

BROOKINGS

Report

"In Nigeria, we don't want them back"

Amnesty, defectors' programs, leniency measures, informal reconciliation, and punitive responses to Boko Haram

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Editor's Note:

The following introduction is an excerpt from the chapter, "In Nigeria, we don't want them back": Amnesty, defectors' programs, leniency measures, informal reconciliation, and punitive responses to Boko Haram," produced by Vanda Felbab-Brown for the new United Nations University volume, "The Limits of Punishment: Transitional Justice and Violent Extremism (UNU, June 2018)," of which Cale Salih was the project lead, and Adam Day a project adviser. The full volume, "The Limits of Punishment: Transitional Justice and Violent Extremism (UNU, June 2018)," can be found [here](#).

Introduction

The *Jama'tu Ahlis Sunna Lidda'awati wal-Jihad* (People Committed to the Propagation of the Prophet's Teachings and Jihad) insurgency, popularly known as Boko Haram, based in poor and arid north-eastern Nigeria (but also active in Niger, Cameroon, and Chad), has caused an estimated 20,000 to 30,000 deaths and displaced over 2.3 million people since 2009. Between 2009 and 2015, the group took control of extensive territories in north-eastern Nigeria, including major cities such as Maiduguri; devastated lives of millions; and constituted a significant threat to the Nigerian state. Overall, some 15 million people have been adversely affected by the insurgency and counterinsurgency (COIN) efforts. Boko Haram fighters have slaughtered civilians in villages and towns, abducted thousands of people, forcibly marrying off women and girls to their fighters, and conducted mass-casualty terrorist attacks against mosques, markets, and camps for internally displaced persons (IDPs). Yet the response of the Nigerian state until 2015 oscillated between neglect of the problem and counterproductive heavy-handed counterinsurgency measures that exhibit little distinction between Boko Haram fighters and populations who have had to endure its rule. Between 2015 and 2017, the effectiveness of the military campaign

improved, and the Nigerian government managed to retake territories from Boko Haram, pushing the group to more marginal areas. Yet the Nigerian military has struggled to effectively hold retaken territories. Lower-scale Boko Haram attacks persist, and steadily expose the questionable claims of the Nigerian government that Boko Haram has been technically defeated.

This report analyses the limitations, human rights violations, and counterproductive effects of the heavy-handed Nigerian military response to Boko Haram. It also looks at the multiple attempts at negotiating with Boko Haram, discussions of a possible amnesty, and the design and effects of leniency measures the Nigerian government has adopted, including a defectors program for "repentant" low-risk male combatants (known as Operation Safe Corridor) and a rehabilitation program for "low-risk" women, such as those married to Boko Haram fighters. Both the discussions of amnesty and the existing leniency programs have emerged out of a recognition that the counterinsurgency campaign has struggled and frequently conflated perpetrators with victims.

The defectors program and the rehabilitation process for low-risk women are new efforts. But despite the Nigerian state's historical emphasis on a highly repressive military response to profound security and political challenges, issues of amnesty and negotiations are not new. Nigeria has at various times drawn on such leniency approaches to mitigate conflict when repression has failed. The most prominent case was the amnesty for militants in Nigeria's Niger Delta in 2009. In this case and others, leniency approaches have been accompanied by persistent military and civilian elite unwillingness to: improve governance; extend inclusion to broader segments of society; devote adequate resources to urgent problems; and address underlying issues of severe socio-economic inequality and political marginalisation. Previous leniency approaches have also amounted to narrow and unpopular political and financial buyoffs. Seen as promoting impunity and moral hazard, such deals have also soured much of Nigerian society, including human rights advocates and non-governmental organisations (NGOs), to the idea of amnesty deals for other groups, including Boko Haram. Despite the increasing visibility of the problems surrounding the Niger Delta amnesty, the Nigerian government has attempted many times to negotiate a peace deal with Boko Haram that includes various unspecified forms of amnesty, both to incentivise a top-level deal and to encourage defections among rank-and-file fighters.

Nonetheless, these political negotiations have collapsed every time; in each attempt there lacked a credible level of effort, with premature declarations of success by the Nigerian government causing significant embarrassment. Moreover, in each attempt, Boko Haram also refused to end violent conflict and rejected any form of amnesty. These failures have left the government with a political egg on its face and discredited such processes.

Compounding the contentious atmosphere around negotiations as well as any kind of leniency is the deep and widespread suspicion among Nigerian society, including in the northeast, of anyone associated with Boko Haram. This suspicion translates into rejection, including of Boko Haram's victims and those who had to endure their brutal, predatory, and rapacious rule. In the three-dimensional balance needed for peace – the protection of communities, the reintegration and reconciliation of defectors, and the human rights of anyone associated with Boko Haram, including its abductees – even human rights advocates often put community protection first and human rights for Boko Haram associates last. To the extent that communities are at all willing to consider accepting back those associated with Boko Haram – a category they consider to include populations who merely lived under its rule – they tend to insist that all violent conflict in their area will first need to have ceased and their properties and livelihoods restored. Yet both are distant prospects. The extensive presence of anti-Boko Haram militias called the Civilian Joint Task Force (CJTF) in Nigeria's north-east is a further complicating factor. These militias, instrumental in the fight against Boko Haram, are increasingly unruly, frustrated, and mobilising forces that challenge various forms of authority.

Although a negotiated deal and group-level amnesty remain elusive, a defectors program for "repentant" low-risk Boko Haram combatants has operated since 2015. The program however, is riddled with problems and challenges, detailed and analysed in this report, including: highly opaque and unclear criteria as to who constitutes "low-risk" and "high-risk", that in practice leave any potential defector unable to judge what category or fate he will be assigned if he does indeed defect; overly narrow eligibility criteria that exclude men who had to endure Boko Haram rule when their villages were taken over, but did not have an opportunity to "defect," i.e., to run away; programming that is too heavily skewed toward religious reeducation and underprovides vocational training and psycho-social therapy; and, crucially, extensive problems with reinsertion

and reintegration. Nonetheless, the defectors program known as Operation Safe Corridor provides the only mechanism for Boko Haram fighters to leave the battlefield. Similarly, the separate rehabilitation program for low-risk women and children is often the only mechanism for them to escape from arbitrary, lengthy, and abusive military detention. While in need of significant improvements – including in terms of court proceeding and trials for defectors judged high risk or for men who were not able to defect – both programs are crucial and should be expanded.

Among the many badly-needed improvements are greater transparency around the two programs and enhanced clarity and detail in communications about them. Currently the Nigerian government and military shroud these programs in secrecy and non-disclosure. The government's wariness with regards to transparency undermines the potential for those who have gone through deradicalisation programs – that is, Operation Safe Corridor, the rehabilitation program for low-risk women and children, or planned deradicalisation programs in prisons – to be reinserted and reintegrated back into their communities. Nonetheless, despite being ostracised and threatened with rejection, some 1,800 women and children have returned to their communities through this process. By contrast, as of the writing of this report in February 2018, none of the 96 men who had completed the deradicalisation and rehabilitation process entailed in Operation Safe Corridor have left its Gombe camp facility. This is because of reasonable fears that they may face violent retribution from militias and communities upon reinsertion. This suggests the government needs to invest more in open and comprehensive discussions with society about rehabilitation, reintegration, leniency, and victims' rights, including socio-economic reconstruction and psycho-social therapy – not just for Boko Haram associates, but also victims and communities.

However, even such badly needed leniency measures are insufficient unless the Nigerian military and the anti-Boko Haram militias cease being sources of abuse and victimisation themselves. Their abuses generate new grievances and potentially encourage new sources of violence. The Nigerian military regularly rounds up en masse anyone, including women and children, from villages it "liberates" from Boko Haram. It keeps them in abusive detention conditions for indefinite periods, conducts extrajudicial killings, and relies on militias for intelligence on who is Boko Haram, including for the purposes of arrest and prosecution. These practices are illegal and

alienate the military's victims from the Nigerian state. Yet Nigerian society has, by and large, not demanded badly-needed accountability measures for the military and anti-Boko Haram militias.

As Boko Haram has been pushed out of territory in recent years, the Nigerian government and military have a chance to finally start overcoming the deep-seated legacy of an abusive and neglectful state. To do so, however, they will need to radically change counterinsurgency practices, bringing them in line with human rights and best practice. They will also need to improve and expand leniency measures, and effectively rehabilitate and reintegrate individuals

formerly associated with Boko Haram. Nigeria has a chance to become an exemplar of disarmament, deradicalisation, rehabilitation, and reintegration processes even before the conflict has fully ended. The international community should support and encourage Nigeria in such efforts, including by demanding accountability for egregious human rights violations by the Nigerian military, militias and Boko Haram.

This report proceeds as follows: The Context section provides an overview of the military conflict in Nigeria, Boko Haram's rule and its treatment of populations under its control, societal perceptions toward individuals associated with Boko Haram, including victims whom the Nigerian public and government also frequently see as having an association with Boko Haram, and the challenge of militias. The next Overview section examines the military response and its problems, and reviews attempts at negotiations with Boko Haram and discussions of amnesty for the group, drawing on lessons from the 2009 Niger Delta amnesty. It then details the two leniency measures that have emerged – the defectors program (Operation Safe Corridor) and rehabilitation for low-risk women and children. It analyses their policy and legal framework, design and implementation, and contrasts them with the criminal justice path. This section also sketches reintegration and reconciliation efforts by NGOs. It further explores the possibility of accountability of Nigerian government forces and militias and of victim's rights, such as to truth. The following Assessment section provides an overall assessment of the current approaches to amnesty, the defectors program, and military efforts, drawing out key takeaways, including: the counterproductive nature of existing military tactics; the problematic lack of

transparency regarding the screening defectors and detainees; the lack of legal certainty for defectors; and reintegration challenges. The report concludes by offering a detailed set of policy recommendations.

In addition to reviewing existing background literature and reports on: Nigeria's amnesties; defectors program; disarmament, demobilisation, and reintegration (DDR)-like efforts; traditional and transitional justice approaches; and security and political developments, this report is based on my field trip to Nigeria in January 2018, during which Abuja, Maiduguri, and Ibadan were visited. I interviewed 69 interlocutors, including former and current Nigerian government officials, military, intelligence, and police officers; members and commanders of CJTF; members of various committees formed to negotiate with Boko Haram; officials from various branches of the United Nations in Nigeria; officials of Western embassies in Nigeria; international support partners, such as for Operation Safe Corridor and the rehabilitation facility for low-risk women and children and for reconstruction; women and children who have exited from the rehabilitation facility; men, women, and children who spent time in detention for alleged association with Boko Haram and were released and relatives of others who were detained by the Nigerian government or CJTF; representatives of Nigerian NGOs and international NGOs operating in Nigeria; Nigerian lawyers and human rights advocates; victims' groups' representatives; representatives of Nigeria's business community; and Nigerian journalists, academics, and researchers. Since I could not obtain permit to access IDP camps, interviews of IDPs were conducted on my behalf by two Nigerian researchers.

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