

A COMPARATIVE ANALYSIS OF LEGAL FRAMEWORK ON TERRORISM BETWEEN NIGERIA AND USA

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Abstract

This paper critically examines the legal frameworks analyzing counter- terrorism efforts in Nigeria. It provides a comprehensive overview of the key legislative instruments, (*The terrorism (Prevention) Act 2011* and its subsequent amendments), evaluating their conformity with international legal Standards, and Human rights obligations under international law. It also assesses Nigeria's national counter- terrorism strategy, highlighting policy initiatives aimed at prevention, enforcement and rehabilitation. This work defines key concepts such as terrorism, national security, and Counter terrorism, and examines how these intersect within counterterrorism in Nigeria. This work adopts a doctrinal approach in analyzing the legal framework to identify the human rights implication of counter-terrorism measures in Nigeria. The findings show that Nigeria has made significant efforts in the fight against terrorism through its counter terrorism laws and policies and thus has attained varying levels of human rights abuses /violations. The paper identifies critical challenges including legal ambiguities, enforcement gaps, and allegations of human rights violations. Significantly, this research recommends legal and policy reforms to enhance the effectiveness, accountability of Nigeria's counter-terrorism framework, advocating a more balanced approach that safeguards national security while upholding the rule of law and human rights protection. his study also recommend the strengthening of Nigerian legal and institutional frameworks by widening their scope as that of other international countries like UK and USA by enhancing. interagency coordination and resource allocation. Finally, this work concludes with a call for balancing counter-terrorism laws with human rights protections mechanisms in the war against terrorism.

Keywords; *Counter terrorism; National Security; Strategy; Terrorism; and Legislation.*

Introduction

The increasing wave of acts of terror or terrorist attacks and their perverse implications on human rights of citizens of the world have been occupying the front burner for recent time in global discourse. This has left thousands killed, permanently maimed or disabled, physically injured and many more psychologically devastated apart from the massive economic waste or loss occasioned¹. The increasing wave of terrorism in Nigeria, particularly with the emergence of the Boko Haram insurgency in the North-East region of the country, necessitated a robust legal and institutional response. Prior to 2011, Nigeria lacked a specific legal framework that criminalised acts of terrorism. Responses to acts of terrorism were often prosecuted under general criminal law provisions, such as murder, arson, and unlawful assembly, which were inadequate to address the complex and transnational nature of terrorist activities.²

Recognising this lacuna, the Nigerian government, in compliance with international obligations and domestic security concerns, enacted *the Terrorism (Prevention) Act, 2011* to criminalise terrorism and related offences, and to provide mechanisms for prevention, detection, investigation, and

¹ Federal Government of Nigeria, Terrorism (Prevention) Act, 2011.

² Federal Government of Nigeria, Terrorism (Prevention) (Amendment) Act, 2013.

prosecution. The 2011 Act was later amended by the *Terrorism (Prevention) (Amendment) Act, 2013*, which introduced stricter provisions, enhanced penalties, and improved institutional coordination.² However, persistent criticisms regarding human rights violations, enforcement challenges, and legislative ambiguities prompted the enactment of the *Terrorism (Prevention and Prohibition) Act, 2022*, which repealed the earlier Acts and provided a more comprehensive legal framework for counter-terrorism in Nigeria.³

In addition to these statutory provisions, Nigeria has adopted several counter-terrorism policies and strategies. The *National Counter Terrorism Strategy* (NACTEST), launched in 2016 is the first major attempt by the Nigerian government to address the terror attacks perpetrated by violent extremist organization against its citizen. It provides a multi-sectoral approach to counter-terrorism efforts, focusing on five key pillars: forestall, secure, identify, prepare, and implement.⁴ Nigeria is also a party to various international and regional legal instruments aimed at combating terrorism, including the *United Nations Global Counter-Terrorism Strategy*, the *African Union Convention on the Prevention and Combating of Terrorism (1999)*, and the *Economic Community of West African States (ECOWAS) Counter-Terrorism Strategy (2013)*.⁵

Notwithstanding these efforts, Nigeria's counter-terrorism framework has been criticised for its heavy-handedness, lack of accountability, and frequent human rights abuses by security forces in the course of implementing counter-terrorism measures.⁶ Reports by international and local human rights organisations have documented instances of arbitrary arrests, prolonged detention without trial, torture, enforced disappearances, and extrajudicial killings under the guise of fighting terrorism.⁷

1.0 CONCEPTUAL CLARIFICATION

1.1 Terrorism

Terrorism can be broadly defined as the unlawful use of violence and intimidation, particularly against civilians, to achieve political, religious, or ideological goals.⁸ It typically involves actions that cause fear or terror and aim to influence governments, societies, or specific groups. Terrorism has also been defined as the deliberate creation and exploitation of fear through violence or the threat of violence in the pursuit of political change.⁹

Terrorism poses a significant threat to global peace, security, and stability, making it one of the most pressing challenges of the 21st century. While the core concept of terrorism remains consistent, it can manifest differently on international and domestic levels. The rise of terrorist groups, such as Boko

³ Federal Government of Nigeria, *Terrorism (Prevention and Prohibition) Act, 2022*.

⁴ Office of the National Security Adviser, '*National Counter Terrorism Strategy (NACTEST)*', 2016. <<https://nctc.gov.ng/NACTEST-2016.pdf> -NCTC> accessed 18th May, 2025

⁵ United Nations General Assembly, *Global Counter-Terrorism Strategy*, A/RES/60/288 (2006). <<https://www.un.org/counterterrorism/un-global-counterterrorism/un-global-counter-terrorism-strategy#:~:text=The%20United%20Nations%20Global%20Counter%2DTerrorism%20Strategy%20in%20the%20for m,to%20prevent%20and%20combat%20terrorism>>. Accessed 30 June 2025.

⁶ Amnesty International, '*Nigeria: Stars on Their Shoulders. Blood on Their Hands: War Crimes Committed by the Nigerian Military*', 2015. <<https://www.amnesty.org/fr/wpcontent/uploads/2021/05/AFR4416572015ENGLISH.PDF>>. Accessed 30 June 2025.

⁷ Human Rights Watch, '*Spiraling Violence: Boko Haram Attacks and Security Force Abuses in Nigeria*', 2012. <<https://www.hrw.org/report/2012/10/11/spiraling-violence/boko-haram-attacks-and-security-force-abuses-nigeria>> Accessed 30 June 2025.

⁸ Here, Boaz Ganor defines terrorism as the deliberate use of violence aimed against civilians in order to achieve political ends. According to him, this definition highlights the key characteristics of terrorism including; deliberate use of violence, targeting civilians and Political Objectives. G. Boaz, (2002)., '*Defining terrorism: Is one man's Terrorism, another Man's freedom Fighter?*', Police Practice and Research, 3 (4), 287-304. <https://www.scribd.com/document/92842797/GANOR-BOAZ>. Accessed 30 June 2025.

⁹ B. Hoffman, '*Inside Terrorism*', (2016 ed.).

Haram in Nigeria underscores the need for robust legal frameworks to counter this menace effectively. These legal frameworks guide governmental responses, ensuring that actions taken to combat terrorism are consistent with the rule of law and respect for human rights.

In Nigeria, terrorism has profoundly influenced national policies and legal systems, thus the fight against terrorism has primarily revolved around addressing the insurgency led by groups such as Boko Haram and the Islamic State's West Africa Province (ISWAP) and the rest. These groups have carried out widespread violence, destabilized regions, and caused massive humanitarian crises. In response, Nigeria has enacted several laws and established agencies tasked with preventing and combating terror.

1.2 Counter Terrorism

Counter terrorism refers to as the practices, strategies, and tactics that governments, military forces, law enforcement agencies, and intelligence organizations use to prevent, deter, and respond to terrorist activities¹⁰. Each year, thousands of innocent lives are shattered by terrorist violence driven by violent extremism. The messages of religious, cultural, and social intolerance spread by these terrorist groups have wreaked enormous havoc in Nigeria and many other regions worldwide. To contain this challenge, there is need for the regions of the world including Nigeria to devise strategies to strengthen cooperation in preventing and combating terrorism. Violent acts persistently been perpetrated by these terrorist groups against the general population for political purposes are crimes that can amount to crimes against the human populace and hence condemnable. Government has a duty to ensure that these extremist groups do not infringe on the right to life, to protection from torture and ill- treatment, and the right to a fair trial within its jurisdiction.

The global war on terrorism has led many nations to introduce stringent counter-terrorism laws aimed at addressing security threats posed by extremist groups. While these legal frameworks are designed to enhance national security and prevent terrorist attacks, they often raise significant human rights concerns, particularly regarding arbitrary detention, mass surveillance, due process violations, and the use of torture. Governments justify their expansion of counter-terrorism laws as necessary to protect citizens from attacks, while human rights organizations argue that such laws erode civil liberties, weaken democratic institutions, and violate international human rights treaties. The challenge lies in ensuring effective counter-terrorism strategies while upholding constitutional protections, the rule of law, and international human rights standards.

Nigerian counter-terrorism laws allow for preventive detention, which permits security agencies to detain terrorism suspects for extended periods without trial. This practice has raised serious concerns regarding arbitrary detention and due process violations. Under normal circumstances, the Nigerian Constitution of 1999 (as amended) stipulates that detainees must be brought before a court within 48 hours. However, counter-terrorism laws provide for prolonged detention beyond this period, often without adequate judicial oversight.¹¹

Nigeria's counter-terrorism framework also permits extensive surveillance of suspected individuals. The government can monitor financial transactions, communications, and social media activities under counter-terrorism laws, raising concerns over violations of privacy and personal freedoms.¹²

¹⁰ J.F. Forest '*Perspectives on Terrorism*', (2017 Ed). 11(5), 38-54. Been a notable expert in counter- terrorism, Forest, in his work emphasizes the intricate relationship between terrorism and counterterrorism, suggesting that defining one is dependent on defining the other. According to Forest, the broader the definition of terrorism, the broader the definition of counter terrorism must be. This implies that counter terrorism encompasses a range of strategies and responses aimed at combating the specific forms and manifestations of terrorism being targeted. Thus, while Forest did not explicitly define counter terrorism, his work brought out the complexity and the nuance of the field, emphasizing the need for a comprehensive and adaptive approach to counter terrorism

¹¹ Amnesty International (2023). '*Nigeria: Still no accountability for human rights violatios.*' <<https://www.amnesty.org/en/wp-content/uploads/2023/06/AFR4485292018ENGLISH.PDF>>Accessed 30 June 2025.
Nigeria Communications Act, 2003.

¹² Human Rights Watch (2023). '*Submission to the Universal Periodic Review of Nigeria.*'. <<https://www.hrw.org/news/2023/06/22/human-rights-watch-submission-universal-periodic-review-nigeria>> Accessed 30 June 2025.

Judicial oversight mechanisms exist but are often weak, as courts frequently defer to national security arguments when challenged on human rights grounds.¹³

1.3 National Security

National Security in Nigeria is majorly about safeguarding the country's sovereignty, territorial integrity and the welfare of its people from series of threat/ challenges with terrorism being one of the peculiar and persistent threat¹⁴. The threat faced by Nigeria with regards to national security are multifaceted. These threats as listed under our national security threats are grouped as: Terrorism and violent extremisms, armed banditry, kidnapping, militancy and separatist agitations, piracy and sea robbery among others¹⁵.

While the activities of terrorist have been brought down progressively by the combined efforts of the Armed Forces of Nigeria and other security agencies in Nigeria, there exists some level of concerns that these terror groups still posit some challenge to our national security. According to chapter 3 of the National Security Strategy,¹⁶ the defeat of ISIS in Syria has the potential to strengthen linkage between Foreign based terrorist groups and the terrorist in the North East. This also added to concerns faced on the ongoing counter terrorism efforts to the war against terrorism in Nigeria.

In the context of national security, particularly the global war on terror, understanding these rights of citizens becomes critical. While states have a legitimate duty to protect their citizens from terrorism, such efforts must not undermine the very rights they seek to defend. The delicate balance between security measures and the protection of civil liberties has been a recurring challenge, as seen in Nigeria today.

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2.0 THE LEGAL FRAMEWORKS OF TERRORISM IN NIGERIA.

2.1 Terrorism (Prevention) Act, 2011.

The *Terrorism (Prevention) Act, 2011* represented Nigeria's first comprehensive legislation to specifically address the menace of terrorism. The Act sought to criminalise acts of terrorism and related activities, provide preventive measures, and ensure the prosecution and punishment of offenders.¹⁷

¹³Human Rights Watch (2023). 'Submission to the Universal Periodic Review of Nigeria.'. <<https://www.hrw.org/news/2023/06/22/human-rights-watch-submission-universal-periodic-review-nigeria>> Accessed 30 June 2025.

¹⁴According to Former Commander in chief of Armed Forces in Nigeria, President Muhammed Buhari, in his foreword, "at the inception of my administration in 2015, Nigeria was at a defining moment in her history, Acts of terrorism perpetrated by a group popularly known as Boko Haram were at its peak and constituted an existential threat. According to him, National Security Strategy 2019 captured his renewed bond with Nigeria to ensure the Nation's security and welfare; Federal Republic of Nigeria, *National Security Strategy*, iii, December 2019.

¹⁵Federal Republic of Nigeria, 'National Security Strategy', December 2019. 8.

¹⁶*Ibid*.pg 9

¹⁷ Federal Government of Nigeria, *Terrorism (Prevention) Act*, 2011.

Section 1 of Terrorism (Prevention) Act 2011 defined terrorism in broad terms to include as follows:

Acts carried out with the intention to intimidate, coerce, or force a government, the public, or an international organisation to act in a particular way, or to seriously destabilize or destroy the fundamental political, constitutional, economic, or social structures of a country or international organization.

Section 4-8 of the Act criminalized various acts, including financing of terrorism, recruitment of persons into terrorist groups, harboring of terrorists, and the provision of training and material support to terrorist groups.¹⁸

Significantly, *Section 12 of Terrorism (Prevention) Act, 2011* conferred extraterritorial jurisdiction on Nigerian courts to try offences committed outside Nigeria where the offender or the victim is a Nigerian citizen, or where the offence affects Nigeria's interest.

Example can be seen following the ongoing terrorism case between the federal government of Nigeria and Mazi Nnamdi Kanu, who is also a British citizen. Mazi Kanu was first arrested in 2015 but disappeared from Nigeria while on bail in 2017. But he was subsequently arrested in Kenya in 2021 and charged with seven counts of terrorism and treason charges which he pleaded not guilty¹⁹.

Section 13-15 of the Act also empowered law enforcement agencies to take measures such as surveillance, arrest, search and seizure, and freezing of assets suspected to be linked to terrorist activities.

This was posited as reported in Dailypost Newspaper with the heading: court freezes 24 bank accounts over alleged terrorism financing. Here it was reported the federal high court judge in Abuja Justice Emeka Nwite, granted the request by EFCC to freeze the bank accounts, some of which were reportedly linked to Lawrenc Lucky Eromosele, who is under investigation in connection with a kidnapping case. The EFCC indicated that the accounts were being scrutinized in relation to money laundering and terrorism financing activities.²⁰

2.1.1 Flaws of The Terrorism (Prevention) Act, 2011.

A critical analysis of the Act reveals several shortcomings. Firstly, the definition of terrorism under the Act was criticised for being overly broad and vague, raising concerns about its potential misuse against political opposition, journalists, and civil society actors engaged in legitimate dissent.²¹ Secondly, the Act authorised law enforcement agencies to detain persons suspected of terrorism-related offences without trial for extended periods, which was seen as a violation of the constitutional right to personal liberty.²²

Moreover, the Act failed to provide adequate safeguards for the protection of human rights in the implementation of counter-terrorism measures. It lacked express provisions mandating accountability for security agencies engaged in human rights violations during counter-terrorism operations. These weaknesses contributed to widespread concerns about impunity, abuse of power, and the erosion of civil liberties under the guise of combating terrorism.

The inadequacies of the *2011 Act* led to its amendment in 2013 and, eventually, its repeal and replacement by the *Terrorism (Prevention and Prohibition) Act, 2022*, which introduced clearer definitions, stricter penalties, and provisions aimed at balancing national security with human rights

¹⁸*Ibid*, ss. 4–8.

¹⁹E. Camillus 'Separatist Kanu Faces new trial in Nigeria Under Fourth Judge', March 21, 2025 (Reuters). <<https://www.reuters.com>> accessed 18th May, 2025.

²⁰Matthew Atungwu, 'Court Freezes 24 Bank Accounts Over Alleged Terrorism Financing', Daily post Newspaper, December 31, 2024. <<https://dailypost.ng>> Accessed 18th May, 2025.

²¹A.A. Oyeboode, 'The Nigerian Legal Framework for Combating Terrorism: An Appraisal', (2014) 12 *Nigerian Journal of Public Law* 45, p. 58.

²²Constitution of the Federal Republic of Nigeria, 1999 (as amended), s.35.

protection.²³ The new Act also aligns more closely with Nigeria's obligations under international human rights and counter-terrorism instruments.²⁴

2.2 National Counter Terrorism Strategy (NACTEST) 2016

Due to the persistent threat to security and livelihoods by terrorism in Nigeria, the Nigerian Government has, through its national Counter-Terrorism strategy and action, curtailed the heinous atrocities of the Boko Haram insurgency and their activities. Before now the Nigerian government has strengthened the legal framework for fighting terrorism through the adoption of an amendment to its *terrorism (Prevention) Act of 2011 and 2013*, thus ensuring the implementation of more robust counter-terrorism measures. *Nigeria enacted the National Counter Terrorism Strategy (NACTEST)*²⁵ in 2016 and the policy framework and national action plan for preventing and countering violent extremism. Represented by Vice President **Yemi Osibanjo**, the president observed that the war against terror was unconventional as the enemy was a danger to the society. According to him,

There must be an understanding that the war against terrorism is a most unconventional one. The enemy is essentially an insane nuisance because he revels in cowardly attacks. He does not obey the rules of warfare, kills the defenseless including prisoners, he uses children as human gums and considers the killing of anyone at all as victory. Therefore, as we think through our strategies, we must remember that to permanently win the physical battle, we must win the battle of the minds of even the most impressionable young men who sign up to join Boko Haram and other violent extremist groups²⁶.

2.3 Terrorism Prevention and Prohibition Act (TPPA) 2022.

Thus, Nigeria government in actively pursuing the implementation of the policy framework to address the root causes of violent extremism, had passed into law *the Terrorism (Prevention and Prohibition) Act, 2022* which provides a comprehensive legal framework prohibiting and criminalizing the acts of terrorism. *TERRORISM (PREVENTION AND PROHIBITION) ACT, 2022* was enacted by the National Assembly of the Federal Republic of Nigeria on the 12th day of May, 2022 to repeal the *TERRORISM (PREVENTION) ACT, NO.10, 2011*. **The Act defines** terrorism comprehensively to include acts that undermine public safety, threaten the unity, sovereignty, or economic stability of Nigeria, include financing, planning, supporting, or executing terror-related activities.

Section 1 (f) of the TPPA provides for measures to enable Nigeria to act effectively in the fight against the financing of terrorism, including mechanism regarding reporting of suspected incidents of financial and other support for terrorist entities.

²³ Federal Government of Nigeria, *Terrorism (Prevention and Prohibition) Act*, 2022.

²⁴ United Nations, 'International Covenant on Civil and Political Rights', 1966, Art. 9; 'African Charter on Human and Peoples' Rights', 1981, Art. 6. < <https://en.wikipedia.org/wiki/International-Covenant-on-Civil-and-political-Rights#:~:text=The%20International%20Covenant%20on%20Civil,process%20and%20a%20fair%20trial> > Accessed 30 June 2025.

²⁵ NDA Consultancy Service, 'Manual on Counter Terrorism', September, 2016.,

In the introductory part of the manual, it was recorded that NACTEST was signed by president Dr Goodluck Ebele Jonathan in 2014 in Abuja was the first major attempt by the government of Nigeria to Counter terrorism. Another revised version was launched and endorsed by President Muhammadu Buhari in furtherance of the fight against terrorism in Nigeria. According to the manual, Counter terrorism incorporates the practices, tactics, techniques and strategies that governments, militaries, police departments, and corporations adopt to attack terrorism threats or lets both real and imputed.

²⁶ BellaNaija. (Aug 23, 2016), 'FG Launches Revised National Counter Terrorism Strategy', <<https://www.bellanaija.com/2016/08/fg-launches-revised-national-counter-terrorism-strategy> > accessed 28 June 2025.

Section 1(a) of TPPA provide that:

“The objective of the Act is to provide for-

- (a) effective, unified and comprehensive legal, regulatory and institutional frame work for the detection, prevention, prohibition, prosecution and punishment of acts of terrorism, terrorism financing, proliferation and financing the proliferation of weapons of mass destruction in Nigeria²⁷

A typical example is the ongoing extradition process filed against Mr. Simon Ekpa who is facing trial on suspicion of involvement in terrorism related offences, including incitement to violence and terrorism financing. The Nigerian Defence headquarters had on March 23, 2024 declared Ekpa and 96 others, wanted for inciting violence in the South-East part of Nigeria.²⁸ The separatist leader was accused of using social media platforms to spread separatist propaganda linked to IPOB, a group advocating for the secession of south eastern Nigeria. Finland authorities have also investigated Ekpa in the past for alleged financial crimes, including the collection of funds through questionable means. Ekpa was apprehended in November 2024 by Finnish authorities, along with four others, on suspicion of involvement in terrorism related offences, including incitement to violence and terrorism financing. Speaking on Channels Television's 2024 Year-in-Review Programme²⁹ on December 31, 2024, General Musa confirmed that Ekpa was arrested in Finland and is facing legal proceedings related to his alleged terror related activities. According to him, “I don't want to say much about that, but I'm happy he has been arrested. the Federal Government has actually forwarded most of the requirements to the Finnish Government. So, I'm sure the right thing will be done”.

From the above report, it can be deduced that the Nigerian defence headquarters is processing the extradition of Simon Ekpa for his terror related offence in Nigeria. Following the pressure from the Nigerian government to Finnish authorities, Ekpa was investigated and arrested for financing terrorism and inciting violence in Nigeria.

The *TPPA 2022* is the main legal framework for the offence of terrorism in Nigeria as its objective revolves on how to prevent all acts of terrorism and further prohibit any person or body Corporate, within or outside Nigeria, who knowingly, directly or indirectly does, attempts or threatens to do any act of terrorism; commits an act preparatory to or in furtherance of an act of terrorism, omits to do or assists or facilitates or funds the activities of person engaged in an act of terrorism. Thus here, one can be a direct offender or an accomplice to a crime by committing the act directly or by assisting in any way either by committing an act either in preparatory or in enhancing the commission of the crime.³⁰ The *TPPA 2022* aims to provide a more robust legal and institutional framework for combating terrorism in Nigeria. Key aspects include:

The Terrorism (Prevention and Prohibition) Act (TPPA) formally established the *National Counter Terrorism Centre* to better coordinate the establishment and implementation of Counter Terrorism polices and strategies. National Counter Terrorism Centre ('the Centre') was also established in the office of the National Security Adviser, to be the coordinating body for counter – terrorism and terrorism financing in Nigeria, charged with the coordination of counter- terrorism policies, strategies, plans, and support in the performance of the functions of the National Security Adviser specified in Section 4 of this Act.³¹

²⁷The Terrorism (prevention and prohibition) Act, 2022. ss 1(a)

²⁸A. Popoola, 'Nigerian military declares IPOB's Simon Ekpa, 96 others wanted', Premium Times, March 23, 2024, <<https://www.premiumtimesng.com>> accessed 18th May 2025.

²⁹Sandra. N, Terrorism: FG submits documents for Simon Ekpa's extradition from Finland, Nigerian Tribune, 1st Jan 2025. <<https://tribuneonlineng.com>> accessed 18th May 2025.

³⁰Section 2(1)(2) a-d of the Terrorism (prevention and prohibition) Act, 2022.

³¹ *Ibid* s 6 (1).

It can be seen therefore that Nigeria has enacted robust counterterrorism frameworks to address evolving threats with its *TPPA 2022* which seeks to consolidate efforts and comply with international standards. However, it faces challenges such as weak institutional capacity and enforcement gaps.

2.4 Economic and Financial Crimes Commission (EFCC) Act, 2004:

On the EFCC's role in countering terrorist financing; *Section 15 of EFCC ACT* provides that

- (1) a person who willfully provides or collects by any means, directly or indirectly, any money by any other person with intent that the money shall be used for any act of terrorism commits an offence under this Act and is liable on conviction to imprisonment for life
- (2) Any person who commits or attempts to commit a terrorist act or participates in or facilitates the commission of a terrorist act, commits an offence under this Act and is liable on conviction to imprisonment for life.
- (3) Any person who makes funds, financial assets or economic resources or financial or other related service available for use of any other person to commit or attempt to commit, facilitate or participate in the commission of a terrorist act is liable on conviction to imprisonment for life.

The EFCC plays an important role as a legal frame work in countering terrorism in Nigeria through its mandate to combat financial crimes. It is the lead agency in investigating and prosecuting cases of terrorism financing, which is crucial to dismantling the networks of the extremist groups³².

2.5 Other Relevant Legislation on Counter Terrorism in Nigeria.

In addition to the Terrorism (Prevention and Prohibition) Act, other laws contribute to Nigeria's counterterrorism legal framework:

2.5.1 The Nigerian Security Agencies Act³³

1. The Nigeria Security Agencies Act establishes and regulates the powers of security agencies such as the DSS, the Nigerian Army, the Police, and the Nigeria Security and Civil Defence Corps (NSCDC).³⁴
2. The department of State Services (DSS) role in counter terrorism lies on gathering intelligence, domestic surveillance, and preemptive arrests.
3. It grants these agencies authority to conduct counterterrorism operations, including arrests, searches, and intelligence gathering.³⁵

2.5.2. The Money Laundering (Prevention and Prohibition) Act, 2022

- This Act strengthens efforts to combat terrorism financing by prohibiting illicit financial transactions linked to terrorist groups.³⁶
- It mandates financial institutions to report suspicious transactions to the *Nigerian Financial Intelligence Unit (NFIU)*.³⁷

³²For example, on December 31, 2024, it was published in Daily Post National Newspaper that the Economic and Financial Crimes Commission, EFCC, had requested the federal high court presided over by Justice Emeka Nwite, through an ex parte application, for an order to freeze 24 bank accounts allegedly involved in terrorism financing and the application was granted by court. Matthew, Atungwu., 'Court Freezes 24 Bank Accounts Over Alleged Terrorism Financing', Daily post Newspaper, December 31, 2024. <> Accessed 18th May, 2025.

³³Nigeria Security Agencies Act 1986 No. 19.

³⁴Nigerian Security Agencies Act, Cap N74, LFN 2004.

³⁵*Ibid.*, s. 3.

³⁶Money Laundering (Prevention and Prohibition) Act, 2022, s. 6.

³⁷*Ibid.*, s. 9.

2.5.3. The Cybercrimes (Prohibition, Prevention, etc.) Act, 2015

- Given the increasing use of the internet for radicalisation and terrorist recruitment, this law criminalises cyberterrorism and online propaganda.³⁸
- It empowers security agencies to track and intercept communications suspected to be linked to terrorism.

2.5.4 National Security Strategy (2019)

Since the adoption of *NSS 2014*, the domestic and international security environment has evolved in number and complexity with new challenges such as terrorism and insurgency, etc., among other real, existential and diverse security threats. This presented Nigeria the opportunity to redefine the pursuit of its national security objectives. Thus, the need to review the NSS to reflect these complex security realities. So, president Buhari in 2019 released a revised NSS which lays out the framework for the country to meet the basic needs and security concerns of citizens and address internal and external threats³⁹.

Nigeria's *National Security Strategy (NSS)* is not an act but a policy blueprint guiding Nigeria's national security architecture, including terrorism. The NSS emphasizes:

1. The need for coordinated action among the Armed Forces, Police, intelligence agencies, and other statutory bodies. The NSS advocates for improved intelligence sharing between security agencies which is a known weakness in the former counter- terrorism efforts.
2. Crisis response and resilience through national and regional cooperation, especially during emergencies declared under the Constitution.
3. The importance of integrating efforts across different government levels and agencies to ensure effective early warning, intelligence gathering, and rapid response to terrorist threats⁴⁰
4. Legal and Institutional support: while NSS is not a law, it works in synergy with *TPPA (2022)* and mandates institutional strengthening (e.g., through office of the national security adviser)⁴¹

2.6 Human Rights Implications of Counter-Terrorism Measures in Nigeria

While counter-terrorism measures in Nigeria have been critical in addressing the threat posed by terrorist groups such as Boko Haram and Islamic State West Africa Province (ISWAP), their implementation has raised serious human rights concerns. The Nigerian government's approach has largely been characterised by militarisation, aggressive law enforcement, and broad discretionary powers, often resulting in violations of fundamental human rights and freedoms.⁴²

A major concern has been the arbitrary arrest and prolonged detention without trial of individuals suspected of terrorism-related offences. *Section 27 of the Terrorism (Prevention) Act, 2011* initially authorised law enforcement agencies to detain suspects for an extended period without proper judicial oversight.⁴³ Although the Act mandated court orders for detention, in practice, suspects were often held indefinitely in military facilities such as Giwa Barracks in Borno State, with limited or no access to legal representation.⁴⁴

Reports by human rights organisations have documented cases of torture, inhumane and degrading treatment of detainees during counter-terrorism operations. These acts violate Nigeria's obligations

³⁸ Cybercrimes (Prohibition, Prevention, etc.) Act, 2015, s. 24.

³⁹ Freedom O. & Maurice O., 'Review and analysis of Nigeria's National Security Strategy 2019.' <<https://tiferopiwen.weebly.com/uploads/1/4/1/5/141524310/buviwijeju.pdf>> accessed 29th Jun, 2025.

⁴⁰ Federal Government of Nigeria; National Security Strategy (2019)

⁴¹ Under Section 4 of TPPA, the National Security Adviser is empowered to formulate and implement comprehensive counter- terrorism strategies. Office of the National Security Adviser provides support to security, intelligence, law enforcement agencies, and military services to prevent and combat acts of terrorism and terrorism financing in Nigeria.

⁴² Amnesty International, 'Nigeria: Stars on Their Shoulders. Blood on Their Hands: War Crimes Committed by the Nigerian Military', 2015.

⁴³ Federal Government of Nigeria, *Terrorism (Prevention) Act*, 2011, s.27.

⁴⁴ Human Rights Watch, 'Spiraling Violence: Boko Haram Attacks and Security Force Abuses in Nigeria', 2012., 46.

under both domestic and international human rights law, particularly *Section 34 of the Constitution of the Federal Republic of Nigeria, 1999*, which guarantees the right to dignity of the human person. Additionally, Nigeria is a state party to the *United Nations Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment*, which prohibits the use of torture under any circumstances.⁴⁵

Another significant human rights implication is the extrajudicial killing of suspected terrorists and civilians caught in conflict zones. The Nigerian military has been accused of indiscriminate aerial bombardments, unlawful killings, and enforced disappearances in its counter-terrorism campaigns.⁴⁶ In many instances, innocent civilians have become collateral victims of security operations, leading to large-scale displacement and humanitarian crises.⁴⁷

Furthermore, counter-terrorism measures have negatively impacted the right to freedom of expression, association, and peaceful assembly. Security agencies have sometimes used the broad and ambiguous definition of terrorism to clamp down on political dissent, journalists, and human rights defenders critical of government policies.⁴⁸ The *Terrorism (Prevention and Prohibition) Act, 2022*, while introducing some safeguards, still retains broad powers for security agencies, raising concerns about the potential for abuse.⁴⁹

There are also issues regarding mass trials of terrorism suspects without adequate legal representation and due process guarantees. Many of the trials, especially those held in military detention facilities, have been conducted in secrecy, undermining the principles of fair hearing and transparency.⁵⁰

The cumulative effect of these human rights violations has been to erode public trust in the government's counter-terrorism strategy and to fuel grievances among affected communities. Scholars and human rights advocates argue that Nigeria's heavy-handed approach risks further radicalising vulnerable populations, thereby exacerbating the threat of terrorism.⁵¹ A rights-based approach that balances national security imperatives with respect for human rights is essential to ensuring the long-term effectiveness and legitimacy of Nigeria's counter-terrorism efforts.⁵²

3.0 Comparative Analysis of Counter-Terrorism Legal Frameworks in Nigeria and the USA

3.1 Nigeria's Counter-Terrorism Legal Framework

Nigeria's legal framework for combating terrorism is primarily governed by the *Terrorism (Prevention and Prohibition) Act of 2022*, which replaces the *Terrorism (Prevention) Act of 2011*. This legislation provides for the detection, prevention, investigation, and prosecution of terrorist acts, granting broad powers to security agencies such as the Nigerian Army, the Department of State Services (DSS), and the Nigerian Police Force.⁵³

A key feature of the *Terrorism (Prevention and Prohibition) Act* is its criminalization of terrorist activities. Offenses such as financing terrorism, recruiting members into terrorist groups, training individuals for terrorism, and aiding or abetting terrorist organizations are punishable by severe

⁴⁵United Nations, 'Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment', 1984, Art. 2.

⁴⁶Amnesty International, *Nigeria: Amnesty International Report on Nigeria*, 2021.

⁴⁷United Nations High Commissioner for Refugees (UNHCR), *Nigeria Emergency Situation Update*, 2020.

⁴⁸A.O. Jegede, 'Terrorism and Counter-Terrorism in Nigeria: The Legal and Institutional Frameworks' (2015) 3 *Nigerian Law Journal* 89, p. 101.

⁴⁹Federal Government of Nigeria, *Terrorism (Prevention and Prohibition) Act*, 2022.

⁵⁰Amnesty International, 'Nigeria: Mass Trials of Boko Haram Suspects Marred by Serious Fair Trial Concerns', 2018.

⁵¹A.A. Oyeboade, 'The Nigerian Legal Framework for Combating Terrorism: An Appraisal' (2014) 12 *Nigerian Journal of Public Law* 45, 62.

⁵²United Nations General Assembly, 'Global Counter-Terrorism Strategy', A/RES/60/288 (2006), para. IV.

⁵³Terrorism (Prevention and Prohibition) Act, 2022.

penalties, including the death penalty in extreme cases.⁵⁴

Additionally, Nigerian counter-terrorism laws allow for preventive detention, which permits security agencies to detain terrorism suspects for extended periods without trial. This practice has raised serious concerns regarding arbitrary detention and due process violations. Under normal circumstances, the *Nigerian Constitution of 1999 (as amended)* stipulates that detainees must be brought before a court within 48 hours. However, counter-terrorism laws provide for prolonged detention beyond this period, often without adequate judicial oversight.⁵⁵

Nigeria's counter-terrorism framework also permits extensive surveillance of suspected individuals. The government can monitor financial transactions, communications, and social media activities under counter-terrorism laws, raising concerns over violations of privacy and personal freedoms.⁵⁶ Judicial oversight mechanisms exist but are often weak, as courts frequently defer to national security arguments when challenged on human rights grounds.⁵⁷

3.2 The USA's Counter-Terrorism Legal Framework

In the USA, counter-terrorism laws were significantly expanded following the September 11, 2001 terrorist attacks. The most notable legislation enacted in response was the *USA PATRIOT Act of 2001*, which enhanced government surveillance capabilities and increased the authority of law enforcement agencies to investigate suspected terrorists.⁵⁸ The Act introduced sweeping provisions for wiretapping, financial surveillance, and information-sharing between government agencies.

Another crucial piece of legislation is the *National Defense Authorization Act (NDAA) of 2012*, which permits the indefinite detention of individuals suspected of terrorism, including US citizens, without trial.⁵⁹ This provision has been widely criticized for its violation of habeas corpus rights and due process protections.

The *Foreign Intelligence Surveillance Act (FISA)*, first enacted in 1978 and later amended in 2008, allows for electronic surveillance of foreign nationals suspected of involvement in terrorism, even without requiring traditional probable cause.⁶⁰ This law provides the National Security Agency (NSA) and the *Federal Bureau of Investigation (FBI)* with the power to monitor emails, phone calls, and online activities.

The USA has also come under international scrutiny for its Guantanamo Bay detention policy, which permits the indefinite detention of terrorism suspects classified as “enemy combatants”, often without trial or judicial review. Although the US Supreme Court ruled in *Boumediene v. Bush* (2008)⁶¹ that Guantanamo detainees have a constitutional right to habeas corpus, indefinite detention remains a contentious issue in US counter-terrorism policy.

3.3 Human Rights Concerns in Counter-Terrorism Laws of Nigeria and USA

3.3.1 Preventive Detention and Due Process Violations

One of the major human rights concerns in both Nigeria and the USA is the preventive detention of terrorism suspects without due process.

In Nigeria, counter-terrorism laws allow for the detention of suspects for extended periods without trial. Reports from Amnesty International indicate that individuals accused of having links to Boko Haram or other militant groups are often detained without access to legal representation or family contact.⁶²

⁵⁴Ibid ss.4

⁵⁵Amnesty International, Nigeria: 'Arbitrary Detention of Terrorism Suspects', (2023).

⁵⁶Nigeria Communications Act, 2003.

⁵⁷Human Rights Watch., 'Judicial Oversight and Counter-Terrorism in Nigeria'. (2022).

⁵⁸USA PATRIOT Act of 2001.

⁵⁹National Defense Authorization Act (NDAA), 2012.

⁶⁰Foreign Intelligence Surveillance Act (FISA), 2008.

⁶¹(2008) 553 U.S. 723

⁶²Amnesty International. 'Arbitrary Detention and Boko Haram', (2023).

Similarly, in the USA, the *National Defense Authorization Act (NDAA) of 2012* allows the military to detain terrorism suspects indefinitely without trial, including US citizens. Critics argue that this provision undermines constitutional protections against arbitrary detention, as enshrined in the Fifth and Sixth Amendments of the US Constitution.⁶³

3.3.2 Torture and Inhumane Treatment

Both Nigeria and the USA have faced accusations of torture and inhumane treatment of terrorism suspects. In Nigeria, reports indicate that security forces routinely use torture, forced confessions, and extrajudicial executions during counter-terrorism operations.⁶⁴ A report by Human Rights Watch detailed numerous instances of detainees being subjected to beatings, electric shocks, and mock executions in military detention facilities.

In the USA, the use of "enhanced interrogation techniques"—such as waterboarding, sleep deprivation, and stress positions—has been widely documented, particularly in CIA black sites and Guantanamo Bay.⁶⁵ The Senate Intelligence Committee's 2014 report on torture confirmed that detainees were subjected to brutal interrogation methods in violation of the *United Nations Convention Against Torture and other Cruel, Inhuman or Degrading Treatment or punishment, (UNCAT) 1984*.

While Nigeria and the USA have implemented robust counter-terrorism laws, both countries have been widely criticized for human rights violations. Nigeria's weak judicial oversight has contributed to arbitrary detentions, extrajudicial killings, and torture, while the USA's counter-terrorism framework, despite stronger judicial checks, continues to raise concerns over indefinite detention, mass surveillance, and drone strikes. Strengthening transparency, accountability, and compliance with international human rights standards is crucial in ensuring a balance between national security and civil liberties.

3.4 Comparison of Human Rights Implications of Counter-Terrorism Measures in Nigeria and the USA

Counter-terrorism policies often create a delicate balance between national security interests and fundamental human rights protections. Governments must act decisively to prevent terrorist threats, yet their policies and enforcement mechanisms frequently result in human rights violations. Both Nigeria and the United States have implemented strict counter-terrorism laws and strategies to combat terrorism within their borders, but these measures have been criticized for excessive use of force, arbitrary detentions, mass surveillance, and violations of due process.

While both nations have legal frameworks that recognize human rights protections, counter-terrorism enforcement has often led to widespread abuses, especially against marginalized communities. This article provides a comparative analysis of how counter-terrorism measures in Nigeria and the USA have impacted human rights, with a focus on detention practices, fair trial rights, mass surveillance, extrajudicial killings, and the use of force.

3.4.1 Arbitrary Detention and Due Process Violations

One of the most significant human rights concerns in counter-terrorism operations is arbitrary detention—the imprisonment of individuals without proper legal procedures. Both Nigeria and the USA have been accused of detaining terror suspects without sufficient legal justification, often denying them access to fair trials.

⁶³American Civil Liberties Union (ACLU), 2022.

⁶⁴Human Rights Watch (2023). *'Torture in Nigerian Detention Centers'*, (2023).

⁶⁵Senate Intelligence Committee Report on CIA Torture, 2014.

In Nigeria, the enforcement of the *Terrorism (Prevention) Act of 2011 and its 2013 amendment* has led to indiscriminate arrests and prolonged detention without trial, particularly by security agencies such as the Department of State Services (DSS) and the Nigerian Army.⁶⁶ Reports indicate that suspected Boko Haram members and other detainees have been held for years without charges, legal representation, or judicial review.⁶⁷ A notable case is the mass arrest of over 400 suspected Boko Haram members in Borno State in 2015, where many were detained in inhumane conditions at Giwa Barracks without trial for extended periods.⁶⁸

Similarly, in the United States, the *post-9/11 USA PATRIOT Act (2001)* expanded the government's power to detain non-citizens suspected of terrorism-related activities without formal charges or a speedy trial.⁶⁹ The Guantanamo Bay detention facility remains one of the most controversial examples of this policy, where detainees—including individuals held for over a decade without trial—have reported torture, unlawful interrogation methods, and deprivation of basic legal rights.⁷⁰ Cases like that of Khalid Sheikh Mohammed, the alleged mastermind of 9/11, who has remained in detention without trial since 2003, exemplify the flaws in due process protections in U.S. counter-terrorism measures.⁷¹

3.4.2 Extrajudicial Killings and Use of Force

Both Nigeria and the USA have faced international criticism for their use of extrajudicial killings and excessive force in counter-terrorism operations.

In Nigeria, security forces have been accused of arbitrarily killing suspected terrorists, including civilians in conflict zones. Amnesty International has documented several cases of the Nigerian military executing Boko Haram suspects without trial. In 2013, a leaked video showed Nigerian soldiers executing unarmed detainees in Borno State, raising serious concerns about human rights violations by security agencies.⁷² Additionally, the #EndSARS movement of 2020 highlighted broader concerns about state violence and impunity in security operations.⁷³

Similarly, the United States' counter-terrorism strategy has relied heavily on drone strikes and targeted assassinations, often resulting in civilian casualties. The Obama administration's drone warfare program targeted terrorist suspects in Pakistan, Yemen, and Somalia, but reports indicate that many innocent civilians, including women and children, were killed in these operations.⁷⁴ A particularly controversial case was the 2011 drone strike in Yemen that killed Anwar al-Awlaki, an American citizen, without trial, raising questions about the U.S. government's authority to execute citizens without due process.⁷⁵

4.0 RECOMMENDATIONS:

The study of the overview of the counter terrorism framework/ policies in Nigeria has significant implications for counter-terrorism law, human rights protection, and the balance between national security and civil liberties in Nigeria. The findings highlight the urgent need for reforms in counter-terrorism frameworks to ensure that security measures comply with international human rights standards while effectively addressing terrorism threats.

⁶⁶Terrorism (Prevention) Act, 2011 (Amended in 2013).

⁶⁷ Amnesty International, 'Nigeria: Arbitrary Detention in Counter-Terrorism Operations'. (2016).

⁶⁸ Human Rights Watch., 'Nigeria: Military Detains Hundreds Without Trial', (2015).

⁶⁹ USA PATRIOT Act, 2001.

⁷⁰ United Nations., 'Report on Human Rights Violations in Guantanamo Bay'. (2018).

⁷¹ American Civil Liberties Union (ACLU). 'Guantanamo and Due Process Concerns'. (2020).

⁷² Amnesty International. 'Nigeria: Extrajudicial Killings by Security Forces', (2013).

⁷³ BBC News. '#EndSARS and Police Brutality in Nigeria', (2020).

⁷⁴ Bureau of Investigative Journalism. 'Civilian Deaths in U.S. Drone Strikes', (2017).

⁷⁵ ACLU. 'Unlawful Killings in U.S. Counter-Terrorism Operations', (2015).

I hereby recommend the strengthening of Nigerian legal and institutional frameworks by widening the scope as that of other international countries like UK and USA. I also recommend for enhancing inter agency coordination and resource allocation. I recommend that there is need to promote public awareness and community engagement in counter-terrorism efforts. Finally, I call for balancing counter-terrorism laws with human rights protections mechanisms in the war against terrorism.

5.0 CONCLUSION:

One of the key findings of this research is that the Nigeria's counter-terrorism laws, primarily the Terrorism (Prevention) Act of 2011, amended in 2013, provide the government with broad powers to conduct warrantless arrests, detain individuals for extended periods, and use military force in counter-terrorism operations. These laws have been criticized for their lack of judicial oversight, which has led to numerous human rights violations.

Reports by Amnesty International and Human Rights Watch document cases of prolonged detention without trial, enforced disappearances, and the use of torture as an interrogation tool. The lack of judicial oversight in Nigeria's counter-terrorism efforts has contributed to a culture of impunity, where security agencies operate with minimal accountability.⁷⁷ The Nigerian judiciary, despite its constitutional independence, often defers to executive and military authority in terrorism-related cases, undermining due process rights and the rule of law.

This study concludes that while Nigeria have made significant efforts to combat terrorism, her approach often results in serious human rights concerns. Nigeria's counter-terrorism framework is characterized by weak judicial oversight, arbitrary detentions, and a lack of accountability for security forces. The adverse use of counter-terrorism laws/strategies against political opponents, journalists, and human right activists has further weakened democratic principles and the rule of law. For counter-terrorism efforts to be more effective and aligned with human rights standards, Nigeria must take significant steps to reform their legal frameworks, strengthen judicial independence, improve oversight mechanisms, and enforce international legal standards.

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