

May 21, 2012

Hillary Rodham Clinton
Secretary of State
U.S. Department of State
2201 C Street NW
Washington, DC 20520

Dear Secretary Clinton:

As scholars with a special interest in Nigeria and broad expertise on African politics, we are writing to urge that you not designate Boko Haram a Foreign Terrorist Organization (FTO). We are acutely aware of the horrific violence perpetrated by Boko Haram, including attacks on both Muslims and Christians in Nigeria, whether government officials or civilian targets. We share your concerns about the impact of extremist violence on Nigeria's democratic progress and security in general. However an FTO designation would internationalize Boko Haram, legitimize abuses by Nigeria's security services, limit the State Department's latitude in shaping a long term strategy, and undermine the U.S. Government's ability to receive effective independent analysis from the region.

An FTO designation would internationalize Boko Haram's standing and enhance its status among radical organizations elsewhere. Boko Haram's recent tactics, including the use of suicide bombers and improvised explosive devices, raise questions about their foreign links. The network's focus has been overwhelmingly domestic, despite an August 2011 attack on the United Nations office in Abuja. Rhetorically, some of Boko Haram's critique of northern underdevelopment and elite corruption is within the realm of mainstream political discourse. But there are clear indications that their tactics and targets have turned most Nigerians against them, including local populations in the north. An FTO designation would potentially shift the organization's posture towards the US and validate the more radical factions' analysis of outsider influence in Nigeria. It would also undermine the Nigerian government's ability to address the problem through law enforcement and thereby improve rule of law.

An FTO designation would give disproportionate attention to counter-terrorism in our bilateral relations, and increase the risk that the US becomes linked – whether in reality or perception – to abuses by the security services. An FTO designation would effectively endorse excessive use of force at a time when the rule of law in Nigeria hangs in the balance. There is already evidence that abuses by Nigeria's security services have facilitated radical recruitment. This was made unequivocally clear in 2009 following the extrajudicial murder of Mohammed Yusuf, which was broadcast across the internet. That incident was immediately followed by Boko Haram's radicalization, splintering, and increased propensity for large scale violence. Moreover, the routine use of the military for domestic law enforcement is a cause for alarm in a country with a deep history of military rule, and where formal declarations of states of emergency have historically led to broader political instability.

In publicizing this letter, it is also our hope that the Department of Defense and other concerned agencies will reaffirm the limitations of their roles: informing or implementing policy rather than making it. Accurately understanding and properly addressing the issue of Boko Haram will require a diplomatic, developmental, and demilitarized framework. The State Department and its civilian developmental partners must be in the lead.

The FTO list system has its origins in Executive Order 12947 in 1995, which was designed to prohibit transactions with organizations that interfere in the Middle East peace process. Congressional legislation the following year codified a process for making such decisions under the Effective Death Penalty and Anti-Terrorism Act. Once the State Department makes an FTO designation and that entity is added to the Specially Designated Nationals (SDN) list managed by the Treasury Department, it is illegal for U.S. citizens to have any interactions with that entity unless they apply for a license. At least 1.1 million individuals and entities are also on secret lists, according to an audit by the Federal Bureau of Investigation's Inspector General. Lack of information about the criteria for being listed makes it impossible to be removed and encourages selective enforcement.

This cumbersome and arbitrary process has made it impossible for some humanitarian organizations to operate in the neediest areas of Africa. If economic development is to play a role in alleviating tensions in northern Nigeria, we should not hamper access by USAID or private NGOs in providing aid and assistance in the region.

Should Boko Haram be designated an FTO through this regime, it would be illegal for non-governmental organizations to interact with members of Boko Haram – even if the purpose of such contact was to persuade them to renounce violence. The US Supreme Court upheld these restrictions in 2010, declaring that such contact would constitute providing “material support” to terrorist groups. Commenting on the threat this poses to the Carter Center, former U.S. President Jimmy Carter said this legal restriction “threatens our work and the work of many other peacemaking organizations that must interact directly with groups that have engaged in violence.” It would therefore be illegal for third party intermediaries to play a role in some future peace process or in the confidence building measures required to get there.

Less attention has been brought to the damage that this system does to academic inquiry more generally. An FTO designation would prevent independent scholarly inquiry about Boko Haram, and increase suspicion in the future about researchers with no governmental ties. Public policy benefits from dialogue with public scholars, and an FTO designation would effectively criminalize broad categories of research.

During a visit to Nigeria in February, former president Bill Clinton commented on the security crisis there by concluding that “it is almost impossible to cure a problem based on violence with violence.” A lasting solution to Boko Haram will require robust political and developmental components initiated by the Nigerian government and broadly endorsed by the Nigerian people

through democratic processes that enhance the rule of law. We believe that an FTO designation for Boko Haram would limit American policy options to those least likely to work, and would undermine the domestic political conditions necessary in Nigeria for an enduring solution.

We thank you for taking our views into consideration. Our affiliations are listed for identification purposes only and do not constitute an institutional endorsement.

Sincerely,

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cc: Johnnie Carson, Assistant Secretary of State for African Affairs