

In Search of Platforms for the Governance of Security in Nigeria: Constitution, Act, Policy and Strategy

One of the outcomes of my studying, writing, teaching and interaction on security in Nigeria is the absence of Nigerian theory and practice of security. One fundamental point of departure on security is the marked role of the Armed Forces of Nigeria (AFN) in the creation of the prevailing security consciousness in Nigeria. This they had accomplished albeit unconsciously as they seek to fulfil their objective of defence as enshrined in the constitution. This was when the armed forces combined their professional and political roles.

The defence of the country is the professional role of the Armed Forces of Nigeria as enshrined in section 217. However, their forage into politics through coup making, no doubt justified by the relevant section of the Constitution, provided the path to playing the security role. Thus, for the armed forces, in the course of their long hold on political power, the line between defence and security blurred to the extent that they were convinced that their role was security. Was it? Is it?

The democratic process in place beginning from 1999 created the enabling environment to begin the conversation on security¹ in Nigeria. I had once argued thus:

“If the military define security within their job description of defence, how should the political class define security? Should the political class not define security within their job description of governance that encompasses most things beginning with the foundation of security, the economy? Should the political class not follow the security type advocated by Anthony Burke that “security should not be seen as one good among many. Security should be the good that guarantees all others”. Should the Nigerian political class define security in the context of their difficult experience in the hands of the military as the quid pro quo that security is today? Where is the difference between the political class and the military class in the definition of security? Of the military and political class, who owns security?²

If the armed forces had justified its ‘security’ role as the governing elite on sections of the Constitution but had been confined to section 217 under elected rule, what is the justification for the security role of elected members of the legislature and executive at

¹ See the link “stripping” for ‘Beginning the Security Conversation in Nigeria’ on adoyionoja.org

² See the link “Stripping” for ‘The 1999 Constitution, the Political Class and Resolving Security by “WE THE PEOPLE”’ on adoyionoja.org

national and states levels saddled with the operation of the entire constitution including the aspect of the armed forces? What is their security role? What is security under civil elected rule as different from the military or unelected rule? This is the point at which the examination of the theory and practice of security becomes absolutely essential. This is because in the last eighteen years of civil rule, the armed forces and not elected rulers have come out as managers of security necessitating the questions: what is security? whose security? what counts as security issues? how can security be achieved? Indeed what is security? What is the role of civil rule in security?

The last eighteen years did demonstrate the utility of security in fostering malfeasance against the majority of Nigerians while protecting the interests of the political and military elite. The latter have since proceeded to converting security to protecting their interest. This is understandable for the military elite that witness its political ambition truncated largely by an international system hostile to anti democratic tendencies and have therefore found solace in taking up the 'security' role in a democratic system. The political elite have not been able to overcome their socialisation into the military's perspective of security and have therefore deferred to the military's competence in security and/or because they have always seen the military as the defacto opposition party and in view of their inability to govern properly, they have thought it wise to allow the military a stake in the prevailing dispensation by surrendering security to their management.

Arguably security is political and from a theoretical perspective security can and should be constructed and imbued with a philosophy derivable from the history, experience and reality of a people. To this end, Nigerians should demand of their elected representatives that security should be constructed beyond its present protection of the interests of the political and military elites. In other words, a Nigerians theory and practice of security should be created by Nigerians. Security should be provided with legal, policy and strategy frameworks to insulate it from arbitrariness common with the prevailing ungoverned security practice.

This is where the conceptual relation and difference of constitution³, act, policy and strategy comes into focus in the creation of enabling environment for security. Constitution, Act, Policy and Strategy formed a chain in the processes and procedures of governance. Even though they differ conceptually, they are related as processes and procedures in public governance. The first two – constitution and act – are the

³ I owe a debt of gratitude to Rear Admiral A.B. Lawal of the Defence Headquarters, Abuja. I had an interesting conversation with Admiral Lawal on the relationship and differences of constitution, act, policy and strategy which I found useful for my course "seminar on national security policy" in relation to what I described as the ungoverned state of security in Nigeria. This chanced meeting and conversation would not have occurred without the invitation of Major General J.A. Orokpo, the Chief of Communication, Defence Headquarters in whose office I met Admiral Lawal on 07/08/18.

prerogative of elected legislature. Their products constitute laws of a sovereign country that are enforced. The last two – policy and strategy – are the prerogative of elected executive. Policies and strategies are governments programme emanating from the enabling laws either derived from the constitution and/or the act. Policies and strategies provide guides and directions to ministries, departments and agencies (MDAs) charge with the particular aspect of public governance. Policies enable the making of strategies in the bid to fulfilling the promises of the government to the people.

The first crucial enabling environment in the chain of governance is the constitution. A constitution is a body of fundamental principles or established precedents according to which a state or other organization is acknowledged to be governed. The constitution of a country is the supreme law of the land and it is drawn or written by the people of the country. It is the embodiment of the people. If the purpose of the constitution is the security of the people, there should be a section in the constitution devoted to the nature, meaning and purpose of this security. To this end, this security needs to be defined in unambiguous term.

The 1999 constitution mentioned security in Chapter II entitled fundamental objectives and directives principles of state policy. Section 2b noted that “the security and welfare of the people is the primary purpose of government”. As I argued in the article ‘The 1999 Constitution, the Political Class and Resolving Security by “WE THE PEOPLE”’, the philosophy or nature, meaning and purpose of this security is not clear. This singular mention of security in the constitution has been subject of numerous interpretations least of all by students of security studies in the course of the course “seminar on national security policy”.

The security in question could have been inserted into the constitution by those who wrote the constitution in deference to the military, the governing authority, in whose care the constitution was written. Or the insertion of security may have been informed by the growing law and order crisis in the country that reached their peak under military rule in the mid 1980s. To this extent, this reference to security did not contextualise security. Consider for instance, the unambiguous section 217 which covered the role of the armed forces as a clear case of capturing institutions and function in the constitution. What informed the insertion of security? What is the meaning of this security? Where did this meaning come from? Does it adequately capture the type of insecurity bedvilling Nigerians?

If the constitution is to be amended in order to provide for security, the followings should be considered: What is security? Whose Security? What counts as security issue(s)? How can security be achieved? There is need for a supplementary provision that emphasise

that these questions should be considered in relation to Nigeria's History, Experience and Reality (HER).⁴ To the extent that Nigeria is a member of the international community, most of whose institutions derived from those of Europe and America, what is described as security in Europe and America was constructed from their histories, experiences and realities and since Nigeria did not belong entirely to their orbit, it is important that it construct its own security taking cognisance of the sources of insecurity to its people. These can only come from an examination of the peoples' histories, experiences and realities.

Security is important in Nigeria that it needs to be captured in the constitution. The last 30 years but in particular the last eighteen years has demonstrated the importance of security and the need for Nigerians to have their voice captured in its construction. The life and death designation of security and the colossal resources devoted to security as demonstrated by the largesse superintended by the Dasuki-led Office of the National Security Adviser and the yet-to-be-disclosed resources being expended by the ONSA under the present administration as I write illustrate the need to breathe a Nigerian life into security by Nigerians. It is the prerogative of Nigerians to decide the nature, meaning, purpose and method for achieving security. In other words, what is security, whose security, what counts as security issues and how security can be achieved? Once captured in the constitution, what is security becomes law and is enforceable in every aspect of their lives.

In the absence of constitutional provision to facilitate the conduct of government business, an act of parliament or assembly steps in to fill this void. An act is any law passed by the competent legislature such as the parliament or national assembly. Parliaments and/or national assemblies are elected by the people. They represent the people and as such have the power to pass laws on their behalf. Often, not all aspects of ideas, institutions and needs of the people can be captured inside the constitution at once. People and society evolve and as they evolve some of the issues arising from the evolution is addressed by legislation using constitutional amendments and acts of the assemblies.

In spite of security's importance particularly in the claim by governments to acting on behalf of the people, security is not addressed in the constitution, act and policy except in the *National Security Strategy* published in 2014. This leaves security ambiguous, arbitrary and subject to immense abuse by those with the power to imbue purpose to security. Indeed security is so ambiguous that Nigerians are at a lost discerning the dividing line of law enforcement, defence and security. Do these mean one and the same thing? Does

⁴ See the link "Stripping" 'A Security Theory Based on Nigeria's History, Experience and Reality (HER)' in adoyionoja.org

security covers this? Does security imply these only? Does security imply securing every aspect of human endeavour?

If security cannot be captured in the constitution through amendment, it can be captured as an act of the national assembly. The importance of constitution and act is that their provisions are laws. Laws are enforced. Since security is that important in the lives of Nigerians, security should be captured in the constitution or as act of the national assembly to make it a law.

The second crucial enabling environment in the chain of governance is policy. The availability of legal enabling environment which comes into existence following the promulgation of relevant laws either through the constitution or act of parliament on all aspects of human lives facilitates the making of policies. The laws become the platform for making policies by the government. Therefore, policy making is the prerogative of the executive. A policy is made by the executive arm of government in pursuit of provision within the constitution or act.

If there is a constitutional provision on security or if there is an act on security, the constitutional provision or act would facilitate the making of security policy by the government of the day. A security policy should define what security is, whose security, what counts as security issues and how security can be achieved. Given the framework of the law, certain aspects of these questions may remain consistent and other aspects may change as society evolves. Security policy of the government should not contradict the letters of the security law.

In spite of the importance of security in the conduct of the state and government in Nigeria, there is no policy provision for security.

The third crucial enabling environment in the chain of governance is strategy. Both the legal and policy platforms on security made provision for strategy or how to attain security. Indeed the last question on the constituents of security – how security can be achieved – specifically addressed the question of strategy. A strategy is the ways and means for the implementation of a policy. Thus strategy cannot exist without legal and policy frameworks. This is because strategy derives its strength first from the provision of the law and second from the policy emanating from the provision of the law.

In Nigeria, there is a *National Security Strategy* that is not anchored on any legal and policy frameworks. This *NSS* is therefore deficient to the extent that it has no support in law and in policy. The operational use – the document covered everything in the country – of the *National Security Strategy* that came into being in 2014 is suspect. It is suspect to the extent that it is not only debatable but also questionable if its provision ever guided

the conduct of not only those who wrote and/or compile it but also ministries, departments and agencies of government. It is more likely that the making of the *NSS* was to save Nigeria from the embarrassment of not having any document on security in its engagement with the international community. Indeed in the time tested tradition of discontinuing previous government policies, the present administration distance itself from most things associated with the previous Office of the National Security Adviser that compiled the *NSS*.

Now is the time to do the needful in this phase of Nigeria's history by providing security with a LEGAL, POLICY and STRATEGY frameworks hued from Nigeria's History, Experience and Reality (HER). With this provision, the governance lacuna confronting the ungoverned security space would begin to be addressed. The development will engender governance of security and security governance for the first time in Nigeria's history.