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Transnational Terrorism and the Shifting Paradigm of Sovereignty: Analyzing the Bokoharam Counterterrorism

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ABSTRACT

The historical backdrop of state sovereignty is portrayed by a consistent condition of progress. The inherent principles of sovereignty as enshrined in the treaty of Westphalia in 1648, such as the non-intervention, territorial integrity, and absolute power within the bounds of a state border, have been re-assessed over a long period of time in light of new difficulties to guarantee that they stay applicable to the needs of any given time. The very embodiment of sovereignty has constantly undergoes changes and adjustments to cope of with period of difficulties, ranging from the battle for minority rights to mixture of issues identifying with the new trendy expression of human rights and the obligation to maintain international peace and security. This paper, therefore, argues that contemporary states are showing a more prominent willingness to acknowledge compromises on matters of sovereignty in quest for a more effective counterterrorism motivation. States do not appear to be attaching an infinite value to sovereignty; yet rather consider it within the setting of broader national interest. In this way, the degree to which states effectively protect their sovereign prerogatives is subject to the same system as all other state decisions: the cost-benefit analysis. States measure the costs and benefits of any given policy or action and utilize the outcome as an aide for decision-making. In the present period, changing state demeanors with respect to sovereignty and counterterrorism emerge from a shifting balance between costs and benefits in battling international terrorist groups. This evident with the establishment of a Multinational Joint Task Force which allows cross-border military operations by neighboring countries thereby creating a paradigm shift from the traditional and rigid conception of sovereignty to a more flexible one.

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INTRODUCTION

Taking after the horror and demolition brought about by the Second World War, the international community met up and consented to disallow the unilateral danger or utilization of force by states in order to make a world described by tranquil concurrence instead of hostility and violent clash. This new world order was revered in the Charter of the United Nations ("the Charter"). It was marked by fifty states in San Francisco on 26 June 1945 and gave the premise to the international legal framework directing the utilization of force (Sarkin, 2010).

The United Nations ("UN") aggregate security framework does however give methods by which military force can be utilized to deliver dangers to international peace and security. This has not however constantly demonstrated successful because of the very politicized nature of the international

framework and this has brought about military mediation being withheld despite the existence of gross act of inhumanity or taken unlawfully outside of the international framework, neither of which is a satisfactory nor reasonable situation (Otto, 2010).

It has turned out to be increasingly obvious in the post-Cold War time that the international legal system controlling the utilization of force between states, as classified under the UN Charter, is not able to react successfully to cutting edge threats to international peace and security including the across the board multiplication of progressively complex and dangerous substance, natural and atomic weapons, expansive scale infringement of human rights including law violations against humankind and genocide and the proliferation of well organize body of non-state actors such terrorist groups and militias that have continue to unleash violence both

at the national and international level (Hickman, 2010).

The human rights discourse has accumulated significant pace in the course of recent years and it is presently generally acknowledged by the international community that sovereign states have an obligation to shield their citizens from gross human rights violations and subsequently to cease from executing such violations (Musifiky, 2010). The definition of a state sovereignty has apparently shifted far from an absolutist origination where the state is the sole controller of its internal affairs towards the one whereby the right to sovereign status, and the related rights of non-interference, is predicated upon the compelling undertaking of obligations expected of a state, as controlled by the international community, including securing of the fundamental human rights of its citizens as well as preventing the escalation of its domestic conflict (Hessler, 2010).

Where a state neglects to effectively perform its responsibilities the international community is obliged to respond by taking the fundamental steps, which might at last incorporate the utilization of military force, to avoid gross human rights infringement happening and to restore international peace and security (Newman, 2009). Accordingly there exists an unmistakable tension between the doctrine of non-utilization of force against the citizens of sovereign states that is the doctrine of non-interference in states domestic affairs and the promotion and protection of human rights. This is a strain which has not been fully reconciled by the international community and this is reflected by the far reaching differences about, and criticism of, the present state of international law around this arena (Haskaj, 2008).

In light of the prior it is clear that the decision about whether to take military intervention against another state, or a non-state actor, is an exceptionally troublesome and complex one which incorporates a huge number of legal, political, financial, logistical and moral consideration for a state to say something the equalization when planning policies and settling on decisions about military intervention. This paper therefore try to provide an explanation of how the cross-border act of insurgency by non-state actors necessitate the collective use of military force which provide a clear departure from the traditional conception of a sovereignty as an absolute and rigid property of a state with an indivisible character both within and outside its boundary toward the concept of sovereignty which is so flexible that allows use of force by other states against the non-state actors from another country.

States apply sovereignty in the administration of national interests, for sovereignty is a component of the state. One of the more captivating contemporary crossing points between state sovereignty and national interest lies in the coliseum of counter-

terrorism (Sarkin, 2010). The significance of sovereignty for counter-terrorism has long been perceived, as states struggle against the constraints forced by sovereignty upon their capacity to beat the danger of international terrorism (Engene, 2007). Yet the mere fact that sovereignty has for quite a while ago constituted a stumbling block in the battle against terrorism does not imply that its role has not undergoes some evolution. In the course of recent decades, the rise of transnational terrorism has in a general sense upgraded the significance of sovereignty as an element in counter-terrorism (Hannes, 2011).

As a result, contemporary states must choose the option to re-examine the longstanding counter-terrorism suppositions in light of new realities. In a few states, the procedure of reassessment may not create radical revisions in doctrine. Different states, in any case, will acknowledge the need of adjusting their use of sovereignty in counter-terrorism. The fundamental components pushing these revisions are not short lived. They are recently entrenched components of the international legal framework. It is therefore crucial to appreciate their importance in creating a new paradigm of the concept of sovereignty

Conceptual Clarification:

Transnational terrorism:

This involve a “premeditated threatened or actual use of force or violence to attain a political goal through fear, coercion, or intimidation and when its ramifications transcend national boundaries through the nationality of the perpetrators and/or human or institutional victims, location of the incident, or mechanics of its resolution “(Batelson, 2006).

The concept of sovereignty:

State sovereignty has numerous dimensions. It can be characterized in the connection of any number of state interactions with individuals, political institutions, other states, or international institutions. A typical definition, be that as it may, interfaces the idea of sovereignty to the thought of authority. In this structure, the state of sovereignty presents absolute authority to a state as the declaration of the underlying political community (Buxbaum, 2009). Sovereignty along these lines secures practical importance as a marker of state primacy; the position of the state as the essential authority within its particular limits emanate from the sovereignty it wields. In addition, the absolute way of sovereign authority reaches out to the different indications of state force. Sovereignty is as much an issue of jurisdiction as influence (Franceschet, 2010). As states bargain their restrictive authority in matters of locale, they change the utilitarian reality they could call their own sovereignty.

Sovereignty is made up of internal and external components. Internal sovereignty alludes to one side of a state to focus its domestic game plans without external interference (Sarkin, 2010). The protection of domestic political, social and economic settlements from outside interruption is as much a component of state sovereignty as the protection of physical territory. External sovereignty alludes to the legal status of the state as an individual from the international community (Ip, 2010). Sovereign states have a unique kind identity within the international framework, and sovereignty presents particular rights, benefits and obligations upon its proprietors. The respectability of sovereign possessions is held to be intact. Common articulations of appreciation for sovereignty support the system of associations that describe state conduct. Undoubtedly, it is the state of sovereignty that formally characterizes the limits of multi-state collaboration, paying little respect to standardizing conventions (Macklem, 2008). Sovereignty in this manner involves a double part, at the same time approving the internal authority of the state and differentiating the legitimate degree of its external self-governance. At its center, sovereignty is an idea of delineation.

States watch out for zealously secure the uprightness of their sovereignty, for reasons of policy - as a measure of governmental authority - and politics, since any apparent encroachment of sovereignty dangers starting an objection of nationalistic pride among the masses (Sarkin, 2010). Along these lines, generally, saving a greatest level of sovereignty adjusts to the national interests of states and the parochial interests of state governments. Yet this guideline uncovers an underlying rationale that is regularly disregarded. State sovereignty is a component of national interest. From the point of view of a given state, sovereignty is simply one element - though a profoundly special one - along a range of concerns. This is reflected in the regular advancement of state sovereignty throughout the hundreds of years. The premise of sovereignty extensively moved from dynastic personality in the eighteenth century to the structure of government in the nineteenth to the authenticity of national self-determination in the first 50% of the twentieth, even before present times (Okogbule, 2008). In every occurrence - in fact, all through the advanced history of sovereignty - the shift in the paradigm of sovereignty emerged from the interests of states as much as their qualities. In this manner, while "generic" components, for example, changing thoughts of authenticity and international request assumed a part, so too did the "individual" elements of planned state aim, as specific interests constrained states to offer novel elucidations of sovereignty (Macklem, 2008). State interests are therefore, the foundation of the use of sovereignty.

Besides, the instrument for states to focus the relationship between sovereignty and national

interest in any given connection is the excellent component of the rational actor: a computation of costs and benefits. States conduct steady reassessments they could call their own sovereignty, measuring the costs and benefits of rigidity against the costs and benefits of adaptable interpretation (Newman, 2009). While the equalization regularly falls in favor of rigidity, it is not extraordinary for state sovereignty to give way due to different concerns, as the advancement of the European Union intensely illustrates. The extent to which states defend their sovereign obligations bears consistent perception. This is especially valid in matters of counterterrorism. Traditionally, states tend to value law enforcement issues as the center of national obligations and safeguarding their authority as well (Hannes, 2011). Given the variety of interests on how counterterrorism is affecting security, politics, economics, and internal stability it is not hard to understand the motives for states to keep up total control over counterterrorism policy.

Since the signing of the peace treaty of Westphalia, the idea of human rights and the protection of citizens from one perspective and a state's supreme right to focus its internal affairs including the destiny of its citizens have made some amazing progress subsequent to the peace treaty of Westphalia. Gone are the days when a state could treat its citizens with complete negligence and legitimize its activities by holing up behind the so-called concept of sovereignty and non-interference. In this contemporary world, a state must legitimize its activities to both its citizens and the international community (Hannes, 2011).

The historical backdrop of state sovereignty is portrayed by a consistent condition of progress. The inherent principles of sovereignty, for example, non-intervention, territorial integrity, and absolute power within the bounds of a state border, have been reassessed over a long period of time in light of new difficulties to guarantee that they stay applicable to the needs of any given time. For constructivists, the very thought of sovereignty is a construct informed by amendable norms and values. Subsequently, the idea of sovereignty changes in response to the improvement of new norms in the international system: "Fundamental to constructivist translations of sovereignty is the perspective that sovereignty itself originates from ""somewhere"" and, in any age, is intensely affected by other social norms and practices (Hickman, 2010)." In light of this assertion, the very embodiment of sovereignty has constantly changed and adjusted even with difficulties, running from the battle for minority rights to mixture of issues identifying with the new trendy expression of human rights and the obligation to secure. Regardless of these difficulties, sovereignty has figured out how to stay pertinent and hearty by adjusting to new substances. For sovereignty to stay adaptable and flexible in an evolving world, states have needed to

give up control where essential and have been compelled to accept more prominent parts in different zones. With history as an aide, it is likely that the idea of sovereignty will keep on being made over either intentionally or be compelled to do as such so as to stay applicable in a changing and evolving world.

The concept of sovereignty and Collective Security System:

The utilization of military force is lawful when it has been approved by the UNSC. The UNSC has the "essential obligation regarding the protection of international peace and security" (Article 24) and can approve the utilization of force (Article 42) where the presence of a threat to international peace and security has been confirmed (Otto, 2010). Threats to international peace and security can incorporate, yet are not constrained to, the utilization or threat of military force by one state against another, territorial or between state equipped clashes, philanthropic calamities which cause more extensive local destabilization, maybe as a consequence of displaced person streams, and gross human rights infringement submitted by a state against its people groups. All together for the utilization of force to be approved by the UNSC nine affirmative votes are obliged and the greater part of the permanent members must cease from practicing their veto. Both permanent and non-perpetual individuals might likewise absent and this won't bring about the vote to fall flat if there are an adequate number of votes for the determination and no veto is exercised (Engene, 2007).

By centralizing the utilization of force within the collective security framework it was imagined that the inclination for international armed clash and violence by non-state actors would be enormously decreased yet in the meantime accommodate the utilization of military force when vital. Moreover, it was trusted that when such force was authorized it would have a high level of authenticity, having been sanction by the international group by means of the UNSC, and in this manner gather both good and military backing for the operation (Sarkin, 2010).

The United Nations Security Council and the Protection of Human Rights:

Ruefully, the UNSC does not generally authorize the utilization of military force when it is required and necessary to maintain or restore international peace and security. This is either in light of the fact that there are an inadequate number of votes for the resolution (an absence of political will) or, most usually, a permanent members activities or debilitates to practice its veto, as happened as of late when France's draft resolution approving limited military intervention in Syria was rejected by Russia (Hannes, 2013). This circumstance is known as "Security Council deadlock". The UNSC is an intrinsically political organ and shockingly its

individuals can vote on account of key allegiances and in addition other conceivably unimportant political contemplations which can anticipate lawful military intervention happening in circumstances where it is a sensible, important and reasonable reaction to the danger postured to international peace and security (Musifiky, 2010).

This issue is brought most strongly into center when such political impasse permits a group of terrorist to keep unleashing violence on innocent's powerless citizens or a state to keep executing gross human rights violations against its people groups in negation of all settled international norms and in clear perspective of the international community. These circumstances can bring about states making unilateral military move outside of the collective security framework which undermines the authority of international law and results in the international community questioning the reason, need and adequacy of the collective security framework in the cutting edge world request.

The Use of Military Force against non-state actors by collective effort of number of states: Legality vs. Legitimacy:

A standout amongst the most squeezing issues confronted by the international community is deciding what to do when military force is obliged to be taken in light of a danger to international peace and security, including where gross human rights infringement are being executed by a state or a threat pose by cross-border insurgency however the UNSC is not able approve military intercession under Chapter VII on account of the activity of a veto by a permanent part. In such circumstances the utilization of military force is legally impermissible and would be unlawful if taken. States are confronted with a stark decision between doing nothing and agreeing to international law or making a move in negation of entrenched standards to turn away or stop human enduring and restore international peace and security (Hickman, 2010).

Application of Force on Non-State Actors in Self Defense:

There has been expanding discussion in international law since the September eleventh terrorist assaults with respect to the utilization of force against non-state actors (Otto, 2010). In the wake of 9/11 the UNSC, interestingly, passed a resolution expressing that force could be utilized against terrorist groups. This established the consensus idea that self-defense can be utilized against non-state actors. Whilst there may be consensus accord within the international community over the utilization of force against non-state actors, there is almost no concession as to how this ought to be carried out.

On the substance of it, utilizing power against non-governmental groups or people is not legitimate

as the guidelines on power just permit it to be utilized against another state. On the other hand, if a state is liable to be attacked by non-state actors then how would they safeguard themselves against it? This is a confounded matter, as regardless of the fact that the privilege of self-protection were set off, the state wishing to practice that privilege would need to violate the territorial integrity of another state with the view to do as such. In any case, this issue could be evaded if the intervening state has the authorization of the other state to do as such (Buxbaum, 2009).

It is additionally essential to note that when attacking non-state actors, that whilst it may fundamentally violate the *jus promotion bellum* (the law governs when states can resort to warfare), it won't naturally rupture the *jus in bello* (the law that governs how warfare is led) given there is a nexus between the attack and an armed conflict. This is an imperative issue to consider especially as regard to the exercise of drone strikes against terrorists (Sarkin, 2010).

In a few cases, the utilization of force by a non-state actor can be ascribed to a state and in this way the activity of self-protection against that state is flawlessly advocated. All together for an activity of a non-state actor to be ascribed to a state, that state must have effective control over the activities of that actor. The importance of effective control was talked about in the ICJ Nicaragua judgment. The court established that the US had completed an indirect utilization of force against Nicaragua because of their backing of the rebels. Effective control therefore implied that the state being referred to must accomplish more than simply fund the non-state actor. This is the issue that becomes an integral factor when terrorism is concerned – it has been demonstrated before that certain states have financed certain terrorist organizations, yet without additional proof of effective control, the activities of those terrorist organizations can't be credited to that state (Newman, 2009).

The additionally pressing issue is whether a non-state actor is fit for doing an armed attack within the scope of Article. In the Nicaragua case, the ICJ set out that just the gravest types of armed attack would be sufficient to trigger the right to self-protection. Be that as it may, since Nicaragua, the likelihood of an aggregation of event doctrine has opened up. In the Oil Platforms case, the ICJ avowed the high limit for an armed attack in Nicaragua and stated that "even taken in total" the occasions for this situation would not have come to it. This has gathered that there is a plausibility that the Court would acknowledge that a progression of little scale attacks like terrorist attacks could sum to enough to legitimize triggering self-protection (Hannes, 2013). There is one imperative counterargument to this perspective the entire reason for the self-protection doctrine is to permit states to safeguard themselves from an ongoing attack,

however on account of an ongoing terrorist attacks, the attacks are ordinarily over before the state can do anything in resistance. On the off chance that the international community was to acknowledge a collection of event doctrine then that would put the world in a permanent state of armed attack as a state could assert self-defense whenever another terrorist attack happens (Hassler, 2010).

Cross border insurgency and paradigm shift in sovereignty:

This paper argues that contemporary states are showing a more prominent willingness to acknowledge compromises on matters of sovereignty in quest for a more effective counterterrorism motivation. States do not appear to be attaching an infinite value to sovereignty; yet rather consider it within the setting of broader national interest. In this way, the degree to which states effectively protect their sovereign prerogatives is subject to the same system as all other state decisions: the cost-benefit analytics. States measure the costs and benefits of any given policy or action and utilize the outcome as an aide for decision-making. In the present period, changing state demeanors with respect to sovereignty and counterterrorism emerge from a shifting balance between costs and benefits in battling international terrorist groups. The ascent of transnational terrorism has raised the costs of terrorist action, because of the size of damage and disruption that terrorism can accomplish and the necessities forced upon states intending to make effective and fruitful effort toward eradicating cross-border insurgency and terrorism. By raising these costs, transnational terrorism has provoked a restricted however in any case genuine reassessment of the best possible balance between sovereignty and counter-terrorism. One of the first indications of this reassessment lies with the formation of the multi-national joint force among countries which allows a cross-border military operation thereby compromising some elements of traditional concept of sovereignty.

Multinational Joint Task Force and the fight against Boko Haram: the shifting paradigm of sovereignty

The Multinational Joint Task Force (MNJTF) between Nigeria, Chad and Niger was situated up in 1998 so as to battle transnational crime in the Lake Chad region, however was for the most part ineffective until 2012, when it was reactivated so as to manage Boko Haram terrorism. So as to control the spread of terrorism in the region, the Paris Summit of May 2014, which united the presidents of Benin, Chad, Cameroon, France, Niger and Nigeria, and agents of the US, UK and EU, decided to improve regional cooperation in the battle against Boko Haram, by method for facilitated patrols and border observation, pooling insight and exchange pertinent data. In October 2014, the Lake Chad Basin Commission (LCBC) part states (Cameroon, Chad,

Niger, and Nigeria) and Benin chose to enhance their cooperation to battle Boko Haram, by swearing troops to the MNJTF, which ought to have gotten to be operational inside national borders by November 2014. It was additionally chosen to ask the African Union (AU) and the UN to set up the proper legal structure for cross-border military operations (Daily trust 2 August, 2015).

Toward the start of 2015, the MNJTF home office fell under the control of Boko Haram activists, together with the town of Baga in north-eastern Nigeria where it was sited (Premium times, 2015). It gives the idea that, at that point, just troops from Nigeria were positioned there, as Niger and Chad had withdrawn their own particular troops due to security dangers. It consequently turned out to be considerably more critical to resuscitate the regional way to deal with battling Boko Haram. On 20 January, pioneers from 13 West and Central African nations (Nigeria was not represented) held talks about setting up a multinational power to battle Boko Haram, the day after the UN Security Council's leader issued an announcement in which it required the upgrade of the MNJTF's operational limit (Sahara reporters, 27 July 2015).

The AU as of late gave the green light to the MNJTF through a choice of 29 January 2015 by the African Peace and Security Council (PSC), meeting at the level of heads of state and government. The PSC is a standing choice making body of the AU, able for peace and security issues. The choice approved the sending of the MNJTF, involving up to 7 500 military and non-military staff, for a starting time of 12 months, which can be recharged. The mission will expect to make a safe situation, restore state power and encourage helpful help with the influenced regions. This choice was brought as per the report of the Chairperson of the AU Commission (Daily trust 2 August, 2015).

The MNJTF's more particular undertakings incorporate directing military operations, accomplishing coordination at between state level, leading fringe patrols, discovering kidnapped persons, ceasing the stream of arms, reintegrating radicals into society and conveying those in charge of law violations to equity (Daily trust 2 August, 2015). In its choice, the PSC additionally asked the UN Security Council to receive a determination approving the military operation, and also to make a trust subsidize and activate universal backing. This way would be like that followed in past cases, in which the AU sent peace bolster missions (Mali, Central African Republic and Somalia); the missions were approved and upheld, including through the foundation of a trust territory, by the UN Security Council (premium times August 6, 2015). The PSC choice additionally noticed the need to address the improving so as to underlay drivers of the emergency, the occupations of the individuals in the region. The PSC's position was supported by the AU

Assembly at the AU's 24th Summit, held in Addis Ababa on 30 and 31 January 2015. The Assembly communicated its backing for the collective and cross-border endeavors sent to battle Boko Haram, including for Chad's auspicious intercession in Cameroon, and for the dedication of troops by the LCBC states and Benin, and the foundation of military base camp to lead operations against Boko Haram.

Conclusion:

Against the above background, it is evident that Nigeria as sovereign's nations is willing to compromise its sovereignty by allowing the neighboring countries to undertake military offensive action within its territory primarily because of the cost-benefit implication attached to employing such strategies in the fight against transnational terrorism. It is therefore implicit from the strategy adopted by the country in countering the devastating impact of the Boko Haram transnational terrorism that some traditional attributes of sovereignty such as the non-intervention doctrine were compromise.

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