

# ISSUE BRIEF

No. 3612 | MAY 22, 2012

## The U.S. State Department Should Designate Boko Haram a Foreign Terrorist Organization

*Morgan Lorraine Roach*

When the Nigerian sect Jama'atu Ahlis Sunna Lidda'awati wal-Jihad, otherwise known as Boko Haram, and the Nigerian Taliban emerged from their year-long hiatus in 2010, few in Washington noticed.<sup>1</sup> But when Boko Haram launched a suicide attack against the United Nations headquarters in the capital city of Abuja last August, the organization made it known that its strikes were not limited to Nigerian targets. The Obama Administration should not overlook the potential threat Boko Haram poses to the United States and its allies. Al-Qaeda in the Arabian Peninsula (AQAP) and Tehrik-e-Taliban (TTP) in Pakistan were once localized organizations with regional interests until they directed attacks on U.S. soil.

The Obama Administration should take decisive action against

Boko Haram. The first step should be designating Boko Haram a Foreign Terrorist Organization (FTO). Boko Haram meets the legal FTO requirements, and the implications of the designation would provide the Administration and Congress with a framework to address the terrorist threat.

**Legal Requirements for FTO Designation.** Although FTO designation is not the only terrorist list available to the Administration, it is the only designation available to organizations that engage in terrorist activity.<sup>2</sup> Under section 219 of the Immigration and Nationality Act (INA) (8 U.S.C. 1101 et seq.) as amended under the Antiterrorism and Effective Death Penalty Act of 1996 (AEDPA) (P.L. 104-132), the requirements for FTO designation include:

- The organization is a foreign organization;
- The organization engages in terrorist activity (as defined in section 212(a)(3)(B)) or terrorism (as defined in section 140(d)(2) of the Foreign Relations Authorization Act, Fiscal Years 1988 and 1989 (22 U.S.C. 2656f(d)(2)), or retains the capability and intent to engage

in terrorist activity or terrorism; and

- The terrorist activity or terrorism of the organization threatens the security of United States nationals or the national security of the United States.<sup>3</sup>

The Secretary of State is authorized to designate any organization meeting these requirements. While designations last for two years, organizations can be removed from the list at any time by the Secretary of State or an act of Congress. Designated groups can also file suit to be removed.

The implications of FTO designation are twofold: financing and immigration. Sanctions can include the blocking of assets, the prosecution of supporters who provide funds, denial of visas, and deportation of members.<sup>4</sup>

**Boko Haram Meets FTO Requirements.** Boko Haram easily satisfies all of the requirements for FTO designation.

*Foreign organization.* Although Boko Haram's origins are subject to debate, some sources link the organization to the Maitatsine movement of the 1980s.<sup>5</sup> Boko Haram's modern roots can be tracked to the

This paper, in its entirety, can be found at <http://report.heritage.org/ib3612>

Produced by the Douglas and Sarah Allison Center for Foreign Policy Studies

**The Heritage Foundation**  
214 Massachusetts Avenue, NE  
Washington, DC 20002  
(202) 546-4400 | [heritage.org](http://heritage.org)

Nothing written here is to be construed as necessarily reflecting the views of The Heritage Foundation or as an attempt to aid or hinder the passage of any bill before Congress.

Alhaji Muhammadu Ndimi Mosque in Maiduguri in northern Nigeria. Following the extrajudicial killing of Boko Haram leader Mohammed Yusuf by Nigerian security forces, the group intensified its operations. Boko Haram's objective is to establish an Islamic State governed by Sharia law. Publicly available information regarding the internal dynamics of the organization is limited, but it is believed that Boko Haram is factionalized and its operations are not necessarily coordinated.<sup>6</sup>

While Boko Haram's operations are concentrated in Nigeria's northern and middle belt regions, there are concerns that regional operations

are expanding. When the Qadhafi regime fell last year, it created a power vacuum across the Sahel region, providing opportunities for terrorist organizations to expand their regional influence. According to General Carter Ham, commander of U.S. Africa Command, "multiple sources" indicate that al-Qaeda in the Islamic Maghreb (AQIM) and al-Shabaab in Somalia, both designated FTOs, have made contacts with Boko Haram.<sup>7</sup> Reports also indicate that Nigerians associated with Boko Haram are now operating alongside AQIM in Gao, Mali. The cross-pollination among terrorist groups in a region with little governance creates

an environment where extremists have the opportunity to mobilize and expand their operations.

*Engages in terrorist activity.* Under section 219 of the INA (8 U.S.C. 1101 et seq.) as amended under the AEDPA (P.L. 104-132), terrorist activity is defined by U.S. Code § 2656f(d)(2). Section 2656f(d)(2) defines terrorist activity as "premeditated, politically motivated violence perpetrated against noncombatant targets by subnational groups or clandestine agents."<sup>8</sup>

According to Assistant Attorney General Lisa Monaco at the Department of Justice's national security division, since 2009, Boko

1. Jama'atu Ahlis Sunna Lidda'awati wal-Jihad is the proper name of the organization and translates to "People Committed to the Propagation of the Prophet's Teachings and Jihad." However, "Boko Haram," meaning "Western education is sinful," is the nominal and most commonly used name for the organization. According to Andrew Walker with the United States Institute for Peace, Nigerians who rejected Mohammed Yusuf's teachings referred to Jama'atu Ahlis Sunna Lidda'awati wal-Jihad as "Boko Haram," as in "those people who go on and on about Western education being sinful." Andrew Walker, "What is Boko Haram?" United States Institute for Peace *Special Report* 38, May 2012.
2. Other terrorist lists include the "state sponsors of terrorism" pursuant to section 6(j) of the Export Administration Act of 1979 (P.L. 96-72; 50 U.S.C. app. 2405(j)(as amended)), the "specially designated terrorists" (SDTs) pursuant to the International Emergency Economic Powers Act (P.L. 95-223; 50 U.S.C. 1701 et seq.), "specially designated global terrorists" (SDGTs) established under Presidential Executive Order 13224, the "specially designated nationals and blocked persons" (SDNs) list which includes the SDT, SDGT, state sponsors, and FTO lists maintained by the Treasury Department's Office of Foreign Assets and Control, and the "Terrorist Exclusion List" (TEL), pursuant to Section 411 of the USA Patriot Act of 2001 (P.L. 107-56; 8 U.S.C., 1182). Audrey Kurth Cronin, "The 'FTO List' and Congress: Sanctioning Designated Foreign Terrorist Organizations," Congressional Research Service, October 21, 2003, pp. 3-6, <http://www.fas.org/irp/crs/RL32120.pdf> (accessed May 22, 2012).
3. Immigration and Nationality Act 219, Designation of a Foreign Terrorist Organization, <http://www.uscis.gov/ilink/docView/SLB/HTML/SLB/0-0-0-1/0-0-0-29/0-0-0-5017.html> (accessed May 22, 2012).
4. Cronin, "The FTO List."
5. The Maitatsine movement was created by Muhammadu Marwa, a Cameroonian Islamic preacher who moved to Kano around 1945. Marwa's fiery sermons earned him the nickname "Maitatsine," meaning "he who curses" in Hausa. Marwa recruited impressionable youth, migrants, and those who felt marginalized by the Islamic hierarchy as his followers, known as "Yan Tatsine" ("followers of Maitatsine"). Although Marwa was killed in 1980 by Nigerian security forces, his movement sparked rebellions throughout the 1980s. J. Peter Pham, "In Nigeria False Prophets are Real Problems," *World Defense Review*, October 19, 2006, <http://worlddefensereview.com/pham101906.shtml> (accessed May 22, 2012), and Pham, "Boko Haram's Evolving Threat," *Africa Center for Strategic Studies Africa Security Brief* No. 20, April 2012, [http://africacenter.org/wp-content/uploads/2012/04/AfricaBriefFinal\\_20.pdf](http://africacenter.org/wp-content/uploads/2012/04/AfricaBriefFinal_20.pdf) (accessed May 22, 2012).
6. Ricardo Larémont posits the existence of three Boko Haram factions. The first, headed by Abubakar Shakau, Yusuf's deputy, is said to be the ideological branch and open to negotiation with the Nigerian government. The second faction is supported by northern government officials, seeking to expose the federal government's incompetence. The third group is a criminal faction that uses AQIM tactics (e.g., kidnapping for ransom) to turn a profit. See Ricardo René Larémont, "Boko Haram, Al-Qaeda in the Islamic Maghreb, and the Al-Shabab," testimony before the Subcommittee on Counterterrorism and Intelligence, Committee on Homeland Security, U.S. House of Representatives, November 30, 2011, <http://www.hsdl.org/?view&did=693041> (accessed March 22, 2012).
7. Mark Tram, "Nigeria Attack: Islamist Militants Claim Responsibility for U.N. Building Blast," *The Guardian*, August 26, 2011, <http://www.guardian.co.uk/world/2011/aug/26/nigeria-attack-islamists-claim-responsibility> (accessed May 22, 2012).
8. 22 U.S. Code § 2656f(d)(2) (2004).

Haram has targeted violent attacks against Nigeria's "police, politicians, public institutions and civilian population."<sup>9</sup> Furthermore, Boko Haram targets its attacks toward Nigeria's Christian community.

Nigeria's population is divided between Christians and Muslims. Nigerian President Goodluck Jonathan, a Christian, is accused by northern Muslims of stealing the presidential election, as he disrupted the zoning rotation in April 2011.<sup>10</sup> While Boko Haram targets many of its attacks against Nigerian police and security forces (whom they consider puppets of the Christian-led government), Christian civilians rank highly among the casualties from Boko Haram attacks. However, Boko Haram has also assassinated moderate Muslims who have condemned the group's violence.

*Threatens the security of U.S. nationals or the national security of the United States.* While Boko Haram's primary target is the Nigerian government, it would be a mistake for the Obama Administration to think the U.S. is immune from attack.

In a video message accompanying the suicide attack on the U.N. headquarters, the suicide bomber explained to his family that his actions were meant to send a message to the U.S. President and "other infidels."<sup>11</sup> While many argue that

the attack on the U.N. was meant to embarrass the Nigerian government, it would be irresponsible for the Administration to discount this deliberate threat.

Prior to the U.N. bombing, General Ham acknowledged that AQIM and al-Shabaab are working with Boko Haram, and emphasized that the groups' coordination "presents a significant threat not only in the nations in which they primarily operate but regionally and ... to the United States. Those three organizations have very explicitly and publicly voiced an intent to target Westerners and the U.S. specifically."<sup>12</sup>

Linkages between Boko Haram, AQIM, and al-Shabaab have the potential to cause destabilization across East Africa, the Sahel, North Africa, and West Africa. Separately, each of these organizations threatens concentrated regional pockets. Together, they are able to combine their resources, knowledge, training, and propaganda to create an expansive and dangerous network.

Furthermore, in a letter to the State Department last January, Monaco urged FTO designation for Boko Haram since it meets the criteria for a foreign terrorist listing, in that it either engages in terrorism that threatens the United States or has a capability or intent to do so. The letter also highlighted Boko Haram's links with "transnational

terrorist groups" and open espousal of "violence against the West."

**FTO Designation: A Needed Step for Security.** The Obama Administration should not jeopardize U.S. security with its complacency. Currently, there is no legal clarity for classifying Boko Haram or its actions. Should the Obama Administration designate Boko Haram as an FTO, the U.S. government would be required to hold members of the organization and individuals who provide material support to it criminally liable. FTO designation also provides closer interagency counterterrorism coordination, as all U.S. agencies recognize listed organizations.

FTO designation would also encourage the Nigerian government to take the threat Boko Haram poses to its national security more seriously. President Goodluck Jonathan and his administration lack a comprehensive strategy for managing the current crisis. Designating Boko Haram would erase any ambiguity regarding U.S. policy and could be used as a diplomatic tool to encourage a more robust Nigerian approach.

Most importantly, FTO designation would restrict Boko Haram's ability to operate and limit the threat the organization poses to the United States and its citizens.

—*Morgan Lorraine Roach is a Research Associate in the Douglas*

9. Mark Hosenball and John Shiffman, "U.S. Justice Department Urges Terror Label for Nigerian Militants," *Chicago Tribune*, May 17, 2012, [http://articles.chicagotribune.com/2012-05-17/news/sns-rt-us-usa-security-bokohambre84h01i-20120517\\_1\\_haqqani-network-militant-group-terrorist-group](http://articles.chicagotribune.com/2012-05-17/news/sns-rt-us-usa-security-bokohambre84h01i-20120517_1_haqqani-network-militant-group-terrorist-group) (accessed May 22, 2012).

10. The political rotation system known as "zoning" dictates that the office of president rotates between the Muslim north and the Christian south. When President Umaru Yar'Adua, a Muslim, died in the middle of his term, his vice president, Goodluck Jonathan, a Christian, assumed office. He then stood for the April 2011 presidential election (and won), angering northerners.

11. "Nigeria U.N. Bomb: Video of 'Boko Haram bomber' Released," BBC, September 18, 2011, <http://www.bbc.co.uk/news/world-africa-14964554> (accessed May 22, 2012).

12. David Alexander, "African Islamist Groups Seen as U.S. Threat: General," Reuters, September 15, 2011, <http://www.reuters.com/article/2011/09/15/us-usa-defense-africa-idUSTRE78E13920110915> (accessed May 22, 2012).

*and Sarah Allison Center for Foreign Policy Studies, a division of the Kathryn and Shelby Cullom Davis Institute for International Studies, at The Heritage Foundation. Steven Groves, Bernard and Barbara Lomas Fellow in the Margaret Thatcher Center for Freedom at Heritage, assisted in the preparation of this paper.*