at addressing the sub-regional security challenges marked by emerging threats and risks such as terrorism, illegal movement of arms, combatants and insurgency. The legal instruments are meant to deal with trials faced by the security sector in West Africa due to lack of culture of good governance and the weakness of the security sector in tackling the phenomenon of insecurity, lack of or inadequate modern equipment and technology (to gather information and track criminal activities) lack of professionalism and observance of rules of engagement among the security institutions and actors. All the instruments were adopted by the Community having recognized the need to entrench peace, security and prevent conflicts in West Africa, and having recognized that human security is at the core of the Community's strategy aiming at making security a regional public good and an essential service for citizens.²⁰

¹⁹ F. Abioye, 'Insecurity in Nigeria – Whither International Law?' [2021] *Afronomics Law* in association with the African International Economic Law Network <<https://www.afronomicslaw.org/category/analysis/>> accessed 10 December 2022.

²⁰ A. B. Akinterinwa, 'ECOWAS Protocols and Regional Insecurity: Right of Establishment versus Armed Banditry in Nigeria' [2021] <<https://www.thisdaylive.com/index.php/2021/02/28/ecowas-protocols-and-regional-insecurity-right-of-establishment-versus-armed-banditry-in-nigeria/amp/>> accessed 10 October 2022.

There are also Protocols relevant to the discussion on peace and security in Africa. These Protocols are categorized into two, those that deal directly with regional security and those that indirectly but connected with regional security.²¹ The direct Protocols are the Protocols on Non-aggression, the Protocol Relating to Mutual Assistance on Defence, and the Convention on Mutual Assistance in Criminal Matters. The indirect Protocols are the Protocol Relating to Free Movement of Persons, Residence and Establishment; Supplementary Protocol on the Code of Conduct for the Implementation of the Protocol on Free Movement of Persons, the Right of Residence and Establishment; Supplementary Protocol on the Second Phase (Right of Residence) of the Protocol on Free Movement of Persons, the Right of Residence and Establishment; Supplementary Protocol on the Implementation of the Third Phase (Right of Establishment of the Protocol on Free Movement of Persons, Right of Residence and Establishment; and Supplementary Act A/SA.3/07/10 Defining the Role of Permanent Representatives of Member States to ECOWAS.

Due to the challenges of instability in the region, the ECOWAS member states adopted the Protocol on Non-Aggression in 1978. In May 1981, ECOWAS member states signed the Protocol on Mutual Assistance Defence having provisions for mutual assistance of member states in defence against armed threat or aggression on a member state. In order to serve the objective of mutual assistance, the Protocol provides for the establishment of the Defence Committee and the Mediation and Security Council (MSC) as well as the Allied Armed Force of the Community.²²

The protocol relating to the maintenance of conflict prevention, management, resolution, peacekeeping and security was signed in Lome on 10 December 1999. The Protocol is arguably the most comprehensive protocol relating to peace and security in the sub-region.²³ It addresses

²¹F Abioye, Op cit.

²²UN Economic Commission for Africa, *ECOWAS – Peace, Security, Stability and Governance* <<https://archive.uneca.org>> accessed 10 October 2022.

²³ Ibid.

peacekeeping, humanitarian support and peace building capabilities as well as the issue of cross-border crimes. For example, the Protocol provides:

Art 1: There is hereby established within the Economic Community of West African States (ECOWAS), a mechanism for collective security and peace to be known as 'Mechanism for Conflict Prevention, Management, Resolution, Peace-keeping and Security.

Art 3: Objectives of the Mechanism shall be as follows:

- (a) prevent, manage and resolve internal and inter-State conflicts
- (e) maintain and consolidate peace, security and stability within the Community;
- (f) establish institutions and formulate policies that would allow for the organization and coordination of humanitarian relief missions

Art 6: The Authority shall be the Mechanism's highest body. It shall have powers to act on all matters concerning conflict prevention, management and resolution, peacekeeping, security, humanitarian support, peacebuilding, control of cross-border crime, proliferation of small arms, as well as all other matters covered by the provisions of this Mechanism.²⁴

Moreover, ECOWAS member states adopted and signed the Supplementary Protocol on Democracy and Good Governance in Dakar on 21 December 2001 as an instrument to promote peace and security in West Africa. Furthermore, ECOWAS have established institutions, programmes and policies in order to realize the commitments of the above-mentioned protocols and others which include the Early Warning

²⁴ ECOWAS' Protocol Relating to the Mechanism for Conflict Prevention, Management, Resolution, Peace-Keeping and Security (1999) Arts 1, 3 and 6.

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and Response Network, the ECOWAS Conflict Prevention Framework and ECOWAS and Civil Society.

More than 53 Protocols and Conventions have been signed between 1978 and October 2022. Ghana and Togo ratified 43 Protocols and Conventions. Sierra Leone, Mali and Senegal each ratified 42. The Gambia ratified 41. Nigeria and Burkina Faso each ratified 40.²⁵ The Lusophone countries²⁶ are the ones with smallest number of ratifications: Guinea Bissau ratified 24 out of 51 agreements which it had signed.²⁷ The Republic of Cape Verde ratified 24 agreements out of 50 of which it had signed.²⁸ Commitment to the obligations created by the Protocols cannot be said to be total: they are binding on the States that ratified them. It has been contended that the absence of total commitment to the Protocols relating to national and sub-regional insecurity is one of the major predictive factors promoting armed banditry and insurgency in Nigeria.

There has been lack of total commitment to ECOWAS Protocols. For instance, as at the end of March 2022, Ghana and Togo each had not ratified 10 agreements; Senegal, Sierra Leone and Mali each had not ratified 11 agreements; Nigeria had not ratified 13, Liberia and Guinea

²⁵A B Akinterinwa, 'ECOWAS Protocols and Regional Insecurity: Right of Establishment versus Armed Banditry in Nigeria' (2021) <<https://www.thisdaylive.com/index.php/2021/02/28/ecowas-protocols-and-regional-insecurity-right-of-establishment-versus-armed-banditry-in-nigeria/amp/>> accessed 10 October 2022.

²⁶The lusophone countries are the countries speaking Portuguese, eg Guinea Bissau and Cape Verde.

²⁷Guinea Bissau did not sign or accede to the Conventions on Extradition.

²⁸Cape Verde neither signed nor acceded to the Protocol Relating to Mutual Assistance on Defence; the Protocol Relating to the Mechanism for Conflict Prevention, Management Resolution, Peace-keeping and Security; and the Protocol on Democracy and Good Governance Supplementary to the Protocol Relating to the Mechanism for Conflict Prevention, Management, Resolution, Peace-keeping and Security.

Bissau had not ratified 28 while Cape Verde was yet to ratify 26.²⁹ Such non-entry into force causes lack of total commitment and non-creation of obligations, most especially in the area of insecurity prevention and management and the need for mutual assistance against insecurity.

The ECOWAS Authority signed the Protocol on Non-aggression in Lagos on 22nd April, 1978.³⁰

The purpose of the ECOWAS Protocol on Non-Aggression³¹ is to prevent any threat or use of force against one another, or to encourage or condone acts of subversion. Article 2 (which is relevant to insecurity in Nigeria) says that 'each Member State shall refrain from committing, encouraging or condoning acts of subversion, hostility, or aggression against the territorial integrity or political independence of the other Member States.' 'An act of condoning can be interpreted to mean an act of acquiescence. 'Not condoning can be interpreted to mean coming into the open to condemn', to cooperate with the affected countries in the fight against all acts of subversion.³² It is the contention of this thesis that ECOWAS Member States violate the provisions of the Article 2 of the Non-Aggression Protocol because of their silence or inaction in the fight against the insurgency. For instance, the activities of the Boko Haram insurgence attempt to subvert the government of Nigeria.

Article 3 of the Protocol provides that, 'each Member State shall undertake to prevent Foreigners resident on its territory from committing the acts referred to in Article 2 above against the sovereignty and territorial integrity of other Member States.' This provision gives an injunction that despite the provisions of the Protocols on Free Movement of Persons, Right of Residence and Establishment, States shall control and prevent their resident Foreigners from engaging in any act of subversion against any other Member State. Therefore, the Federal Government of

²⁹ Ibid.

³⁰ A B Akinterinwa, Op cit.

³¹ The Protocol was signed in Lagos on 22nd April 1978.

³² A B Akinterinwa, Op cit.

Nigeria is liable for the Fulani herders creating problems in different parts of Nigeria whether the herders are Nigerians or foreigners.

Expressing the background on the Protocol against the Need for Mutual Assistance, the ECOWAS authority stated that Member States belong to the same geographical area and that there were 'serious continuous threats of aggression on the African continent' that may 'constitute support forces to external aggression,' and therefore resolved to 'safeguard and consolidate the independence and the sovereignty of Member States against foreign intervention.'³³

The Protocol against the Need for Mutual Assistance provides that 'Member States declare and accept that any armed threat or aggression directed against any Member State shall constitute a threat or aggression against the entire Community.'³⁴ The Protocol furthermore provides that 'Member States resolve to give mutual aid and assistance for defence against any armed threat or aggression.'³⁵ The Protocol enjoins all Member States to also take appropriate measures where there is an armed conflict between or among Member States in which peaceful means of settlement becomes difficult, and most especially, 'in case of internal armed conflict within any Member State, engineered and supported actively from outside likely to endanger the security and peace in the entire community. In this case, the Authority shall appreciate and decide on this situation in full collaboration with the Authority of the Member State or states concerned.'³⁶

The Protocol A/P.1/5/79 Relating to Free Movement of Persons, Residence and Establishment provides, 'the Community citizens have the right to enter, reside and establish in the territory of Member

³³Protocol A/SP.3/5/81 Relating to Mutual Assistance on Defence, done on the 29th May, 1981.

³⁴ Protocol A/SP.3/5/81 Relating to Mutual Assistance on Defence 1981 Art 2.

³⁵ Protocol A/SP.3/5/81 Relating to Mutual Assistance on Defence 1981 Art 3.

³⁶ Protocol A/SP.3/5/81 Relating to Mutual Assistance on Defence 1981 Art 4.

States.’³⁷This was to give room for removal of any challenges to the enforcement³⁸ of the Right of Entry, Residence and Establishment. The Article 3 provides for a 3-phase period for the attainment of the objective:

- i. 1980-1985 Phase: Settlement of issues of visa. Member States were expected to have removed all problems facing enforcement of the Protocol. Such problems include the issue of Visa’
- ii. 1980-1990 Phase: Settlement of the Right of Residence, ie the right of citizens of the Member States to live peacefully and lawfully in the host country. Member States were required to have settled and made easy the issue of visa and Right of Residence for the citizens of the Member States.
- iii. 1990-1995 Phase: The Right of Establishment, ie the right to make easy engagement in business and professional activities without being discriminated against in the host Member State must have been settled.

The Protocol provides further that ‘any citizen of the Community who wishes to enter the territory of any other Member State shall be required to possess valid travel document and international health certificate,³⁹ and that ‘a citizen of the Community visiting any Member State for a period not exceeding ninety (90) days shall enter the territory of that Member State through the official entry point free of visa requirements. Such citizen shall, however, be required to obtain permission for an extension of stay from the appropriate authority if, after such entry, that citizen has

³⁷Protocol A/P.1/5/79 Relating to Free Movement of Persons, Residence and Establishment Art 2. This is corroborating the paragraph 1 of Article 27 of ECOWAS Treaty that confers the status of Community citizenship on the citizens of Member States and which also enjoins Member States to abolish all obstacles to freedom of movement and residence within the Community.

³⁸ Protocol A/P.1/5/79 Relating to Free Movement of Persons, Residence and Establishment Art 3.

³⁹ Protocol A/P.1/5/79 Relating to Free Movement of Persons, Residence and Establishment Art 3 Parag I.

cause to stay for more than ninety days.⁴⁰ This is to forestall staying in the country to perpetrate insecurity activities.

The Protocol additionally provides, ‘notwithstanding the provisions of Article 3 above, Member States shall reserve the right to refuse admission into their territory any Community citizen who comes within the category of inadmissible immigrants under its laws.’⁴¹ Despite that the Protocol provides that ‘the provisions of the Protocol shall not operate to the prejudice of citizens of the Community,’⁴² the non-application of the Protocol makes it unenforceable on the Community citizens, who do not obey the laws in general and, in particular, with the immigration laws of that Member State.

4.0 The Impact of ECOWAS’ Organs and Member States on Insecurity in Nigeria

The ECOWAS established the Mediation and Security Council (MSC) which was regarded as one of the most robust and proactive decision-making organs.⁴³ There are nine members of the MSC: seven are elected by the Authority of Heads of State and Government, and the other two members are the current Chairperson of the Authority and his /her immediate predecessor. The MSC is supported by the Defence and Security Council (DSC), one of the most active components of the ECOWAS peace and security architecture. Among the MSC’s remarkable decisions was deployment of peace operations to Cote d’Ivoire and Liberia in 2003. Furthermore, the MSC when the members did not comply with its regulations, can suspend the erring Member States; for example, Guinea and Niger were suspended when the military took over

⁴⁰Protocol A/P.1/5/79 Relating to Free Movement of Persons, Residence and Establishment Art 3 Parag II.

⁴¹Protocol A/P.1/5/79 Relating to Free Movement of Persons, Residence and Establishment Art 4.

⁴²Protocol A/P.1/5/79 Relating to Free Movement of Persons, Residence and Establishment Art 10.

⁴³Ibid.

the government in both countries, was founded on the ECOWAS policy of zero tolerance for unconstitutional change of government.⁴⁴

Regardless of the several instruments, the ECOWAS could not achieve its objectives in particular the maintenance of security, peace and cooperation among the Member States. For instance, ECOWAS is still facing a myriad of security issues that threaten to shake the region's relative stability and economic progress. The challenges range from terrorism and violent extremism to kidnapping. These, as well as other security issues are not limited to one country alone but spill over instability across the region.⁴⁵ There is also the issue of the ECOWAS member states' non-compliance with the provisions of the United Nations' Charter, particularly those that prohibits threats or use of force against the territorial integrity or independence of any State,⁴⁶ and the member states' non-compliance with the provisions of the AU Constitutive Act Charter, which require respect for the sovereignty and territorial integrity of each State.⁴⁷ There are member states internal insecurity, smuggling and illicit trading across the borders, the ECOWAS forces made weak interventions on both external and internal security, and inability to overcome the activities of Boko Haram terrorist group.⁴⁸

Towards this collaboration, Nigeria and Cameroon have been working on bilateral and multilateral levels. For example, there is the multinational joint task force which is under the Lake Chad Basin Commission.⁴⁹ In addition, Cameroonian and Nigerian top security and government officials

⁴⁴ Ibid.

⁴⁵ Sabina Beber Bostjancic, Economic Community of West African States' (ITF Enhancing Human Security, Ljubljana, Slovenia 2022) <<https://www.itf.si/africa/ecowas>> accessed 18 December 2022.

⁴⁶ United Nations' Charter 1946 Art 2(4).

⁴⁷ AU Constitutive Act 2001 Art 3(3).

⁴⁸ Editorial Opinion, 'Challenges of Regional Integration of West Africa' *The Punch* (Nigeria, 31 March 2021) <<https://punchng.com>> accessed 18 December 2022.

⁴⁹ This Nigeria, 'Nigeria, Cameroon Deepens Collaboration to Tackle Insecurity – Olonisakin' *This Nigeria* (Nigeria, 22 January 2022) <https://thisnigeria.com/nigeria-cameroon>> accessed 22 December 2022.

held emergency security meeting in August, 2021 in Abuja: the meeting was as a result of the Anglophone separatists in Cameroon and the Indigenous \people of Biafra in Nigeria said they would join forces to fight for independence with a view to destabilizing both countries.⁵⁰ Both Cameroon and Nigeria are members of the Lake Chad Basin Commission and the African Union. Also, the Federal Republic of Nigeria acquired security vehicles for Niger Republic with a view to stepping up security at the border linking the two countries against terrorism and armed banditry. This was aimed at stopping flowing in, from Libya through Niger Republic, of weapons used by Boko Haram and other similar terrorist organizations in Nigeria.⁵¹

Considering the foregoing provisions, the provisions have some implications on insecurity in Nigeria: any Community citizen entering Nigeria is required to enter 'through the official entry point' while he/she holds valid travel documents; however, several militants, kidnappers and insurgents from neighbouring countries enter into Nigeria through unofficial entry points because Nigeria's international borders are very porous.

In order to comply with the provisions of the Protocol, Former President Muhammadu Buhari of Nigeria gave the foreigners living without valid permit in Nigeria six months to regularize their stay.⁵² Such regularization did not consider whether or not the foreigners were qualified in the first instance to enter Nigeria. Such regularization clearly afforded opportunities to bandits who are foreigners and who have entered in to Nigeria illegally to legalize their entry into Nigeria. It is the

⁵⁰M E Kindzeka, 'Africa Cameroon, Nigeria Announce Effort to Jointly Fight Separatists' *Voice of America News* (New York, 27 August 2021) <<https://voanews.com>> accessed 22 December 2022.

⁵¹J Onoyume, 'News: Purchase of Vehicles for Niger Republic: Step Towards Collaboration against Terrorism' *Vanguard* (Nigeria, 10 August 2022) <<https://vanguardngr.com>> accessed 22 December 2022.

⁵²F Abioye, 'Insecurity in Nigeria – Whither International Law?' [2021] *Afronomics Law in association with the African International Economic Law Network* <<https://www.afronomicslaw.org/category/analysis/>> accessed 10 December 2022.

contention of this thesis that the Right of Residence and the Right of Establishment promote wrongful entry of foreigners into Nigeria to engage in insecurity activities in Nigeria.⁵³ Moreover, apart from ineffectiveness of the ECOWAS Protocols, the corrupt Nigerian Government officials' inability to truly control the inflow of bandits makes worse the security challenges in the country.

The banditry in Maiduguri, Zamfara, Sokoto, Katsina, Kaduna and the other Northern states and impact of criminal activities resulting from porous monitoring of the Nigerian borders such as Cameroon and Niger Republic cannot be over-emphasized.⁵⁴ There are over 1400 illegal borders linking neighbouring countries to Nigeria and over 80 formal border posts.⁵⁵ The cross-border security-related challenges include illegal trans-border arms trading, trans-border kidnapping and banditry all constitute and undermine the national security of ECOWAS members, including Nigeria.

Edwin Melvin Snower Jr⁵⁶ solicited for multi-dimensional approach towards insecurity in West African countries when he observed:

There is no way you can attack terrorism without attacking the source. The source could be poverty; governance structure which

⁵³A B Akinterinwa, 'ECOWAS Protocols and Regional Insecurity: Right of Establishment versus Armed Banditry in Nigeria' (2021) <<https://www.thisdaylive.com/index.php/2021/02/28/ecowas-protocols-and-regional-insecurity-right-of-establishment-versus-armed-banditry-in-nigeria/amp/>> accessed 10 October 2022.

⁵⁴ A Idris, 'Permeable Borders and Insecurity: the ECOWAS Protocol on Free Movement and Trans-Border Banditry on the Nigeria - Niger Republic Frontier' [2021] *Zamfara Journal of Politics and Development* Department of Political Science 3(1) 3.

⁵⁵ Ibid.

⁵⁶ Hon Dr E M Snower Jr was the Chairman of the ECOWAS Parliament's Joint Committee on Political Affairs, Peace, Security and Africa Peer Review Mechanism, Legal Affairs and Human Rights, Social Affairs, Gender and Women Empowerment.

people take advantage of. ECOWAS must change its strategy for dialogue. The policy direction must change.⁵⁷

Nigeria undoubtedly occupies a central place in ECOWAS being the giant of Africa. Nigeria's Federal Capital Territory hosts both the headquarters and the parliament of ECOWAS. This is understandable because over 50% of the ECOWAS population live in Nigeria; and Nigeria accounts for the lion share of the annual ECOWAS budget. Nigeria has the highest contribution since the inception of ECOWAS.⁵⁸ Despite the foregoing, Nigeria and its citizens have not benefited immensely from ECOWAS specifically on the country's fight against insecurity.⁵⁹

This raises the question of the value of ECOWAS for Nigeria, and arguably it can be concluded that Nigeria does not need ECOWAS, at least in the short time. Thus, Nigerian representatives at the ECOWAS Parliament have threatened to withdraw Nigeria's membership of the Community on the grounds that Nigeria relegates funding its internal security challenges at the advantage of its huge financial commitment to ECOWAS, and that there is no commensurate return specifically on insecurity challenges facing Nigeria.⁶⁰

5.0 Recommendations and Conclusion

In this paper, ECOWAS' law instruments were critically examined with a view to considering their effects on insecurity in Nigeria. It was discovered that despite the consistent efforts at ECOWAS of which Nigeria is a member state, nothing positive has been done at the international level to counter insecurity in Nigeria. It is discovered from

⁵⁷ V Ojeme, 'ECOWAS, Parliament Must Unite to Fight Insecurity, Terrorism, in Sub-Region – Dr Snowe' *Vanguard News* (Nigeria, 24 June 2022) <<https://www.vanguardngr.com/2022/06/24/.../amp>> accessed 10 October 2022.

⁵⁸ V Ojeme, 'Assessing ECOWAS's Relevance to Nigeria in an Era of Dwindling National Economy' *Vanguard News* (Nigeria, 5 August 2022).

⁵⁹ Ibid.

⁶⁰ Ibid; see also V Ikuomola, 'ECOWAS Decries Rising Insecurity, Humanitarian Crisis in Nigeria, Others' *The Nation online* (Nigeria, 15 June 2022) <<https://thenationonlineng.net>> accessed 10 October 2022.

the examination that Nigeria has not been very effective taking advantage of these sub-regional legislations in the fight against insecurity, most especially the Boko Haram. This is irrespective of the fact that Nigeria is a member of, or signatory to most of sub-regional instruments dealing with the prevention and combating of the crimes of terrorism and its financing. The instruments that Nigeria has ratified and acceded to at the sub-regional levels impose obligations on the Nigerian state to, *inter alia*, defend, promote and protect its people and its citizenry. This is a clear obligation that every state owes to its people.

Unfortunately, mere ratifying and acceding to instruments does not translate into actual protection. As things stand, Nigeria, in view of its failure to deal decisively in the fight against insecurity, cannot be said to have fulfilled its obligations to its citizens under the various provisions of international laws. Yet insecurity continues to thrive at enormous proportion and it is against this that this paper recommends review of the legal regimes with a view to adoption of multi-dimensional approaches such as customary, community policing, state police, non-governmental, good governance, education / enlightenment, ethical / moral, religious, dialogue, self-defence and advanced technology as alternative as well as complementary measures to fight and abate insecurity in the country and in other member states of ECOWAS.