A Review of the Benue State Peace Preservation Law CAP 123, Lawa of Benue State, 2004

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Abstract

The Benue State legislature has enacted the Peace Preservation Law to curb armed conflicts in the state. Despite the enactment of this law, armed conflicts have been on the increase. Inter-ethnic and sectarian conflicts have continued to occur unhindered. This article has, therefore, surveyed the Peace Preservation Law and put in perspective the responsibilities placed on the shoulders of different categories of persons as it relates to the preservation of peace in Benue State. The discourse has adopted the doctrinal method of research by placing reliance on the provisions of the legislation and relevant literature. The article found that the law has no place for the intervention of the Benue State legislature in the exercise of the powers of the Governor under the law. The discourse, therefore, recommended the amendment of the law to include a provision subjecting Governor's powers under the law to legislative approval.

Introduction

The spate of restiveness and violent clashes in and around Benue State in particular and Nigeria in general, has been on an alarming increase. It appears inter-ethnic and sectarian conflicts have continued to rise unhindered or at least, such conflicts have been recurring. Every day ushers in new facts and figures of daunting

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proportions. From communal clashes between Mbawuar and Mbangur Kindreds of Vandeikya Local Government Area, to the alleged Fulani invasions of Makurdi, Guma, Gwer-East and Gwer-West, and recently, Agatu Local Government areas of Benue State, armed conflicts have been ravaging the otherwise peaceful landscape of Benue State, Nigeria.

Armed conflicts may be understood in the context of this work to mean violent disagreements or clashes among dwellers of any given community or between different communities, whereby the participants usually take up arms to fight. These conflicts often lead to forced displacements and death of several persons, especially women and children who are mostly the very helpless lot of the bunch. It is also not out of place to find cases of missing persons, some of who may never be found even after the conflicts are ended. Thus, it has become customary for displaced persons to find their way to some primary school buildings or other places, at the instance of either the State or Local Government Areas concerned. Most of the time, the Federal Government of Nigeria through the National Emergency Management Agency (NEMA) and the National Commission for Refugees, usually raise relief materials in form of foodstuff and beddings for those displaced persons living in identified camps. The international community through the Office of the United Nations High Commissioner for Refugees, and the Red Cross Society also in appropriate cases, come to the aid of persons camped in different parts of the state by providing relevant materials as may be necessary. Thus, these Nigerian citizens are forced to leave the comfort of their once very comfortable homes, lose their means of livelihood in the process, and take up temporary residence in makeshift camps while depending on hand-outs from charitable organizations and philanthropists for their very survival.

From the year 2011 up till today news of the plight of displaced persons agonizing in their camp at Daudu, a small town along Makurdi-Lafia road have continued to filter through the print and electronic media to usher in shocking revelations of how vast

numbers of whole villages have been sacked by suspected marauding Fulani herdsmen who have been on a free- for –all attack of most of the settlements in and around Benue State[3]. These incidences of attacks by the Fulani herdsmen have been reportedly on-going for at least 4 years[4], and yet, nothing much can be shown as the efforts of the Benue State government or even the government of Nigeria to redress the obvious wrongs, or at least preserve the peace by preventing retaliation, or protecting lives and properties in the affected communities.

What is more disturbing is the fact that from all reported cases of armed conflicts in Benue State and environs, whether in Makurdi, Guma, Gwer, Gwer-West, Agatu, or Vandeikya, there is great fear that very sophisticated arms have been used especially by the Fulani herdsmen and their mercenaries. There appears to be a free flow of arms and ammunitions in these troubled parts of Benue State, and this trend has apparently fuelled armed conflicts in no small measure. Consequently, peace has continued to evade the good people of Benue State in the troubled local government areas with attendant negative effects. For starters, there is the risk of a looming famine in Benue State, the food basket of the nation. One needs to be mindful of the fact that in Benue State, the farmers depend on the atmospheric condition of each season, to plant or grow particular crops. For instance, yam which is the most commonly grown crop of the Benue man is grown during the rainy season alone. The effect of this is that, while the displaced Benue man, woman, boy or girl scampers for safety to camps meant for displaced persons, his farm lies fallow and untended while the rains come and go. This leaves the danger that such a farmland will remain useless for the purpose of farming yam when the whole conflicts may have subsided sometimes later in the year. The ancillary effects of this are hunger or famine, loss of earnings for the individual farmers as well as internally

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3 Abah, H. 'Fulani/Tiv Crisis: Displaced Persons Agonise at Camps' *Weekly Trust*, June 8, 2013, p.11.

4 *Ibid* p.11.

generated revenue for the Local, State and even Federal Governments. The possibility of an epidemic outbreak as a result of poor sanitary facilities at the make shift camps of these internally displaced Nigerians also raises numerous health questions or issues which may not only be limited to the camps after all.

These armed conflicts occur in defiance to the legal framework for the preservation of peace in Benue State- the Peace Preservation Law. This article, therefore, surveys the Peace Preservation Law and brings to the fore the responsibilities, duties and powers of different categories of persons under the law, and points out its short comings and challenges. The article also recommends what could be done using the instrumentality of the law to curb armed conflicts in Benue State

Legal Regime for the Preservation of Peace in Benue State

The legal regime which specifically provides for the preservation of peace in Benue State is the 1976 Peace Preservation Law of Northern Nigeria, No. 88 of 1963, which came into force in Benue State on the 3rd of February, 1976. The law consists of 12 sections and is generally geared at preserving peace in all parts of Benue State[5]. It vests enormous powers in the Governor of the State as well as corresponding responsibilities in the citizens of Nigeria resident in Benue State. The functional institutions in that law include the executive, the legislature and the judiciary, as well as the Local Government Council in Benue State. It should be specifically noted that the Benue State Peace Preservation Law is still good law despite its age. It has not been repealed or set aside by a court of competent jurisdiction since it came into force and as such the law is still very much alive, good, and in active force in Benue State. The law has made provisions for some responsibilities and duties as well as powers to different categories of persons. These powers, duties and responsibilities shall now be considered below.

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[5] It has been domesticated in Benue State as *Peace Preservation Law,* Cap 123 Laws of Benue State of Nigeria, 2004.

Powers and Responsibilities of Government under the Law

Government in the scope and sense of this work includes the executive, the judiciary and where applicable, the legislature. In further specifying powers, responsibilities and duties for the Government, the law has entrusted powers to the Governor, the Magistrate, a Local Government Council as well as Officers and Men of the Police and the armed forces of the Federal Republic of Nigeria. Traditional rulers have also been co-opted into this law and given responsibilities with attendant consequences for failure. These powers are hereunder examined in the detail.

The Governor

Section 3 (1) of the Law provides that "whenever it shall appear to be necessary for the preservation of public peace in any area of the State, the Governor may declare by proclamation that such area is a proclaimed district for the purpose of this law." Thus, it is the Governor of Benue State is the only recognized authority under this law with powers to determine whenever there is an appearance of the necessity for preservation of public peace. The assertion may thus boldly be made and the inference drawn that no matter how any other person or group of persons may perceive that a need has arisen to preserve public peace, as long as it is within the land mass of Benue State, such perception cannot translate to anything tangible because the law has given the powers and discretion to the Governor to issue a proclamation, declaring the troubled area to be a proclaimed district.

The idea of a proclaimed district, it is submitted, is in some respects, similar to the idea of a state of emergency provided under section 305 of the Constitution of the Federal Republic of Nigeria, 1999 (as amended)[6]. Similarity between the proclamation of the State of Emergency by the President and the proclamation of a

[6] Hereinafter simply referred to as the Nigerian Constitution

"Proclaimed District" under section 3(1) of this law stems from the fact that in both cases, there has to be a threat of breakdown of public peace. The major difference between them is that while the declaration of a state of emergency by the President requires the active approval of the legislative arm of Government (the National Assembly), the proclamation by the Governor of Benue State requires no such approval by the Benue State House of Assembly. Also, while **section 305** of the Constitution of the Federal Republic of Nigeria, 1999 (as amended), sets a time limit of 6 months as life span of a state of emergency (except if renewed as provided by law), the proclamation in the Peace Preservation Law of Benue State does not have any specific time ceiling. In fact, the law provides that the Governor may at any time he so wishes cancel the proclamation by putting up a notice in the State Gazette, and on such a cancellation, the area shall cease to be a proclaimed district.[7] Moreover, the Governor of Benue State has powers to specify any Officer of his choice, to collect all arms and ammunitions from any person in the proclaimed district within a specific time provided in the proclamation. Such submission of arms and ammunitions in the proclaimed district is expected to be done by all the inhabitants of the proclaimed district except persons in the service of Government and such other persons or class of persons as the Governor has specified in the proclamation.[8] It is submitted that some of the classes of persons the Governor may permit or exempt under a proclamation are properly identified vigilante groups which have tailored their activities to be beneficial to, and analogous with those of the government.

The officer whom the Governor has appointed to collect arms which are expected to be delivered up in a proclaimed district is expected to handle such arms in an orderly and accountable manner. It is expected that such an officer shall keep a register of the arms and ammunitions delivered to him and of the person by whom they

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7 Benue State *Peace Preservation Law* (*Supra*), section 3(3) thereof

8 *Ibid,* section 3(2)

have been delivered.[9] Except where the Governor orders otherwise, such arms and ammunitions are to be detained by the officer as long as the area continues to be a proclaimed district, and on ceasing to be a proclaimed district, they shall be returned to the persons who delivered same to the Officer in the first place.[10] The foregoing is without prejudice to the powers of the Governor under section 8 (3)(a) and (b) to order all or any of the arms or ammunitions to be returned at any time to the persons who shall have delivered them to the Officer, or who may appear to be entitled to them. The Governor may also order that the arms and ammunitions detained shall not be returned and shall be forfeited. Where the Governor orders that such arms and ammunitions should be forfeited, the Governor may direct that the person(s) whose arms and ammunitions have been seized be paid the value of the same from the general revenue and the value of such goods will be determined by an Officer appointed for that purpose by the Governor.[11]

Surprisingly, and in addition to the forgoing, the Governor may order that all or any of the inhabitants of a proclaimed district where additional troops or police have been sent or stationed shall be charged with the whole or any portion of the cost of such additional troops or police.[12] Such charge shall be paid and levied in a similar manner as fines imposed under the Riot Damage Law.[13] With respect, it is submitted that this provision of the Law requiring private Nigerian citizens in an area of conflict to be charged with the whole or any portion of the cost of additional troops or police does not reflect the spirit and letters of section 14(2)(b) of the Nigerian Constitution. For the records, that section of the Nigerian

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9 *Ibid*, section 8(1)

10 *Ibid*, section 8(2)

11 *Ibid*, section 8 (3) (b), especially the proviso thereto

12 *Ibid*, section 10

13 CAP 146 Laws of Benue State of Nigeria, 2004. Section 13 of that law allows the Governor to order the assessment and recovery of the value of assessed and damaged property as well as expenditure incurred by Government in a bid to quell the riot.

Constitution provides that "the security and welfare of the people shall be the primary purpose of government".

Flowing from the powers of the Governor as identified above, it is clear that the law under review has no place for the intervention of the legislative arm of government as should be the case in any democracy, and this calls for concern. While the fact of the Governor being the Chief Security Officer of the State is not disputed, it is submitted that such powers, just like almost every other executive powers of the State Governor, should be allowed to pass through the fires of legislative intervention or approval in order to be legitimate. A cursory look at the provisions of the Nigerian Constitution as regards the powers of the President to declare a state of emergency in any part of the federation will reveal that such powers must receive legislative blessings from a two thirds majority of the National Assembly within 2 days if the National Assembly is in session or within 10 days if it is on recess.[14] It is, therefore, contended that if the Nigerian Constitution, which is the *grund norm* of the state, recognizes in its wisdom, the importance of having an all-inclusive government in response to insecurity by providing for legislative approval of a state of emergency declared by the President, the law under review, which is on the lower rungs of the hierarchy of laws in comparison to the Constitution, should not be allowed to deviate from this trend. It is submitted that the danger in allowing the Governor to exercise absolute powers in declaring any area as a proclaimed district without recourse to the legislature lurks in the possibility of an autocratic Governor using such powers for adverse political reasons, and as a tool to get back at perceived political opponents.

Another issue with the powers given to the Governor in section 3(1**)** of the law under review to declare a proclaimed district is that the Governor is given great discretion in the exercise of his powers. The section does not define or even give any instances

[14] See section305(6)(b) of the Nigerian Constitution

where *"*it shall appear to be necessary for the preservation of public peace in any area of the state*"*. Also, it is not expressly stated to whom *"*it shall appear to be necessary*"* to preserve public peace before the Governor may proceed to make the proclamation. It is our submission that it would have served the people of Benue State much more if the law under review had provided parameters for determining when it shall become necessary for preservation of public peace. For instance, the law would have done well to provide that in any situation where there are armed conflicts of increasing proportions, there shall have arisen the need to preserve public peace.

Further on the issue of the discretion of the Governor being too large for comfort, the operative word used to convey the powers to declare a place as "proclaimed district" is the word "may" instead of the mandatory word "shall". The Supreme Court of Nigeria has interpreted the word "shall" when used in a statute, to be a command from which no derogation is expected.[15] Conversely, the word "may" when used in a statute, allows for discretion. Thus, the fact that section 3(1) of the law under review provides that the Governor "may" proclaim a conflict prone area a proclaimed district leaves more to be desired because on the other side of that coin is the liberty not to exercise that power. The case would have been different if that section made the exercise of such powers mandatory. The result of the Governor having such discretion is visible in the fact that despite the series of armed conflicts Benue State has witnessed recently, the Governor has not thought it fit to exercise, and neither can he validly be compelled to exercise the said powers for the preservation of public peace. This is a paradox. This paradoxical situation does not augur well for the generality of the common man in Benue State.

It should be noted that one very useful advantage of the proclamation of a place as a "proclaimed district" is the fact of

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[15] *Katto v C.B.N. (1991) 9 N.W.L.R. (Part 214) 126* at *147*; See also on the same issue, the case of *Bamgboye v University of Ilorin and Another (1999) 10 N.W.L.R. (Part 622) 290* at *336* and *348-349.* This is not to claim that the word implies mandatoriness in all events, as the Supreme Court has held that in some cases, the word is used in less than a compulsory sense.

restriction on the ownership and possession of arms and ammunitions section 3(2) of the law under review expressly provides that the Governor may stipulate in his proclamation, a specific period of time within which all arms and ammunitions in the proclaimed district may be delivered up to a person appointed by the Governor to receive and detain such weapons. While commending this provision of the law, one cannot but reason that the law under review does not anticipate a resistance to "delivering up" arms and ammunitions. The law appears to be saying that within the specified time in a proclamation, all ammunition should be submitted without a fight. It is submitted that this position is highly unrealistic, especially in the light of the recent trend whereby "insurgents" have invaded Benue communities from other nearby communities at odd hours of the night and disappear as soon as they are done. Assuming such insurgents live within a proclaimed district, it is expected that upon the proclamation, they deliver up their arms within the stipulated time. The real challenge will emerge where such armed insurgents live outside of Benue State, and only come into the State at night to wreak havoc. However, in situations where these insurgents come in to attack communities and after sacking such communities, they take over the lands and begin living thereon, the insurgents are bound by the Governor's proclamation and if they are overpowered and arrested by government troops, they are to be dealt with in accordance with the law.

Where arms and ammunitions are not freely delivered up but are forced out of the owners by security forces, the Governor will be justified in ordering under section 8 (3)(b) of the law under review that such weapons shall not be returned and shall be forfeited. This is an exception to the general rule in section 8(1) and (2) of the Law that upon notice published in a gazette by the Governor signalling the end of the proclamation, the officer who had custody of such arms and ammunition shall return them to the persons who initially delivered them up or who are most entitled to possession of the weapons.

The proliferation of arms in the Nigerian society due to the sometimes desperate disposition of politicians to win elections at all costs, even including via intimidation of opponents, has, however, left more to be desired. Therefore, it is contended that the need to prevent armed conflicts at all costs should enable and indeed embolden the Governor to be weary and hesitant in allowing weapons recovered during armed conflicts or from proclaimed districts to be returned to such persons who delivered them up.

It is worrisome that unlike a state of emergency, a declaration by the Governor of a proclaimed district in Benue State does not have a time ceiling. Section 3(3) of the law under review simply provides that the Governor may at any time issue a notice in the State Gazette, cancelling the proclamation, and such an area shall then cease to be a proclaimed district. It is respectfully submitted that this wide discretionary power given to the Governor without any provision for checks and balances leaves too much room for abuse of such powers. For instance, a Governor who is intolerant and vindictive may harp on this power to effectively subdue an area which he considers not to be politically friendly to his ambitions by keeping such an area a proclaimed district in perpetuity, while using his troops for extra-judicial purposes.

The Magistrate and other Officers

The Magistrate (and or police officer)is empowered vide section 6 of the law under review to arrest, without warrant, any person having or carrying or reasonably suspected of having or carrying any arms or ammunitions in contravention of the law. Such a person is also expected to be brought before a Magistrate to be dealt with according to law. Also, a Magistrate may either personally or by warrant, direct any other person named in such a warrant to enter and search any house, building, vessel or place within the proclaimed district with the aim of recovering arms or ammunitions. The search may also be conducted in order to arrest any person in respect of whom a warrant has been issued for committing, or

abetting any offence against the Federation or Benue State, or for committing any act of violence or intimidation tending to interfere with, or disturb the maintenance of law and order.[16] It is submitted that the forgoing provisions are commendable as they have the effect of curtaining illicit arms trading or storage, at least for the period while the proclamation remains in force.

Furthermore, the powers of searching any house, building, vessel or place within a proclaimed district for any arms or ammunition or person, as aforesaid, will ultimately discourage criminal elements who incite rebellion or procure armed conflicts from seeking refuge in Benue State or at least, from seeking refuge in the places that have been declared to be proclaimed district. This is so because apart from the consequences of punishment for which criminal elements, if found in a proclaimed area, will suffer, the repercussion for whoever provides refuge for them is also not palatable.[17] Moreover, the law has permitted the Magistrate or any other person so named in the warrant to call to their assistance, any other person, and use force as may be necessary in carrying out the said search.[18]

In addition to the above, any Magistrate or commissioned military or superior police officer in any proclaimed district, who has reasonable cause to believe that a rebellion, civil commotion or riot is taking place or about to take place may do all things necessary for preventing the same. In doing this, he or she may use all such force as is reasonably necessary for preventing the same or for overcoming any resistance which may be made, and shall be exempted from liability for death or harm to any person because of such use of force.[19] The only exception is to be found in criminal proceedings at the instance of the Attorney General, or in civil proceedings with the consent of the Attorney General.

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16 Benue State *Peace Preservation Law*. (*Supra*), section 7 (1)
17 *Ibid*, section 4.
18 *Ibid,* section 7(3)
19 *Ibid* section 11

One cannot but notice that the Magistrate or his specified delegate is given enormous powers to apply force both in securing access to search a house, building, vessel or place, or for a person already "wanted' by Government at the national or state level; and in preventing, overcoming and suppressing a suspected riot, civil commotion, or a rebellion in a proclaimed district. It is submitted that the operative words in this law are "reasonable" and "force," and as such, the test for checking whether a Magistrate or any other approved person has exerted the correct measure of force in quelling a perceived civil commotion is the objective test of a "reasonable man".

From a realistic or practical point of view, however, it is difficult to see how the Magistrate fits into the picture of using any force at all, to prevent a civil commotion. This is because the Magistrate by his office is not in control of any military or police command and as such, is handicapped in directing the operational use of such force.[20] The Law has not stated or mentioned that any Magistrate may share command operational powers to enable him use such force. Thus, the Magistrate cannot reasonably be lumped into the group of persons who may use all such force as is reasonably necessary for preventing civil commotion. It is submitted that the Magistrate may only stick to the powers given to him to "do all things necessary for preventing" a "rebellion, civil commotion, or riot" as provided in section 11 of the law under review and no more, since there is a limit to orders the police and the military troops will take from him. In essence, it is doubtful if the police command which is an establishment of a federal law, will take orders bordering on the command operational use of the Nigerian police from a Magistrate Court which is a creation of a state law.

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[20] Indeed, by section 218 of the Nigerian Constitution. It is the President of the Federal Republic of Nigeria as Commander-in-Chief of the Armed Forces of Nigeria, who has the powers to determine the operational use of the armed forces of the federation. He exercises these powers under the laws and regulations made by the National Assembly.

On the whole, it is a good omen that the Magistrate or commissioned military or superior police officer may take steps to prevent any imminent rebellion, civil commotion or riot. This will to a large extent ensure that public peace in a proclaimed district is maintained. However, the power to pre-empt a civil commotion if not properly supervised and monitored, may become a double edged sword in the hands of the persons to whom it is given. For emphasis, the only incentive given to the Magistrate and any of the other officers to take necessary action is a "reasonable cause to believe that a rebellion, civil commotion or riot is taking place or about to take place."[21] Since the law is silent on the meaning of "reasonable cause," recourse can only be had to the concept of a "reasonable man" as is known in the law of torts. By implication, there is no yardstick for measuring reasonableness, but if the ordinary average man on the street believes a thing to be reasonable, that will suffice. Therefore, the Magistrate or the other officers may on receipt of reports of a civil commotion taking place already, or an impending riot within a proclaimed district, take all necessary steps for preventing same, including the use of "all such force as is reasonably necessary". The danger in this wide discretion granted the Magistrate and officers identified under section 11 lies in the fact that there is no corresponding supervisory structure for checking such discretion and as such, the discretion may be abused. For instance, the Magistrate or officers, being human, may sympathize with certain interests and yield to bias. This could translate to misuse of the powers by ordering the arrest or even scheming the death of perceived opponents on the flimsy guise that a civil commotion is reasonably suspected to be brewing in that particular area.

The use of all force as is reasonably necessary and the fact that liability cannot lie on the person using the force except in criminal proceedings at the instance of the Attorney General or in civil proceedings with the Attorney General's consent appears to be

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[21] Benue State *Peace Preservation Law* (*Supra*), section 11

quite worrisome. In other words, the fact that the Attorney General of Benue State must be involved one way or the other before a suit (be it criminal or civil) can be successfully pursued against a person who used force in a proclaimed district and killed an innocent person in the process leaves much to be desired. For one, the Attorney General is a politician and may have his own interests. It may be difficult to obtain the desired objectivity from him as experience has shown that it is hard to see him "give the Government away" in civil suits where his consent is necessary to even kick start the suit. The Attorney General may refuse to grant consent to a person to seek redress in a High Court, and that will jolly well be the end of the suit. Also, where the Attorney General refuses to initiate criminal proceedings against unlawful use of force, especially where harm and death have been occasioned by such use of force, the law has left no room for any direct criminal prosecution by private persons. Section 11 expressly provides that criminal proceedings under the law under review have to be at the instance of the Attorney General in order for the liability of such a Magistrate or the other officers to even be considered. It is submitted that this provision smacks a class of discrimination rooted strongly in inequality. What is more, section 17(2)(a) of the Nigerian Constitution provides that "in furtherance of the social order- (a) every citizen shall have equality of rights, obligations and opportunities before the law". It is, therefore, contended that in as much as the Attorney General is the only person expected to initiate criminal proceedings against persons identified in section 11 of the law under review, the latter has shielded the defaulting Magistrate as well as those officers from prosecution, thus creating inequality contrary to section 17(2)(a**)** of the Nigerian Constitution. It is further submitted that as far as the role of the Attorney General in section 11 of the law under review is concerned, that section runs in the face of section17(2)(a) of the Nigerian Constitution.

The Local Government and Traditional Institution

By section 9 of the law under review, where a rebellion, civil commotion or riot resulting in harm to any person or loss of life or damage to property shall take place in a proclaimed district, any chief or Local Government Council found to have taken part in, instigated, or neglected to take proper measures to prevent or suppress such, shall be liable. Also, where such a chief or Local Government Council neglects to bring to justice or deliver up persons taking part in or accused or suspected of taking part in such rebellion, civil commotion or riot, shall be liable to a fine of three thousand naira (₦3,000) or to imprisonment for three (3) years.

It is submitted that the Local Government Councils as well as the chieftaincy or traditional institutions are very powerful vehicles for peace or violence in Benue State so it is a move in the right direction to actually helm them in, in this worthy cause. As the nearest authorities to the grassroots where the people freely live, and possibly hatch plans to disrupt public peace, they are in a better position to take adequate steps to curtail such violent outbreaks at their earliest emergence. However, in the light of the complex challenges of forced displacements and migration in recent times in several Benue communities, it is increasingly difficult to play the role of a Chief as expected under this Law. This problem is even more amplified by allegations in recent times that the perpetrators of armed conflicts in most Benue communities are "insurgents", believed to be "Fulani herdsmen" and their 'mercenaries". Assuming these allegations are true, how then is a Chief, or a Local Government Council expected to "prevent" or "suppress" insurgency, and "deliver up" insurgents? It is submitted that the recent dimension of causes of breach in public peace is too wide for the contemplation of the law under review. For instance, the word 'insurgent" is not mentioned even once in the Law, and so there is no identified way of handling same. Moreover, the Chief and his subjects are daily fleeing the attacks by the insurgents, while the Local Government Councils cry feebly and helplessly because of the

harm done to their people. In any case, the Governor of Benue State has not exercised his powers as expected under this Law, so there is no basis upon which the Chief and the Local Government Council may be called to account under this Law yet.

The above analysis notwithstanding, for the Chiefs and the Local Government Councils, once the Governor proclaims a place to be a proclaimed district, it can no longer be business as usual because the expectations of the law are that rebellion, civil commotion or riot should be nipped in the bud and from the chiefs and the councils, much is desired. The whole aim is thus tilted towards avoiding any breach of public peace in Benue State.

The Role of Benue People under the Law

The law under review expects that the Benue indigene will co-operate with the government in all areas for the maintenance of public peace. It is expected that upon the declaration of any area as a proclaimed district, all persons who are in possession of arms and ammunitions, except those specifically exempted by the Governor in such a proclamation, shall proceed to 'deliver up' such arms and ammunitions to the officer appointed by the Governor. The process of delivering up those arms and ammunitions is also to hold within the time appointed by the Governor[22].

Section 4 of the law under review makes it an offense, with appropriate punishment for any indigene who knowingly receives, relieves, comforts, assists or conceals any person against whom a warrant has been issued for committing or abetting any offence against the Nigerian Federation in general or Benue State in particular. In addition, any person against whom a warrant has been issued for committing any offence in a proclaimed district being an act of violence, or intimidation, or for inciting others to commit an act of violence, or intimidation, tending to interfere with, or disturb the maintenance of law and order, commits an offence. It is taken for

[22] *Ibid*, section 3(2)

granted that such a suspect is not expected to be knowingly received, comforted, assisted or concealed by any indigene of Benue in a proclaimed district. The punishment provided for such an indigene upon conviction is imprisonment for six (6) months with an option of fine.

Moreover, after the period for delivering up arms and ammunitions has expired, no one is expected to carry arms within the proclaimed district, anyone guilty of this offence shall be liable upon conviction to a fine of one thousand naira (₦1,000) or to imprisonment for six (6) months. The court may also order the forfeiture of such arms and ammunitions[23]. Such an offender may be dragged before a Magistrate who will dole out punishment in accordance with the law. Additionally, army officers and men who are positioned at any proclaimed district are given the powers of arrest just like any police officer[24].

On a general note, the law expects that Benue indigenes or persons generally living within the state to be participants in the peace process, hence the all-inclusive provisions of the law under review. The idea of a proclaimed district is, therefore, so much in the interest of the ordinary man on the street.

Conclusion

The law under review sets out to preserve peace. It has a lot of challenges bedevilling and questioning its workability. In view of the foregoing discussions, it is hereby recommended as follows:-

(1) The law under review should be amended to bring it up to date with current trends of insecurity in and around Benue State. In amending it, issues like terrorism, insurgency, and all other ancillary concepts should be taken into consideration and effectively captured in the amended law.

(2) The power to declare a proclaimed district should be made to be subject to legislative approval. This will check the activities

[23] *Ibid*. section 5(1) & (2)
[24] *Ibid*. section 12

of a Governor who ordinarily would have acted *mala fide*. It will also allow for robust deliberations from more than one person as regards the desirability or otherwise of any given proclamation by the Governor.

(3) The Benue State Security Council should be involved in peace preservation. It should be given specific supervisory powers over the events of the officers and men of the police and armed forces in any proclaimed district. This will ensure a more realistic co-ordination of the activities of such officers and men in the affected areas.

(4) The wordings of section 3(1) of the law under review which confers discretion on the Governor by using the word "may," which totally relaxes the need to carry out the business of declaring a troubled area a "proclaimed district," should be removed and in its place, the word "shall" be used. This will make it mandatory for the Governor to declare a troubled area a "proclaimed district." This way, failure on the part of the Governor to declare a troubled area to be a proclaimed district will entail far reaching consequences.

If the recommendations contained in this work are implemented, the law under review will work better.