

LAW AND THE PROTECTION OF COMMERCIAL BANKS IN NIGERIA AGAINST BANK ROBBERY: PROSPECTS AND CHALLENGES *

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ABSTRACT: *Bank robbery in Nigeria is another monster threatening the activities of commercial banks in Nigeria. The frequency of successful bank robbery in Nigeria and the losses associated with each operation are question marks as to the ability of government to checkmate the crime with the aid of laws in Nigeria. This research which is a doctrinal research examined the relevant laws in Nigeria for crime prevention and particularly armed robbery with a view of finding out if the law is inadequate and why the crime has been on the increase despite the existence of law. The study has revealed that there are enough laws to combat the crime and that the law enforcement agencies particularly the police have not been effective in curbing the menace of bank robbery because of some challenges facing the security agencies. The study concluded that there is a need for paradigm shift in the operation of security agencies and canvassed equally for the involvement of other norms in combating the crime in Nigeria.*

KEYWORDS: Bank robbery, dynamites, firearms, cashless banking, norms, ammunition.

INTRODUCTION

Robbery and fraud are two monster threatening the smooth and successful operation of commercial banks in Nigeria. Bank robbery and fraud are two dimensional terrorist acts against commercial banks in Nigeria. The thin line of demarcation is that while armed robbery attack is a vicious and deadly attack against the banking institution, customers and society, bank fraud is a clandestine assault with a damaging psychological effect primarily on the account holder and secondarily, an adverse effect on the goodwill of the bank. The spate of bank robbery and fraud cum the temerity of the criminals are symptoms of a dysfunctional legal order with an imminent adverse and grave consequence on trade and commerce.

Bank robbery is more attractive to the robbers than any other kinds of robbery as the operations are always carried out without any barrier while huge amount of money is always carted away during each operation. The commercial banks in Nigeria from 2011 to date have on regularly basis been attacked in a vicious manner leading to the loss of huge amount of money and death of some people. Some branches of the bank have been closed temporarily while only skeletal operation take place in some branches. The objective of this study is to examine the Nigeria laws vis-à-vis banking operation with a view of using law to curtail or checkmate the scourge of criminality against the commercial banks.

This study discussed banking business and operation in Nigeria, bank robbery and the law, the implication of bank robbery and the law the implications of bank robbery to the banker /customer relationship, the prospects and challenges of the laws and bank operations. The study concluded

generally that there are adequate legal frameworks to combat the menace and it recommended additional legislations vis-à-vis recommendations on how to apply the law to minimize or eliminate the onslaught against the banks.

Commercial banks and operations in Nigeria.

A commercial bank is a type of financial intermediary and a type of bank that provides facilities for current accounts, saving accounts, and other variety of services that facilitates trade and commerce particularly the grant of loans on short and medium term. Commercial bank is defined by the statute as “any bank in Nigeria whose business includes the acceptance of deposit which is drawable by cheque¹. Commercial banks generally referred to those banking institutions that create money in the form of demand deposits². Commercial bank is different from merchant bank. A commercial bank is defined by the banking and other Financial institutions Act as a bank whose business include receiving deposit on deposit account, provision of finance, consultancy and advisory services relating to corporate and investment matters, making or managing investments on behalf of any person³. The dichotomy between commercial bank and merchant banks operations in Nigeria was abrogated with the introduction of universal banking in 1999 under the tenure of Joseph Sanusi a one-time CBN Governor. The Central Bank of Nigeria under the Sanusi Lamido Sanusi, a former governor of the Bank, as part of its reform in 2010 scrapped the universal banking system and requested banks with the license to obtain licenses for each model of banking it intends to operate namely mortgage banking; investment banking; commercial banking and others instead of having one bank operating all banking models. Those interested in the provision of specialize banking services, like non interest bank, Small and Medium Enterprises (SME) banking were to get separate operational license. With the reform, banks were classified as regional banks, national banks and international bank.

Modern banking system began in Nigeria in 1892 when the African Banking Corporation based in South Africa opened a branch in Lagos. This was acquired by the Elder Dempster Merchants in 1893 and reorganized as the Bank of British West Africa⁴. In 1957, the Bank of British West African (BBWA) changed its name to Bank of West African (BWA). In 1965, Standard Bank of South Africa acquired Bank of West Africa (BWA) and changed its acquisition name to standard Bank of West Africa. In 1969, Standard Bank of West Africa incorporated its Nigeria operations under the name Standard Bank of Nigeria and in 1979 the bank changed its name to First Bank of Nigeria.

Another bank by the name of Anglo- African Bank was established in 1899 which later became Bank of Nigeria but its activities was short lived as its operations was absorbed in 1912 by the B. B. W. A. In 1917, the colonial bank was established which later in 1925 became the Barclays Bank DCO (Dominion Colonies overseas). The bank is now known as the Union Bank. In

¹ Section 61 Bank and other Financial Institutions Act Cap B3 LFN 2004. See also Igweike, K. I. (2005) Law of Banking and Negotiable Instruments. Onitsha Africana First publishers Limited. P. 40.

² Igweike, K. I. Ibid.

³ Ibid.

⁴ Ibid.

1914 the Industrial and Commercial Bank was established which regrettably failed in 1936⁵. Other banks established before independence were the National Bank 1933, Agbonmagbe Bank (now WEMA Bank) 1945, African Continental Bank 1947; the Nigeria Farmers and Commercials Bank 1947; By the end of 1961, there were over fourteen banks operating in Nigeria⁶ and by the late eighties, the number of banks operating in Nigeria has grown enormously, both in number and the extent of their operations. There were the central bank of Nigeria; thirty commercial banks, among which were six co-operative banks, twelve merchant banks; three federal government owned development banks; and the Federal Savings Bank.⁷

The Nigerian financial sector recorded severe incidences of distress during the period from the late 1980s to the mid 1990s⁸. The distress occasioned hardship to the customers as well as the shareholders of the banks. The savings of many of the customers were trapped. The distressed banks were not able to meet their financial obligations to the customers, hence in 1996, the banking license of some of the banks were revoked. The distress was a challenge to the capabilities of the banks as the bedrock of Nigerian economy.

The issue of financial distress in the Nigeria banking industry has become the consequences of bank failures, the problems has become a major source of concern to the government, the regulators of financial institutions, and to the general public⁹. The causes of distress include corruption, fraud, bank robbery (lately) bad debts, poor asset and liability management.

Distress in the history of the Nigeria banking industry is not an entirely new phenomenon and this has had far reaching consequences on the economy¹⁰. The reforms introduced into the banking system from 1986 (i.e the Structural Adjustment Programme) generally led to a banking boom. This culminated in the establishment (proliferation) of new commercial and merchant banks, finance houses, primary mortgage finance institutions, and community banks For example, at the beginning of the reforms in 1986, there were a total of 29 commercial banks and 12 merchant banks. Coincidentally, by 1994 there were a total of 66 commercial banks and 54 merchant banks. There was also an upsurge in the number of other financial institutions. By 1994, there were 752 registered finance houses, 879 community banks, 252 primary mortgage institutions and 271 Peoples Bank branches in Nigeria. The above scenario resulted in increased and unhealthy competition in the industry, the discarding of all norms of prudent banking and the emergence of

⁵ Oluduro, O. F. (2007) History and Evaluation of Banking in Nigeria in: Abegunde, B. and Adebayo, W. (eds) Contemporary Issues in Law of Banking and Negotiable Instruments in Nigeria, Ado Ekiti, Petoa, P. 3.

⁶ Igweike Op. Cit P. 3

⁷ Ibid P. 4

⁸ Jemilohun, B. F. (2007) "Distress in the Banking industry" in: Abegunde, B and Adebayo, W (eds) contemporary issues in Law of Banking and Negotiable Instrument, Ado Ekiti, Petoa P.9

⁹ Financial Distress in the Nigeria Banking Industry cited in Articles Ng. [articlesng. Com./financial-distress-Nigeria banking](http://articlesng.Com./financial-distress-Nigeria-banking).

¹⁰ Ebiringa, O. T. (2011) Benchmarking incidence of Distress in the Nigeria Banking industry on Altman scale. www.sjmo6.com/sjm%201 SSN 1452 -4864/6-2-2. Serbian Journal of Management 6(2) (2011) 221-230.

other destabilizing factors. The regulatory authorities were overstretched and distress set in, in the banking industry¹¹.

The government in Nigeria was rattled by the effect of the distress and in a desperate attempt to steer back the ship and to restore hope to the public enacted the Nigeria Deposit Insurance Corporation Act¹² as a legal measure to salvage the deposit of the customers that might be trapped in the distressed banks. The licenses of the distressed banks were revoked while the Nigeria Deposit Insurance Corporation became the receiver of the affected banks. The government in an attempt to ensure that the banks have adequate capital base, put in place a policy for the recapitalization of the banking industry in 2004 which policy was to be for a period of eighteen months. The vision of Soludo the then Governor of the Central Bank of Nigeria was a banking system that is part of the global change, and which is strong, competitive and reliable. He wanted a banking system which depositors can trust, and investors can rely upon. The Governor on 6th July 2004 in his address gave reasons for the recapitalization policy among which were the persistent illiquidity, weak corporate governance, poor assets quality, insider abuses, weak capital base, unprofitable operations, and over dependency on public sector funds among others. The Deputy Governor of the bank, Dr. Shamsuddeen Usman Shed further light on the rationale for the banking reform in a paper where he said:

The need to address the distress syndrome effectively and holistically informed the recent banking sector reforms initiative, which is anchored on a 13-point agenda that included aiming among others the injection of fresh capital into the industry to strengthen the banks recapitalization, in order to support the real sector of the economy; consolidation of banking institutions through mergers and acquisitions; creating better platform for more effective banking regulation and policy realization, making Nigeria banks become more internationally competitive especially in West Africa, and establishment of an Assets Management company as an important element of distress resolution¹³.

Mergers and Acquisitions are expected to address the problems of distress among insolvent banks without an initial resort to liquidation¹⁴. By the end of the recapitalization policy on 31st December 2005, Nigeria was left with a total of 25 banks while the licensed of 14 banks were revoked. The 25 banks were those who met the recapitalization bench mark of twenty five billion naira personally or through merger and acquisition process. The CBN in 2009 restored the operational license of Savannah Bank of Nigeria Plc which was closed down on 15th February, 2002 as a results of liquidity problem¹⁵. The CBN after the recapitalization policy also requested the banks that were interested in managing the foreign reserves of the nation to jerk their share capital to One Hundred and Thirty Billion Naira or One Billion Dollar.

¹¹ Olukotun, G. A, Ademola James, O. O. Olusegun and Olorunfemi Kehinde (2013) Bank Distress in Nigeria and the Nigeria Deposit Insurance Corporation Intervention-Global Journal of Management and Business Research Vol. 13 issue 8 version 1.0.

¹² NDIC Act Cap N102 Laws of the Federation of Nigeria 2004.

¹³ Dr. Shamsudden Usman. Post Merger Integration. Matters arising.

¹⁴ Okpanachi, J. (2010) "Comparative Analysis of the Impact of Mergers and Acquisition on Financial Efficiency of Banks in Nigeria" Journal of Accounting and Taxation Vol. 3 (1) www.academicjournal.org/JAG

¹⁵ Ibid.

The Asset Management Corporation of Nigeria was established on the 19th of July 2010 when the president of Nigeria signed the AMCON bill into law. AMCON was created to be a key stabilizing and re-vitalizing tool established to revive the financial system by efficiently resolving the non-performing loan assets of the banks in the Nigeria economy. The AMCON is one of the measures put in place in Nigeria to ensure that the banking sector contributes meaningfully to the development of the nation.

Another significant development in the banking sector is the introduction of the “Cashless banking” policy. The need for a virile financial system is one of the factors that motivated the introduction of the Cashless policy and according to the CBN, “the cashless” policy was designed to reduce the amount of physical cash in circulation and to encourage electronic-based transactions¹⁶. The CBN observed that Nigerian economy was heavily cash oriented, a trend that occasioned increased in operational costs of the banking sector which costs were invariably transferred to the customers in the form of high service charges and high lending rates¹⁷.

The cashless policy when fully implemented is expected to curb some of the challenges resulting from high-cash usage. According to the CBN, the policy would curb the negative consequences associated with the high usage of physical cash in the economy among which are¹⁸:

- (a) Robberies and cash-related crimes.
- (b) High cost of processing borne by every entity across the value chain.
- (c) Revenue leakage arising from significant handling of cash.
- (d) Inefficient treasury management due to nature of cash processing

The cashless policy is expected to drive development and modernization of payment system in line with Nigerians vision 2020 goal of being among the top 20 economies by the year 2020. The policy is also expected to improve the effectiveness of monetary policy in managing inflation and driving economic growth.

The cashless policy was structured into three phases with phase one which commenced on 1st January 2012 in Lagos State, One of the Thirty states and the commercial hub of Nigerian economy. The cashless policy applies to all accounts. By the policy an individual account holder is allowed a daily cumulative limit of N500,000 on free cash withdrawals and lodgments across the counters and ATM. Any withdrawal above the fee limits would attract processing fees of three percent for every N1,000. Corporate customers are allowed to make free cumulative withdrawal of N3,000,000 daily, and anything above that would attract a processing fee of five percent for every N1,000. The processing charges are to be borne by the account to which withdrawals and deposits are made and not the individual that receives or deposits the cash. It is also important to point out that third party cheques above N150,000 is not eligible for encashment over the counter.

¹⁶ Ezugwu, A (2012) “Preparing for a Cashless Economy” Newswatch (A way of life) Finda Jobin African. Com.

¹⁷ Ekundayo, K (2012) “Nigeria: CBN – Cashless Policy to Enhance Payment System” Daily Trust 18th June 2012, <http://allafrica.com/stories/2012180296.htm>. See Business day, Wednesday March 21, 2012.

¹⁸ New Cash Policy Stakeholders Engagement Sessions Cashless Lagos Implementation October 2011. See also Central Bank of Nigeria. Further clarification on cashless Lagos project <http://www.cenbank.org/cashless>.

Value for such cheques can only be received through the clearing house. The phase two of the programme started on 1st October, 2013 with six states namely: Abia, Anambra, Kano, Ogun and Rivers state as well as Abuja, the Federal capital¹⁹. The third and final phase of the cashless policy took off in the remaining thirty states on 1st July 2014. The CBN pointed out that as was the case in the pilot states, a one year waiver has been granted on the application of withdrawal in the thirty states. The changes on withdrawal on both individual and corporate account would only take effect from 1st July, 2015²⁰. The charges on excess withdrawal will take effect in the affected 30 states on 1 July 2015. The excess withdrawal by individual customer will attract 3% on the amount withdrawn over the limit and 2% charge for deposit over the limit. In the case of corporate account, 5% charge will be imposed on withdrawal over the limit and 3% on deposits over the limit. The policy provides for exceptions for accounts operated by Embassies, diplomatic missions, multilateral agencies, donor agencies, government ministries, departments and agencies, microfinance banks, and primary mortgage institutions.

The policy provides as a succour for account holders alternatives to cash payments among which are: card payments, point of sale terminals, mobile banking system, internet banking, multifunctional ATM, Electronic Fund Transfer systems, and direct debit for regular in nature bills payments.

Bank Robbery and the Law in Nigeria

The Cashless policy has as one of its motivating factors the desire to checkmate the incidence of robberies associated with cash transactions. Armed robbery in Nigeria from 2011 to date is directed not against individuals or corporate account holders with cash-in-transit. The focus has shifted to the strong room and the bullion vans of the banks with human casualties at every strike and damage of property.

Security of life and property is a fundamental human right guaranteed under Nigeria's Constitution. Successive governments have tried to ensure security especially since 1999. Despite their efforts, the level of security in parts of the country has fallen, driven by growing, wide income disparities, high employment, social dislocation caused by massive rural-urban migration and the breakdown of societal values leading to fraud and community unrests²¹. Apart from Boko Haram insurgency in Nigeria, Bank robbery is another deadly evil as it is directed against the financial system which is the blood of the economy. Highway robbery is not as lucrative as a single operation in the banks, hence the commercial banks in Nigeria are the target, the Eldorado for the armed robbers. Bank robbery is a daily affair in Nigeria and each operation is carried out with advanced notice to the banks, yet the banks are helpless as help is not

¹⁹ CBN rolls out cashless policy across Nigeria, July 1, 2014 Premium Times. www.premiumtimesng.com/business/163622.

²⁰ Ibid.

²¹ National Economic Empowerment and Development Strategy (NEEDS) (2004) Improving Security and the Administration of Justice. National Planning Commission manual reprinted by the Central Bank of Nigeria. P. 95. See section 33 of the 1999 Constitution on Right to Life and section 43 on Right to Acquire and own immovable property in Nigeria. Section 17(1) (b) provides for the sanctity of human life.

forthcoming from the government or any of the security agencies. The police has even become the targets of the robbers as demonstrated in every robbery incident.

The bank robbery in Ekiti, Ondo, Lagos, Rivers and other states between 2014 and 2015 were complemented with vicious and dastard attack at police stations occasioning the death of policemen on duty. Bank robbery in Nigeria is executed in convoy of vehicles and combatants not less than twenty people with sophisticated weapons superior to the cache in the armoury of the security agencies. The institutions established to guarantee security are incapacitated by limited personnel and skills, inadequate funding, poor equipment and lack of proper orientation and commitment by some²².

Bank Robbery is gradually forcing many of the banks to close down local branches and activities in some cities in Nigeria. For instance since the robbery attack at Ikere Ekiti, Ifaki Ekiti and Ilasa – Ekiti between September and December 2014, the First Bank Plc operations in the rural areas in Ekiti State have been reduced or at best skeletal. The bank robbery in Ekiti State and Ondo States between 2014 and 2015 appears to be targeted against the First Bank Plc which is one of the leading banks in Nigeria. The security situation in Nigeria and particularly as it affects commercial banks operations is affecting the operations of banks who on many occasion are forced to close down for days and whenever they open they are compelled to reduce the hours of service because of security alert.

The prevalence of Armed Robbery in Nigeria is fast becoming epidemic. It is being blamed on the dwindling economic fortunes of majority and the widening gaps between the affluent and the poor²³. Armed robbers operate on daily basis leaving sorrows tears, and blood in their trail Brigandage has become the order of the day. The robbers operate in large numbers sometimes as much as 20 persons with sophisticated arm and accessories that will facilitate their operation like gas cylinders, welding tools, hammer, powerful beam lights, and explosives for blowing up safes. The robbers have expanded their armoury to the use of biological materials including powder which they blow to hypnotize and make their victims and security agents who might threaten them go to sleep while they carry out their operation²⁴.

Bank robbery in Nigeria has over the year caused loss of cash and innocent lives with monumental damages to bank properties²⁵. In 1986, a fatal bank robbery linked to Anini was reported in

²² NEEDS,ibid

The reported cases of Nigeria soldiers being court martialled for Sundry offences in the war against Boko Haram is a testimony to poor orientation and lack of commitment by the soldiers who are ranked higher in security parlance

²³ Ani, C. C .Armed Robbery and National Security. Law and security in Nigeria. nials –Nigeria-org/pub/Ani comfort chinyere.

²⁴ Ani, C. C. Ibid pp 92-93

²⁵ 4 “killed as robbers raid bank” Nigerian Tribune Newspaper Saturday 21 February 2015- About four persons were shot dead and a policeman injured by armed robbery during an armed robbery attack on an old generation bank in Vandelkya a area of Benue State where they reportedly carted away large sums of money on Friday 20th February 2015. The operation lasted for about an hour with the robbers having a field day. The robbers disarmed a policeman before they entered the bank.

which a police and a child were killed²⁶. Bank robbery consistently increased and reached its highest ever peak in 2004, but thereafter decreased from 2005 till 2008 and rose slightly again in 2009²⁷. The terrain for robbery operation has become relatively easy for the robbers to thread from 2011 to date. Bank robbery has been a major source of social concern in Nigeria for more than a decade. It has gone from the reported fifteen Lagos banks that were robbed in the year 2000 to a national problem. Despite government attempts to stem the tide, available statistics show the problem to be on the rise instead of abating²⁸. In 2001, Bank robbers stormed the Lagos branch of Diamond Bank in a commando style and made away with about N320,000²⁹. On Thursday 19 December, 2013 armed robbers stormed Offa, Kwara State around 4.30p.m. and attacked commercial banks in the area. They came with various guns and explosives with which they blow open the doors of First Bank Plc and GT Bank. The robbers gained entry into Ecobank through a side door without the use of explosives. GT bank was worst hit as people were killed inside the banking hall. At the end of the operation, fifteen (15) people were reported killed³⁰. On Friday 31st October, 2014, a 30 –man gang of bandits stormed the branch of a first generation bank at Ifaki, Ekiti State, Nigeria on motorcycles at about 11.30a.m. and wounded some people during the operation³¹. In December 2014 and exactly about 13 months after the First Bank Plc, Ikere Ekiti branch, in Ekiti State, Nigeria was attacked in 2013, the robbers stormed the bank again in an operation that claimed the lives of a superior police officer and another policeman as well as a Youth Corper while several people sustained different degree of injury in the escapade. The bank premises was blown up with a dynamite by the dare devil robbers. The First Bank Plc has since the incident refused to open the bank while the bank branches in the hinterland of the state have been closed down temporarily.

On Wednesday 14 January, 2015 fifteen persons including four policemen were feared killed during a bank robbery in Ikare area of Ondo State. Eleven of those killed were transacting business inside the banking hall and the ATM of the first generation bank (First Bank Plc). An unspecified amount of money was reportedly carted away by the robbers. The police station along Owo road in the town was the first port of call where four of the policemen on duty were gunned down. The entrance of the bank and the strong room were attacked with dynamite in an operation that lasted for over an hour unhindered³².

The police and other security agencies have not completely folded their hands in preventing bank robbery and in the apprehension of the men of the under world. The police and the army successfully foiled a bank robbery at Agbor in Delta State, Nigeria. The robbery gang on 26 January 2015 arrived at the bank at about 12.15p.m. shooting sporadically before gaining access into the bank. However, they were accosted by a team of policemen on patrol with the support

²⁶ [Enwikipedia.org/wiki/Lawrence- Anini](http://en.wikipedia.org/wiki/Lawrence-Anini) . He was a notorious robber who terrorized Edo State before he was arrested , tried and executed on the order of the court.

²⁷ Ayoyo, D (2013) "Fear of Crime and Coping Strategies: Implications for Bank Safety and Customers Patronage in Ikare, South West Nigeria" British Journal of Arts and Social Science. Vol 12 No 1, 2013 p. 59

²⁸ Fakoya, O. 92008) Bank Robberies in Nigeria www.nigerian-village-squares.com/article/dr.olusegun-fakoya.

²⁹ Nigeria Masterweb News report. Saturday 14 July, 2001.

³⁰ "15 killed in Bank robbery in Offa, Kwara State" Nairaland forum. Tuesday 27 January 2015.

www.nairaland.com

³¹ www.dailypost.ng/ 2014/10/31/30 –man robbery gang.

³² www.vanguard.com /2015/01/ robbers –rampage kill -4- policemen -11- others

of the Nigerian army³³. The anti-robbery squad of the Lagos State police command apprehended a gang of armed robbers in 2014 after they had stormed a bank and stole a whopping sum of one hundred million naira (N100m)³⁴. The police in Lagos State, Nigeria arrested a suspected bank robber, Mr. Sunday Ajewole in January 2015. Mr. Ajewole has been linked with some major bank robberies in Lagos State. The suspect who is a fuel supplier confessed to have participated in a number of bank robberies and car snatching³⁵. The people in Benue State Nigeria in January, 2015 arrested two robbery suspects at Makurdi, the state capital after successfully robbing one Paul Arnada of over N265,000 at gunpoint³⁶.

Bank Robbery in Nigeria has been found to have insider co-operation. Cases of safety or security breaches in a financial system are traceable to people within or outside the system³⁷. A contract staff of Diamond bank in one of the branches at Owerri, the capital of Imo State, Nigeria was arrested in 2014 by the Imo State Police Command for masterminding armed robbery operation in the state. He was arrested after a fierce confrontation with the police as they tried to escape the scene of a crime after robbing their victims of cash and valuables³⁸. The Commissioner of police in Lagos State, Umar Manko, said his operatives have investigated related cases and that out of ten (10) ATM or bank robbery cases, five usually ended up to be insiders job. He added that the problems is that the banks' management would never allow the prosecution of the staff concerned on the ground of protecting the image of the bank.³⁹ An armed robber, Samiu Akande arrested by the police of the Lagos State police command confessed that he had been undertaking robbery operations with the aid of his banker's friends who were informants to him, according to him, his friends within the bank would inform him whenever large sum of money was loaded into the machine while his friends would always get thirty percent (30%) in every operation⁴⁰.

Law is central to society. All except anarchist would agree that the existence of law is necessary. Every community has found a need to regulate the rights and duties of individuals in relation to each other and to the state⁴¹. The Nigeria social order is founded in the ideals of freedom, equality and justice and in furtherance of the social order, the government has a duty to ensure that the health, safety and welfare of all person are safeguarded and not endangered. The Constitution of the Federal Republic of Nigeria provides for right to life and forbids intentional deprivation of life save in execution of the sentence of a court in respect of a criminal offence⁴². Bank robbery is a major source of social concern in Nigeria just like Boko Haram insurgency, kidnapping and

³³ "Police, army foil bank robbery in Delta" Nigerian Tribune, 28 January 2015. www.tribune.com.ng/news-headlines.

³⁴ "Alaba International Market Trader Wabbed for Bank Robbery" Nigeria Daily News. www.nigeriadailynews.com/general/106773-Alaba

³⁵ "Suspected Bank Robber in Lagos Police net" *Daily independent*, Wednesday 28 January, 2015.

³⁶ "Benue Police Command Arrested suspected Bank robbers", SCAN NEWS. Wednesday 28 January, 2015. Scannewsnigeria.com/featuredpost/benue.

³⁷ Ayoyo, D. op. Cit. P. 7

³⁸ www.informationing.com/2014/01/diamond

³⁹ www.politics/ecomistng.com/atm-robber

⁴⁰ Ibid.

⁴¹ Palfreman, D (1988) Banking: The Legal Environment. London Pitman publishing. P. 4.

⁴² Section 33 of the Constitution

corruption. It is also an onslaught to the sanctity of life and the goals of economic development. The government of Nigeria has sufficient security apparatus to curb the assault on the security of lives and property in Nigeria. The police, the Armed forces, the state security services, (SSS), the Civil Defense Corps, the prisons etc are without doubt up to the task. However, the frequency and the successful operation of the gangster in every operation without hindrance is a challenge to the ability of the security agencies to serve the goal of national security. The police is the government agency directly in charge of law enforcement. Armed robbery is no doubt an economic crime as well as a crime against the sanctity of human life.

Robbery or Armed robbery is a felony and a capital offence in Nigeria under the Robbery and Fire Arms (special provision) Act⁴³, Criminal Code⁴⁴ and Penal code⁴⁵. Robbery in Nigeria, “means stealing anything and, at or immediately before or after the time of stealing it, using or threatening to use actual violence to any person or property in order to obtain or retain the thing stolen or to prevent or overcome resistance to its being stolen or retained”⁴⁶. Robbery is different from Armed robbery in Nigeria. The difference is made clear in the provisions relating to the punishment both in the Robbery and Fire Arms Act and the Criminal code.

By the provision of the Robbery and Fire Arms Act, any person who commits the offence of robbery shall upon trial and conviction under the Act be sentenced to imprisonment for not less than twenty-one years whereas if any offender convicted under the section is armed with any fire arm or any offensive weapon or is in company with any person so armed; or at or immediately before or immediately after the time of the robbery the said offender wounds or uses any personal violence to any person, the offender shall be liable upon conviction to be sentenced to death.⁴⁷ The difference between the two is in the manner of carrying out the crime and that is robbing without being armed and robbing while being armed. The sentence of death imposed may be executed by hanging the offender by the neck till he be dead or by causing such offender to suffer death by firing squad as the governor may direct⁴⁸. Attempted robbery is a crime in Nigeria. The punishment for attempted robbery is a term of imprisonment not less than fourteen years but not more than twenty years, while the punishment for attempted armed robbery is life imprisonment⁴⁹. The onus of proof of the crime of armed robbery is on the prosecution. The prosecution in order to sustain conviction must prove beyond reasonable doubt that:

- (i) There was a robbery
- (ii) The robbery was an armed robbery
- (iii) The accused person took part in the robbery⁵⁰.

⁴³ Cap R 11 Laws of the Federation of Nigeria 2004

⁴⁴ Cap C. 38 Laws of the Federation of Nigeria, 2004

⁴⁵ Cap P Law of the Federation of Nigeria 2004

⁴⁶ S. 11 Robbery and Fire Arms Act Cap R.11 LFN 2004.

⁴⁷ Section 1 (1 & 2) of the Act see also section 401 and 402 of the Criminal Code.

⁴⁸ Section 1 (3) of the Robbery and Fire Arms (Special Provision) Act.

⁴⁹ Section 2 (1 & 2) of the Robbery and Fire Arms (Special Provision) Act and section 403 (1&2) of the Robbery and Fire Arms (special provisions) Act and section 403 (1 & 2) of the Criminal Code.

⁵⁰ *Bozin V The State* (1985) 2 NWLR (Pt. 8) 465, (1985) 7 Sc 540.

To prove this offence against the appellant beyond reasonable doubt, the prosecution must establish by credible evidence all the essential ingredients of the offence of armed robbery. Failure to prove the elements would certainly lead to the accused person being acquitted of the charge⁵¹. The guilt of the accused is required to be proved beyond reasonable doubt by the evidence Act⁵².

The Supreme Court in Nigeria explained the meaning of proof beyond reasonable doubt in **Osuagwu Vs State**⁵³. Proof beyond reasonable doubt does not mean proof beyond all doubt, or all shadows of doubt. It simply means establishing the guilt of the accused person with compelling and conclusive evidence. A degree of compulsion which is consistent with a high degree of probability. In this case, a three-man-gang of armed robbers went to a shop owned by prosecution witness No 3 at Abeokuta, Ogun State, Nigeria, at about 8 pm on the 27th of November, 2011. The gang made up of the appellant, Emeka and Nnewi, pointed a loaded gun at the witness and ordered him to lie down. The witness complied while two of the robbers proceeded and searched the shop for money. They found some money and the two robbers fled while the witness engaged the appellant in a fight. The appellant ran away but was pursued by several people who arrested him in the bush where they found two live cartridges and wraps suspected to be Indian hemp were found on the appellant. The appellant was convicted by the trial court after being found guilty. He appealed to the court of appeal which dismissed the appeal. He further appealed to the supreme court which in a unanimous decision dismissed the appeal and affirmed the conviction and sentence.

The offences of robbery and armed robbery are generally believed to be carried out through the use of sophisticated weapons made available with the complicity of law enforcement agencies and in some cases the crime is committed by law enforcement agents or those that have left the services either through resignation, retirement or dismissal. In **Oyakhire V State**,⁵⁴ the appellant and two others were arraigned before the High Court of Justice, Lokoja, Kogi state in a 4 count charge of culpable homicide, robbery, mischief by fire ad armed robbery under the penal code. The appellant and the two other convicts were policemen attached to the Police Mobile Force Unit, Kogi state.

On the 17th day of February, 2001, they stopped the commercial bus with the intention to rob the passengers in the vehicle of their money. Some of the passengers were traders. They had a lot of money with them. The appellant and the two others stopped the vehicle at Obehira junction in Okene. They boarded the bus and diverted it to a scheduled spot where the passengers were tied and made to lie on the ground after which they were dispossessed of their money. The accused person were at all times armed with their service guns. The passengers were then ordered back into the vehicle. Two of the passengers, Suleiman Badmus (P.W.4) and Jimoh Saka (P.W.5) managed to escape but they had gun shots. One of the passengers was shot dead while the other passengers in the bus were burnt alive when the vehicle was set ablaze. At the trial, the prosecution called six witnesses and tendered exhibits. The appellant testified for himself and called no witnesses. The court after the trial found the accused persons guilty and convicted them for all the four counts and

⁵¹ Oyebola V The State (2007) 48 WFN 89 at P. 110.

⁵² Sections 135 (1) and 138 (2) Evidence Act cap E: LFN 2004.

⁵³ (2013) 18 W.R.N. 12 of P. 64

⁵⁴ (2006) 2 W.R.N 32

they were sentenced to death. They were dissatisfied with the decision and they appealed to the Court of Appeal, Abuja division. The court dismissed their appeal and affirmed the conviction and sentence.

In Nigeria, the Acts⁵⁵ prohibit illegal possession of fire arms . Fireman means any lethal barreled weapon of any description from which any shot, bullet or other missile can be discharged and includes a prohibited firearms, a personal firearm and a muzzle loading firearm of any of the categories in the schedule to the Act⁵⁶. The punishment for illegal possession of arms in Nigeria under the Robbery and Firearms (special provisions) Act is a Fine of Twenty Thousand Naira or to imprisonment for a period of not less than ten years, or to both.⁵⁷ The Firearms Act provides for three categories of firearms which are the firearms prohibited but subject to the licence granted by the president⁵⁸, personal firearms subject to the licence granted by the Inspector General of Police⁵⁹ and the firearms prohibited but subject to the licence granted by the Commissioner of Police in the state with the consent of the governor⁶⁰. The Act imposes a duty on every grantee of a licence to ensure the safe keeping of the firearms⁶¹ and in a situation of loss, theft or destruction of such firearms, the owner of the firearm is expected to notify the authority within fourteen (14) days of becoming aware and he must in addition surrender the licence of the firearm to the authority⁶². The only person allowed by the Act to trade or carry out the business of buying or selling of firearms under the Act is a registered firearms dealer⁶³. In the same vein, no person whether a registered firearms dealer or not shall sell or transfer any firearm or ammunition to any person other than to another registered firearm dealer (and then only after prior notification by both dealers to the Inspector General of Police) without the production of a licence or permit by such person authorizing the possession of such firearm or ammunition⁶⁴. Every dealer of firearms is expected to have on the firearm his mark and name and such other particulars on the firearm⁶⁵. The president is the only person authorized to grant licence for the importation or exportation of firearm in Nigeria⁶⁶.

The Firearms Act has elaborate provision to prevent the illegal possession, circulation and use of firearms and ammunition in Nigeria. The observation in Nigeria is that the cache of firearms and

⁵⁵ S. 3 Robbery and Fire Arm (special provisions) Act cap R11 LFN 2004. Section 3 & 4 of the Fire Arms Act Cap F. 28 Laws of the Federation of Nigeria 2004.

⁵⁶ S. 1 of the Act.

⁵⁷ S. 3 (1) of the Act.

⁵⁸ Part 1 of the schedule. The prohibited Firearms are (1) Artillery (2) Apparatus for the discharge of any explosive or gas (3) Rocket weapons (4) Bombs and grenades (5) Machine-gun and machine tools (6) military rifles of calibre 7.62 mm 19mm, 3000 inches and 0.3v 3 inches (7) Revolver and Pistols.

⁵⁹ Section of the Act and part II of the schedule to the Act which are (1) shortguns other than (a) automatic and semi automatic short guns, and (b) shortguns provided with any kind of mechanical reloading device. (2) Sporting riffle (3) Air guns, riffles and air pistols. Human killers of the captive bolt type.

⁶⁰ Part III of the schedule. They are muzzle loading firearms (1) Dane guns (ii) Flint –lock guns and cap guns.

⁶¹ Section 7 (1) of the Fire arms Acts

⁶² Section 7 (2) of the Fire arms Acts

⁶³ S. 9. Of the Act.

⁶⁴ S. 11. of the Act.

⁶⁵ S. 12

⁶⁶ S. 18

ammunition in the hands of individuals and groups in Nigeria are more than what the government has in its armory. The firearms and ammunitions are in possession of the individuals illegally and this has facilitated the ease with which crimes are committed in Nigeria. The truth is that the firearms and ammunition are majorly imported into Nigeria without the due process through the ports and with the connivance of government officials. Apart from the importation of firearms, there are local manufacturers of firearms and ammunition in Nigeria who are operating illegally and whose activities made it easy for serious crimes to be committed.

In Nigeria, it is an offence for any person to knowingly house, shelter or give quarters to any person who has committed the offence of armed robbery. The law enjoins and imposes a duty on every person, hospital or clinic that admits, treats or administers any drug to any person suspected of having bullet wounds to immediately report the matter to the police. A breach of the provision is a crime making the offender liable after conviction to imprisonment for a term not exceeding five years and in the case of a hospital or clinic, ten thousand naira fine while the hospital or clinic shall be closed down⁶⁷. It is an offence to aid, counsel, abet or procure any person to commit robbery, armed robbery, attempted robbery, illegal possession of firearm, sheltering or treating of a suspected robber. Anybody who conspires with any person to commit such an offence or supplies, procures or provides any person with firearms for use to commit any of the crime of robbery, armed robbery or attempted robbery shall be deemed guilty of the offence as a principal offender and punished accordingly⁶⁸. The Act provides further, apart from imprisonment or death sentence, for the forfeiture of the assets, movable or immovable of any person convicted of an offence under the Act⁶⁹.

Another legal instrument for combating the crime of robbery in Nigeria is the **Prevention of Crimes Act**⁷⁰. By the Act, every person who occupies or keeps a lodging house or any premises licensed under the liquor Act or any place of public entertainment or public resort and knowingly lodges, or knowingly harbours thieves or suffers them to meet or assemble therein will be deemed to have committed an offence and on conviction shall be liable to a fine of twenty naira or to imprisonment for four months⁷¹. It is required of all lodging houses such as hotels, motels, Inns to keep records of guests and furnish such information to security agencies as a measure to ensure that the lodging houses are not safe havens for criminals. The punishment in this section is too ridiculous as it will not deter the commission of crime. The lodging houses are avenues to crack down on the criminals, hence the law should be given more weight in the fight.

PROSPECTS AND CHALLENGES OF THE LAW IN COMBATING BANK ROBBERY

Armed robbery is an intelligent operation carried out with a combination of skill by the practitioners. To curb the crime of robbery, it is required that the intelligence of the law enforcement agents should be adequate if not above, that of the criminals. It is no exaggeration to

⁶⁷ See section 4 Robbery and Firearms (special provisions) Act.

⁶⁸ Section 6 of the Robbery and Firearms

⁶⁹ S. 7 of the Act.

⁷⁰ Cap P. 27 Laws of the Federation of Nigeria 2004

⁷¹ S. 5 of the Act.

say that the class of people engaged in the act is a class of people highly disciplined and deceptive in nature. They are talented with the traits of humility and they cannot be easily betrayed by their physical appearance. The doggedness, fearlessness and the strong determination possessed by the class of people are unequalled and for law to be useful in curbing the crimes of armed robbery and any other serious crime, the personality and character traits of the security agencies must be equal or above that of the group of people. The determination to succeed is a great asset lacking in our security agencies.

Law can only serve the ends of the society if it is translated into concrete conducts and actions of the people. "To enact even the most modern law is not enough. Of importance is their accomplishment, make it come true"⁷². The societal ills in Nigeria among which is armed robbery are prevalent not because of the absence of law or insufficiency of legal norms.

There are sufficient legislations to the extent of duplication in some cases. Realization of law is always an act of human conduct in which given rights and duties are accomplished in form of authorization, permission, demands and prohibitions. With the enactment of a normative act arises concrete legal relations. Accomplishment of subjective rights and the fulfillment of legal duties becomes a reality through the conduct of human beings⁷³.

Bank robbery in Nigeria is a threat to the economic development of Nigeria in view of the pivotal role of the commercial banks in the financial sector. Banks lose substantial part of their earnings to robbery while their services to the society are below the capacity. There is the fear in the minds of customers and bank officials daily as to the danger posed to the safety of lives and property at every strike by the robbers. The fault is not in the laws but rather the law enforcement agencies, the banks, and the legal system are to blame.

All modern societies use the police to control crime and to contribute to public order. But the organizational conditions under which the police operate, the means they use and the ends they seek vary greatly between democratic and non-democratic rule, even as there are overlapping areas involving the control function of policing⁷⁴. The Nigeria police had no reason to fail in view of the existing legal frameworks supportive of the service. The Police Act provides.

*The police shall be employed for the prevention and detection of crime the apprehension of offenders, the preservation of law and order the protection of life and property and the due enforcement of all laws and regulations with which they are directly charged, and shall perform such military duties within or outside Nigeria as may be required of them by or under the authority of this or any other Act*⁷⁵.

⁷² Lenin. Collected works Vol 36. P. 182. See also Gasiokwu M.O.U. (2004) Sociology of law Enugu, Mono Expression Ltd. P. 78

⁷³ Gasiokwu M.O.U. (2004) Sociology of law Enugu, Mono expression Ltd. P. 78

⁷⁴ Okiro, M. M. (2009) Policing Nigeria in a Democracy. Port Harcourt, Bharmoss Ventures Nigeria Limited Pp 243 - 244. Okiro was a former Inspector-General of Police in Nigeria and presently the Chairman, Police Service Commission.

⁷⁵ Section 4 Police Act Cap P. 19 Laws of the Federation of Nigeria.

The Nigeria Police in the past three decades has lost its salt of professionalism. The force is a reflection of societal disorientation and loss of moral values. The decay in the police like other civil service is second to none. The police is seen by the people in society as a monster hence the cord of relationship that can foster efficiency is not there. There are cases of robbery facilitated or suppressed by the police. The people unlike the period from 1960 to the early eighties are no longer ready to volunteer information.

A former Inspector-General of Police observed that the police force represents an organization of ordinary people recruited and trained specially to check crime and maintain law and order. And being ordinary people in the first instance, they bear some human limitations in terms of knowledge and operational capabilities despite their special training⁷⁶. The attitude of the police in Nigeria has robbed them of the rapports necessary to ensure successful operation. The former IG drew the conclusion that “armed robbery will be totally wiped out the day all Nigerians decided to hate armed robbery. The practice in this country is that people do not bother about their relations who are armed robbers⁷⁷. Another challenge of the police is lack of operational equipment. The Nigeria police force lacks adequate communication gadgets, vehicles, computers, and patrol boats..... The police still need the services of helicopters, forensic laboratories, dogs, horses and so on which are currently grossly inadequate⁷⁸. The firearms and ammunitions in the police are absolutely inferior to the one in circulation and in possession of common criminals.

The banks have a duty to co-operate with the police in order to ensure that they operate in a safe environment. It is pertinent to point out that apart from the big cities in Nigeria, majority of the branches in the rural areas do not have security gadgets such as closed circuit camera. There is a need for synergy between the banks and the security agencies to ensure adequate security. Banks should support the police with armored tanks, vehicles and communication equipment to aid their operation.

Society, schools, religious institutions, and families all have key roles to play in creating a disciplined and law-abiding citizenry with the right values. Teachers, parents, and people in positions of authority must recognize that children and youths see them. They must provide young people with the right orientation and advice, especially with respect to using violence to pursue their right to seek redress⁷⁹.

The government in Nigeria is aware of the security challenges in Nigeria and the important role the police and other security agencies should play in order to overcome the challenges. The orientation of the police, equipment, image, responsiveness to distress call and the need to adopt a more proactive approach to crime prevention and detection among others are the challenges the government has identified and to overcome the challenges, the following specific policies are proposed⁸⁰.

⁷⁶ Okiro M. M. op. Cit P. 273.

⁷⁷ Ibid.

⁷⁸ Ibid p. 294

⁷⁹ NEEDS Op. Cit.

⁸⁰ NEEDS. Ibid P. 96

- (a) Change the orientation of the police to improve the quality of service.
- (b) Increase the use of scientific methods in policing (forensic science, lie detectors, psychologist, computerization of vital information to enhance the quality of evidence and investigation.
- (c) Introduce appropriate equipment (such as custom built vehicles suitable for sandy or marshy areas) and develop an exclusive communication system to improve police effectiveness.
- (d) Build capacity, train, and retrain, the police, and involve communities in policing.
- (e) Use lethal weapons less often to control crowds.
- (f) Pay all entitlements especially call duty allowances in a timely manner.

The government, as part of the development strategy proposed to increase the personnel strength to meet the international standard of one policeman to every 400 of the national estimated population has a blueprint to recruit more policemen annually. In recruiting policemen, attention must be paid not only to the applicants educational qualification and capacity for training and retraining. Emphasis must be placed on the background of the applicants to ensure that the right caliber of personnel is recruited into the force. The former president of Nigeria once lamented that the police force has been infiltrated by criminals which is a fact in view of the cases of robbery, murder, corruption etc against the personnel of the police every year. Between 2002 and 2003, not less than 700 policemen were summarily dismissed for one offence or the other, especially for receiving gratifications⁸¹.

Nigeria began to experience armed robbery after the civil war of 1967 to 1970. By the end of the war, some firearms ended up in wrong hands⁸². Armed robbery assumed another dimension of vicious operation with the commencement of new democratic administration in 1999 which event terminated the long reign of the military in governance. The premature retirement of some personnel of the armed forces and the police from service after the return of government to civilians in 1999 contributed to the upsurge of crimes in Nigeria as many of these people who were already trained in handling weapons had to graduate into second career such as armed robbery. Democratic administration from 1999 to date has also contributed to crime rate as desperate politicians employ and train thugs. Who after elections are dumped by the politicians. These factors accounted for increase in the circulation of prohibited firearms which are used to commit serious crime like armed robbery. The government must evolve a policy of civilian disarmament as part of measure to check armed robbery operations in Nigeria.

IMPLICATIONS OF BANK ROBBERY FOR BANKER / CUSTOMER RELATIONSHIP

The spate of bank robbery in Nigerian makes it imperative for further examination of the jurisprudential issue of banker / customer relationship beyond the conventional duties of banks to honour cheques; secrecy; not to pay without instruction etc. Bank customers are in most case of bank robbery victims by loss of cash, injury or in severe cases death either from accidental gunshot or deliberate act of callousness of the armed robbers.

⁸¹ Okiro, M. M. Op. cit. P. 272. See also Adaeze Okonkwo. The Nigeria police: A threat or a pride? www.gangi.com article 5000/ news 5214. Htm.

⁸² Ibid P. 105

The contractual relationship between the customer and the bank envisage that banking transactions are to be carried out in the bank premises and as such, the banks are to the customers the occupier or host which relationship demands that the bank should guarantee the safety of the customer at anytime and throughout the period the customer is within the bank premises. A distinction need to be made between an established customer and a prospective customer who is at the bank to make an offer that can lead to a contractual relationship. The prospective customer whose offer is yet to be accepted by the bank has not created a duty for the bank and where he suffers a loss, the bank should not be answerable or made liable. In the case of an established or recognized customer of the bank, irrespective of the branch, the bank should be answerable to any loss of cash ascertainable as soon as the customer has filled in the teller for deposit. In the case of withdrawal, the bank should be answerable to the customer who after the cashier has paid him on the counter or in the special room but before leaving the bank, he/she suffers a loss of the cash through armed robbery operation. The same duty should be applicable where the customer who is seeking to make the bank answerable for any loss suffered through bank robbery to justify his continuous presence after the bank has attended to him. This means that a customer should always leave the bank within a reasonable time after concluding a transaction.

CONCLUSION

The spate of armed robbery attacks on commercial banks in Nigeria portends a great danger for the economy of Nigeria. Commercial banks in Nigeria operate under the atmosphere of fear in view of the incessant attack on bank premises which on each strike has resulted in the theft of huge amount of cash, loss of lives and damage to property. Each operation by the armed robbery is always vicious and violent as the operation is carried out with sophisticated weapons superior to those in the armoury of the police and other security agencies. Law as an instrument of social engineering must foster social order, peace and security. The reality is that law exists in every society. But the question has remained to what extent can law be said to be beneficial to the society?⁸³ There are enough Statutes in Nigeria to ensure security of lives and property. Law as a phenomenon cannot put itself into operation. The concrete realization of law requires the commitment of the government and the law enforcement agencies. Apart from law, other norms such as moral and religion should be evoked. The government needs to reinforce the ethical revolution campaign through a pragmatic approach rather than the cosmetic approach of the government. The Police Community Public Relations Committee at all levels should be proactive and aggressive as informants on security matters.

⁸³ Gasiokwu, M. O. U. Op. Cit P. 128