



The logic of pre-emptive war policy and its imperatives on Africa's capacity in the war on terror

Emimeke Henry Dienne¹, Elleh Oyoboy Edman²

¹ Department of History and Diplomatic Studies, Faculty of Humanities, Ignatius Ajuru University of Education, Rumuolumeni, Port Harcourt, Rivers State, Nigeria

² Department of Political Science and Public Administration, University of Uyo, Akwa – Ibom State, Nigeria

Abstract

The paper did set out to examine the invocation of the pre-emptive war logic and doctrine by the Bush Jr. administration immediately after the September 11, 2001 attack in the United State had continued to resonate in current international system, especially in the era of the new normal. The entire debate over the pre-emptive war doctrine revolves around the legality of the doctrine and what it portends for weaker nations, and nations that are willing to confront the “Adult Supervision” that the United States of America is providing the international system. The doctrine had become a “powerful instrument” used by powerful in cajoling and intimidating weaker nations, with weaker nations attempting to flag the doctrine with little or no success. The doctrine, furthermore, has increased the acceleration of powerful nations away from the multilateral approach of the United Nations (UN) to conflict resolution to the unilateral approach, thus, the questions whether the pre-emptive war logic constitute a new normal and (ii) whether the basis of this doctrine goes beyond the new normal. Furthermore, should humankind allow the cajoling of weaker nations? The attempt at proffering answers to the questions did inadvertently led the paper to several conclusions, especially as it concerns the African continent, thus the recommendations canvass herein that includes the global war on terror being better done within the global framework of multilateralism.

Keywords: just and unjust war, pre-emptive war doctrine, weaker nations, terrorism, multilateralism and unilateralism

Introduction

The global “war” on “terror” is currently ranging on in several regions of the world, so too the debate concerning its underpinnings, style and direction. From the unfolding arguments and logic that underlined the emerging debates and controversies – patterned and structure along the lines “we” versus “them”, “developed” versus “underdeveloped” world, had left humankind exacerbated and in dire want of a solution to the attendant problems of terrorism. The recurring themes from the global discussion on the style, direction and manner of the “war” on “terror” borders on the following questions (1) whether terrorism does recognize region(s), culture, people, and states (2) how legal is the pre-emptive war logic (3) what approach – multilateralism or unilateralism best suite efforts at countering terrorism (4) can states be involved in acts of terror (5) what impacts has the global war on terror on Africa managing its conflicts. The salient facts to note from the collectives of the arguments and answers from the debates are that they (answers) are patterned along the lines of developed and underdeveloped countries. Again, these answers are stemming from the structural division of the global system. Most reportage concerning the current waves of terrorist acts/ terrorism in the 21st century had been situated and reported as the exclusive reserve of nations without powers of the global south. Premised on the line of thoughts identified, the style of the war on terror and its direction had equally been identified to have taken and followed a similar pattern established by the debates and controversies surrounding the “war”. The global “war on terror” gained speed with the destruction of the twin towers and pentagon by Al-Qaeda “terrorist group” on September 11, 2001. An estimated three thousand Americans were

killed in the attack, thus the glamour by Americans in demanding from their government the reconstruction of homeland security arrangement and framework. The demand of the Americans did inadvertently cause the American President George Bush Jr. to declaring himself a “war time President”. The declaration of Bush Jr. and the tagging of himself as “war president” did place a huge moral responsibility on the president for a stiff response to the perpetrators of the September 11 act of terror. The response(s) that Americans demanded from their president was cleverly encapsulated in the “rhetorics” of the “Axis of Evil” deployed by the government. Again, the response(s) of the American Nation to the September 11, 2001 attacks required the United States of America putting up a coalition of like minds nations/ states together and the response(s) had led to the invasion of Afghanistan, Iraq, and by extension caused the American Nation to rapidly move away from the multilateral framework has put together by the global actors (states), as the best way of responding to problems that are perceived an hindrance to global security and peace to unilateralism. The combination of approaches adopted and the execution of these approaches by the American Nation and her allies towards the challenges posed by terrorism had pricked the comity of Nations, scholars and policymakers to question these approaches (Gaddis, 2004; Ikenberry, 2004; Kaplan, 2002; Nye, 2002) [5, 8].

The invocation of the pre-emptive war doctrine did elicit the great argument (debate) whose central theme is about whether the doctrine is justifiable under international law and what impacts does the doctrine have on America's relations with “lesser powers” in the international system, especially, those in Africa? The debate on the “rightness” of

the doctrine was very intense, consequently, the division the international system into two – with USA and her allies on one side of the divide and the others on the other side. Whatever the issues were, with the benefit of hindsight, the stark reality is that the United States of America faltered in its invocation of the pre-emptive war doctrine, as the American nation is yet to find the WMDs (Weapons of Mass Destruction) in Iraq. The to and fro movements of the debate over the legality / legitimacy of the doctrine did elicit several viewpoints and perspectives. O’Connell (2002) aggregated the views from both sides of the divide and came up with what this paper considers consensus opinion by nothing that the United States of America and her allies were not fully committed to the broad legal framework that prohibits the use of force. The United Nations charter (a binding treaty) under “article 2(4)” prohibits the use of force and establishes the Security Council with enabling authority to take measures against breaches of global peace. But “Article 51” of the charter vii in giving flanks to Article 2(4) stated conditions to rights to the use of force collectively and individually. While some scholars argued that Article 2(4) been rather subjective and not been explicit enough, thus, their charge as captured in Amato (1983) quoted in O’Connell (2002); with them referencing the 1981 Israeli strike against Iraq. Other cases quoted to buttress their position include U.S.A versus Nicaragua (1986), Cofu Channel, case, Caroline doctrine/case (1842). The conclusion of O’Connell (2002) was that:

... Pre-emptive self-defense not only undermines the restraint on when states may use force, it also undermines on how states may use force. Today states measures proportionality against attacks that have occurred or planned what measure can be used to assess proportionality against a possible attack? ... The United States has no right, however, to invade another state because of speculative concerns about that state’s possible future actions. The current international order does not support a special status for the United State or a singular right to exempt itself from the law...

From the basis of the cases reviewed by the protagonist and supporters of the pre –emptive war doctrine, O’Connell (2002) declared that posture of the United States and her allies did raised the fear of nations/states without “power”, especially, those in the African continent that they will be bullied for airing the views. Since the invocation of doctrine, the posturing of the united states of American and her allies had caused serious concerns, thus, nations in the African continent wondering how the posturing of the USA and her allies would impact on her capacity in the war on terror. The doctrine had grown to become one major instrument that had impacted states relations since its invocation. As already noted, the protagonist and the “invocators” nations of the pre-emptive war doctrine relied on “Article 51” of the “UN charter” to justify their use of force in self defense pre – emptively, thus, the need for more clarity on “article” 51 and 2(4). The consensus amongst anti pre-emptive war doctrine scholars and policy makers as led by O’Connell (2002), with an explicit explanation(s) noted that “Article 51” contradicts the positions and claims of the United States and Britain, as the “article” is silent on whether “self” “defense” involves the pre-emptive use of force. “Article 51” had noted inter alia;

Nothing in the present charter shall impair the inherent right of individual or collective self defense if an armed occurs against a member of the United Nations, until the Security Council has taken measures necessary to maintain international peace and security. Measures taken by members in the exercise of this right of self defense shall be immediately reported to the security council and shall not in any way affect the authority and responsibility of the security council under the present charter to take at any time such action as it deems necessary in order to maintain or restore international peace and security...

O’Connell (2002) in strengthening her position quoted “Article” 2(4) that barred and banned the use of force. “Article” 2(4) noted thus that...

All members shall refrain in their international relations from threat or use of force against the territorial Integrity or political independence of any state, or in any other manner inconsistent with the purposes of the United Nations...

The exemptions to the prohibitions on force in the words O’Connell (2002) “appeared in the charter explicitly”. The intense interrogation of the approaches and execution of the pre –emptive war doctrine did draw out the following conclusions from the anti pre -emptive war doctrine camp (1) there are no self appointed rights to attacking another nation because of fear that the state is making plans or developing weapons usable in an hypothetical campaign (2) self defense can only be triggered by acts considered reprehensible enough to amount to armed attack as exemplified in the ICJ (international court of justice) ruling on the Nicaragua case. (3) States actors are limited by the “principles” of “states responsibility” and the prohibition on armed reprisals (4) Force can be used in self defense only against a state legally responsible armed attack (5) Any use of force in self defense must respect the principle of necessity and proportionality. In this instance necessity restricts the use of military force to the accomplishment of lawful military objectives while proportionality demands that possible civilian casualties be weighed in the balance. Though, the interrogations and debates on the pre-emptive war doctrine is a never ending debate, especially as a new trajectory of home grown terrorist cells and groups had been added to the equation and debate, thus from the contending arguments from both camps, the paper make bold to say that indeed the United States of America and her allies do have the right under international law to use force in Afghanistan after September 11, 2000, but under the same international law lacking the rights to invade another country on speculative grounds and premise. The current global order does not support or condole a special and privileged status for the United States of America and her allies or any singular right that exempts the United States of America and her allies from the (binding) “obligatory” force of the law. The quagmire in the entire pre –emptive war doctrine was the cold shoulders the United States of America and allies gave the international community and the UN. The disdain with which the global organization was treated was visible for everyone to see. But the salient fact in all the back and forth swings of the debate is the throwing up of a pertinent question which is – where the interest of nations

with “power” clashes with those of the United Nations (UN), which ends up in the repairer shop? Again, what this question brings to bear on this paper is that there is no international consensus on the nature and pattern of responses to the challenges of both international and local terrorism; aside the pussy-footing of some nations towards multilateral / international efforts. The debate had further shown the fault line in the conceptualization of terrorism and terrorist. It is worthy of note that because of the political, economic and social underpinnings of terrorism, the interplay of these factors remain the fault lines and barrier to global agreement and consensus to the definition and conceptualization of “terrorism” and “terror”. The attempt in proffering answers to the questions raised above meant the paper joining in on the debate.

Terrorism and its Modus Oparandi in the International System

Though, there is an inherent failure on the part of the global system in coming to a consensus on the definition of terror and terrorism. This is due essentially to the changing sociological and historical moments and also to the cross crossing of several underling factors that cuts across politics, economics and social factors. Though the concept of terrorism is multifaceted and multidimensional, thus, the difficulty and the diverse opinion on the “term” and “concept”. The difficulty in conceptualizing the concept caused Kegely Jr. (1990) to posit that “international terrorism” and “home grown terrorism” is currently surrounded by myth and cant, consequently Kegkey Jr (1990) commencing its historical analysis and account by tracing the beginning of “terrorism” to the 1960s. But Blishchenko and Zndanev (1984) in a similar effort traces the origin of “terrorism” further down into history, up to the French Revolution of 1793. Lexically, the word “terror” has its root in Latin but it soon diffuse into other European languages, thus the derivatives of the word “terrorism” and “act of terrorism” being now widely used. Whatever the issues are surrounding the origin of the word “terrorism”, it is worthy of note that the definition and the concept of the word “terrorism” is fluid, but at the level of societies in the international system an “act of terrorism” cannot go unnoticed. It is in this vein that Jerkins (1990) did help the paper with the concept and definition of the terrorism by positing that:

... The term terrorism has no precise or widely accepted definition. If it were a mere matter of description, establishing a definition would be simple: Terrorism is violence or the threat of violence, calculated to create an atmosphere of fear and alarm in a word, to terrorize – and thereby bring about some social or political change. This is pretty close to the definition offered by a South American Jurist more than (25) years ago, i.e Terrorism consists of acts that in themselves may be classic forms of crime – murder, arson, the use of explosives – but that differ from classic crimes in that they are executed” with the deliberate intention of causing panic, disorder and terror within an organized society...

Premise on Jerkin’s (1990) definition, it follows objectively that terrorism has an underlining link to criminal acts, crime and grave breaches of rules. The violence and criminal acts are mostly targeted at civilian with the aim of scoring either

political, economic goals, thus, the cliché “one’s man’s terrorist is another man’s freedom fighter”.

Again, from the plethora of literatures that includes those of Jerkins (1990), Lagueur (1990) [7], Johnson (1990) [4], Sick (1990) [11] and Agwu (2004) [1] especially as it concerns the conceptualizing and defining terror, the emerging fact and trajectory is the exposure of all the regions in the current global system having its unique indexes and indices that helps them recognize, conceptualize and to defining “terrorism” and “terror”. In most cases the various definitions emerging from the under developing regions runs parallel to those of “nations with power” especially those of United States of America and allies. For the third World Nations – Asia and Africa – where the government lack the basic tools of conventional war; they have exclude from their definitions of terrorism other means of struggle – “wars of liberation” or “guerrilla warfare”. From the exclusions in the definitions of terror and terrorism emanating from the third world, one basic fact comes to the fore and that is “another man’s terrorist been another’s nationalist”. Again, due to the several underpinnings of terrorism, the trajectory of state sponsorship of terrorism had become another worrisome trend. State sponsored terrorism involves the tacit usage of terror groups in surrogate warfare to undermine or to circumvent another state interest(s). Governments that are involved in the sponsorship of “terror”, see “terrorism” as a useful tool and capability (weapons system) that is cheap and a means of waging war or gagging domestic opposition or international opposition.

Whatever the definitional controversies might be, the fall out of “terror” and “terrorism” is that it has pitched states against states and non state actors against non-state actors. Terrorist have struck in the U.S.A, London, Indonesia, Kenya, Tanzania, Nigeria, France and Scotland. With several states experiencing terrorist acts first hand, the issue herein is - how best to response to the spate of terrorism in the global system, hence, the division in the system , with nations with power opting for the unilateral approach, while nations without power opting for the multilateral approach. But the worrisome issue in relation to the responses of states and the international system is the fact that it has exacerbated the already tense atmosphere of “peace” and “security” in the global system. It is in the midst of the tense atmosphere of the global system that the American nation invoked the pre-emptive war doctrine that is still resonating in the global system international system till date. The acknowledgment of the doctrine and the position of the United States of America and those of her allies was a difficult one, George Bush Jr never failed to warn the world of the consequences of giving in on terror, but in same vein President George Bush Jr went ahead to invade another state on the premise of thrum up charges and claims. From the benefit of hindsight, the entire claims of the United States of America and her allies concerning “Weapons of Mass Destruction” (WMD) was false, rather it was an umbrella to cover the wicked motive of regime change. The clandestine motive found an alibi in the analysis of Gaddis (2004). The toxic haze that enveloped the world at the time was primarily due to the policies of “nations” with “power” towards “nations” without “power”. Nations with power had through all the ages and historical vista been blinded by motive of dominating and exploiting the international system to the benefits of their states. Thus, the question of

geo – strategic agenda coming to play in the politics of regime change and the pursuit of the pre – emptive war doctrine as encapsulate in the rhetoric of “Axis of Evil”. Giving flanks to the options and this line of thoughts, Gaddis (2004) had noted inter alia;

... It's important to emphasize that word states because it distinguishes the surprises of 1814 and 1943 from one that occurred in 2001. The first two attacks did indeed come from states using a familiar form of power – military force – in unexpected ways. The remedies fell, therefore, within the traditional limits of diplomacy and warfare. The United States might to dissuade, defer, or defeat such adversaries, but whatever option it chose it would be dealing with an identifiable regime led by identifiable leaders operating by identifiable means from an identifiable place of territory... none of these things was true of terrorist who carried out attacks of September 11 2001...

From the analytical lenses of Gaddis (2004) the dilemma confronting the administration of Bush Jr was that Al-Qaeda the perpetrators of the September 11, 2001 attack was a non state actor with cells cutting across and operating in several regions of the international system. The spread of this particular terrorist cell, fear and the hurt felt by the American Nation at the time gave energy to the “Axis of Evil” rhetoric deployed by the administration of Bush Jr. just to gain legitimacy to prosecute the pre-emptive war doctrine. The doctrine did allow and authorize the use of force or arm action in self defense and pre-emptively which at level of society allowed the brushing aside the collective responsibilities of the UN as it concerns the Iraq. As already noted, the pre-emptive doctrine had led the United States into Iraq and Afghanistan, all in an attempt to curb the menace of Al-Qaeda and accelerated the moving away of the United States of America and her allies from the multilateral framework or approach of the United Nation charters. The posture and conduct of the USA and her allies at the time was backed by increased activities of foreign policy projections and penetrations into almost all regions of the international system. The increase foreign policy activities and penetration of the America Nation and her allies into other regions had in turn led to the “narrow and parochial defending of those (interest) policies. The defending of the projected interest across the globe is directly proportional to the several conflicts that litter the international system. The unilateral posture and conduct of the American Nation and her allies had meant the coalition contravening the rules international laws. It is this posture and conduct of enforcing her interest outside the multilateral framework that had brought it on collision path with several global institutions and laws.

Africa's Capacity in the War in Terror

Africa is not insulated from the general happenings in the international system, thus the African continent registering and recording several terrorist acts that cuts across almost all region of the continent. Currently, the African continent is saddle with the responsibility on how best to deal with problems of terrorism. Again, several Africans had been known to be involved in terrorism, thus the issue of examining Africa's capacity in the global war on terror. In

his articulation of Africa's problems in the global war terror, Agwu (2004) ^[1] noted that;

... What, however, is not new in Africa is the problem of state terrorism and the terrorism of insurgent groups, all of which are local in character and manifest themselves in sectarian violence, civil wars that transgress humanitarian laws, and an aggravated spread of terror amongst civilians populations and governments... there was a relative paucity of (if any) classical terrorism in Africa...

The “soft under belly” of Agwu's (2004) ^[1] logic is the attempt at which he tried to draw a correlation between politics, governance and terrorism without explicitly explaining how government and governance help in giving impetus to act on terrorism. Mbeki (2012) did come to the rescue of Agwu (2004) ^[1] by noting that most African states fundamentally lack the capacity to accommodate and manage contrary political, social and economic views. Politics in these states are violent and crude, thus contrary opinions and viewpoints are considered affront. These affronts are meet with “huge” state might, consequently, all dissenting views and opinion are driven underground. The groups with these dissenting views result to terrorism and terrorist acts to score either political, social and economic points. Again, it is pertinent to note that most African states are quick to declaring groups with dissenting opinions and viewpoint as terrorist groups due to lack of structural framework and lack of capacity in managing these contrasting opinions and viewpoints. Simply put, African politics is greatly flawed in the sense that it is anti-opposition, human rights, rule of law and development against this singular fact was exposed and brought to the fort in the current global efforts. Corroborating this fact and logic the South African anti- terrorist-bill did acknowledged Africa's precarious position in the following words:

Africa is a fertile ground for terrorist. Despite the democracy movement that have transformed many of that continents autocratic governments, a lot of African countries lack the structure and resources to combat sophisticated terrorist operations such as bin laden's. They (African countries) have weak governments. They don't have particularly effective or efficient border controls. And it is easy to get and manipulate passports in many African countries... Many African countries also have large numbers of poor and disaffected people from those ranks bin Laden has been able to recruit foot soldiers for his terrorist organization.

In an attempt to ameliorate its perceived limitations and weaknesses in the global war on terror, the African Union in the aftermath of the September 11 2001 and the 76th (seventy six ordinary session of its central organ on mechanism for conflict prevention management and resolution condemned all forms of terrorist attacks and terrorism. This position of the African Union gave impetus to individual states within the African continent to accelerate their efforts at combating terrorism through legal frameworks. For example in Nigeria, the terrorism act and money laundering Act was amended and passed into law in 2011. The act in part I articulates acts of terrorism and related offences. This law became necessary in Nigeria due

to the activities of Boko Haram. Boko Haram is classified as a terrorist group by the Nigerian state, thus its activities outlawed. It operates in north eastern part of Nigeria and its terrorist act is currently resonating across Nigeria and the West Africa sub-region due to affiliations with other similar groups operating in the region. The Boko Haram emerged from Ahlulsuma Wat' Jamaah Hijra and Yusufiyah self. The sect advocated religious intolerance, the overthrow of the current form of Islam and the imposition of their extreme form of Islam on the Nigerian state. The sect had tormented the current Nigeria state from 2009 till date, through series of terrorist attack. The groups have extended the frontiers of their attack into neighbouring states of Nigeria – Cameroon and Niger. Because of the series of attacks and the reprisal attacks from the Nigerian army and Ecowas Joint forces had caused an estimated 1.2 million internally displaced pupils (IDPs) in North Eastern Nigeria. Giving flanks to the above logic, Dienye (2015) ^[2] noted that because of the rapidity and intensity of the attacks of Boko Haram caused the United States Department to declare thus:

... African did experience 978 attacks in 2011, which represents 11.5 percent increase over the previous years. This increase in terrorist attack in the continent is attributable in large part to the more aggressive attack tempo of the Nigerian based terrorist group Boko Haram, which conducted 136 attacks in 2011, as against 31 from the previous year...

The declarations of the United State Department, though, frightening does bring to the fore the issue of conditions that had necessitated the continued existence of the various terrorist groups and the inability of African states in defeating these groups. The following groups are known still active in the African continent (I) Al-Qaeda Maghreb (Algeria) (II) Boko Haram (Nigeria, Niger, Cameroon) (III) Al-Itihaad al Islamiya, Ansaiu, and Al Shabaab (Somalia), Al Jama al Islamiyya, Muslim brotherhood (Egypt) Al Mourabitoun, Jamaat Wasr al Islam Wal Muslim (Morocco) and the Lord's resistance army (Uganda ZWanda and Congo D.R). All of these groups (terrorist) groups had striven in the continent due to certain conditions Crenshaw (1990) categorized into two remote conditions which includes (I) modernization (II) urbanization (III) social habits and historical traditions (IV) attitudes and beliefs and (V) habits. The direct or immediate conditions includes (I) grievances among subgroups of a merger population (II) deprivation (III) political participation (IV) Elite disaffection (V) Mass passivity. Juxtaposing these conditions on the African continent in current fight on terrorism, one glaring fact is that Africa is greatly limited in her capacity in the global fight on terrorism.

Conclusion

The logic of pre-emptive war doctrine (Bush Doctrine) was wrong and ill timed. The American nation used the war as a disguise to effect regime change and to project her desires and powers in the Middle East. The doctrine (Bush Doctrine) as espoused by the United States and her allies at the operational level of society in the international system had emboldened non state actors involved in terrorism globally, and regionally, just as it has done to the administrators of the American State. Because of the

boldness of these groups in carrying out their dastardly acts across the globe and especially in the African continent, most African states are now forced to apply the carrot and stick approaches in their dealings with these groups. Again, it is worthy of mentioning that African states lack the capacity to deal with terrorism, thus their adopting the carrot and stick approaches which had not always worked or yielded the desired results as in the case of Boko Haram in Nigeria. So long as the conditions that necessitated terrorism still persist, coupled with the woeful economic performances of Africa states, Africa would continue to struggle in the war on terror.

References

1. Agwu Aja Fred. The Al-Qaeda scare and Africa's capacity for discharge of anti-terrorism obligation in Undag Journal of Politics Vol. Number 1, December, Lagos, 2004.
2. Dienye EH. The undercurrent of Boko Haram Insurgency in Nigeria's external relations in "Icheke" Journal of the Faculty of Humanities. IAUOE. Port Harcourt, 2015.
3. Federal Republic of Nigeria. Terrorism act and money laundering act (amended). Abuja, 2011.
4. Johnson Paul. The seven deadly sins of terrorism. In Charles W. Kegley (ed) international terrorism: Characteristics, causes, controls. London: St. Martin press, 1990.
5. Kaplan Robert D. Warrior politics: Why leadership demands a pagan ethos. New York: Kandom house, 2002.
6. Kegley Charles W. "The characteristics, causes and control of international terrorism: An introduction". In Charles W. Kegley Jr. (ed) international terrorism: Characteristics, causes, controls. London: St Martin press, 1990.
7. Lagueur Walter. "The Faultily of Terrorism" in Charles W. Kegley (ed) International Terrorism: Characteristics, causes, controls. London: St. Martin press, 1990.
8. Nye Joseph S. The paradox of American power. New York: Oxford University Press, 2002.
9. Okereke Nna Emeka. "Boko Haram crisis of July 2009: Official response and public reactions". In Egodi Uchendu (ed). New face of Islam in Eastern Nigeria and Lake Chad Basin-Essays in honour of Simon Offenber. Abuja: Aboki publishers, 2012.
10. Powell Robert. In the shadow of power: States and strategies in international politics. Princeton, W.J, Princeton university press, 2000.
11. Sick Gary G. "The Political underpinnings of Terrorism" in Charles W. Kegley (ed.) international terrorism: Characteristics, causes, controls. London: St Martin Press, 1990.
12. Wittkopt Eugene R, Charles Kegeley, James Scott. American foreign policy Belmont California: Wadsworth, 2002.