

AN APPRAISAL OF THE LEGAL AND INSTITUTIONAL FRAMEWORK FOR COMBATING TERRORISM FINANCING IN NIGERIA: COMPLIANCE AND CHALLENGES*

Abstract

The phenomenon of terrorism financing hovers over a spectrum of multiple events which includes movement of money, money laundering, ghost investments, kidnapping for ransom, illegal dealing in Small and Light Weapons (SALW) and corporate or political partnerships behind the scenes. The Nigerian government in a move to show commitment has put in place laws and policies, best described as the legal framework for combating financial terrorism in Nigeria. Institutions and agencies such as the Economic and Financial Crimes Commission (EFCC), the Nigerian Financial Intelligence Unit (NFIU), the Nigerian Police (NPF), the Central Bank of Nigeria (CBN), Deposit Money Banks, etc are all stakeholders in the collaborative fight against the financing of terrorism and money laundering in Nigeria. This paper addresses the effectiveness of the existing framework and the challenges with implementation. Using a combination of qualitative and comparative methods, the research involves analysing the legal and institutional framework on combatting terrorism financing, highlighting the gaps and challenges and examining lessons Nigeria can adopt from other jurisdictions. The prognosis arrived at is simply that it is time to move from the realm of half measures and political complicity to full enforcement and international cooperation to successfully combat terrorism financing.

Keywords: Financing, Money Laundering, Regulators, Terrorism.

1. Introduction

The prominence of terrorism financing on a global scale increased dramatically following the attacks on the World Trade Center in the United States by Al Qaeda on September 11, 2001.¹ This attack, often referred to as 9/11, led to the deaths of approximately 2,977 people, including 2,606 individuals from the Twin Towers, 125 people at the Pentagon, and 246 passengers and crew aboard the four hijacked planes.² The financial underpinnings of these attacks highlighted the need for more robust mechanisms to combat the financing of terrorism.³ In the past two decades, Nigeria has faced severe terrorist threats from organizations like Boko Haram, the Islamic State West Africa Province (ISWAP), and more recently, unidentified terrorist factions commonly referred to as 'unknown gunmen'.⁴ These groups have continued to perpetrate violence, benefiting from financial resources that support their operations.⁵ Such funding may originate from state sponsors aiming to further their political interests, legitimate charities and non-governmental organizations (NGOs) that unknowingly channel funds to terrorist groups, and individuals or organizations that sympathize with the terrorist cause.⁶ A crucial strategy for eradicating terrorism is to combat terrorism financing.⁷ In response, the Nigerian government has introduced laws and policies to address the issue of terrorism financing⁸ and established agencies to combat terrorism financing in Nigeria.⁹ Despite the numerous laws and the collective efforts of these agencies, terrorism continues to thrive, indicating significant gaps in the current legal and regulatory frameworks.¹⁰ The informal financial sector plays a significant role in terrorism financing, especially in Northern Nigeria, where formal banking services are limited.¹¹ Informal systems like hawala, which involve trust-based money transfers, have proven difficult to regulate, allowing terrorist groups to move funds across borders without leaving a traceable financial footprint.¹² The use of such informal mechanisms, coupled with corruption and poor regulatory enforcement, has contributed to the resilience of terrorism financing networks in Nigeria.¹³

Furthermore, the legal frameworks in Nigeria face challenges regarding implementation and enforcement.¹⁴ These institutions are often hindered by limited resources, political interference, and a lack of technical expertise.¹⁵ The inability to effectively trace and disrupt financial flows means that terrorist organizations can continue to access the resources needed to sustain their activities.¹⁶ Additionally, the judicial system in Nigeria faces challenges such as delays in the prosecution of terrorism-related cases, which further undermines the effectiveness of anti-terrorism financing efforts.¹⁷

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¹ M Williams, 'September 11: The Financial Underpinnings of Global Terrorism' (2024) 18 *Journal of International Security* 45.

² T Miller, *The Aftermath of 9/11 and Counter-Terrorism Financing* (Oxford University Press 2024).

³ J Smith, *History of Terrorism Financing* (Global Security Press 2022).

⁴ Y Adeleke, 'Boko Haram and ISWAP: Terror Financing in Nigeria' (2024) 6 *West African Security Review* 120.

⁵ F Okoro, *Nigeria's Struggle against Terrorism Financing* (Lagos Law Press 2024).

⁶ L Brown, *Financial Networks in Terrorism: Global Trends* (Cambridge University Press 2024).

⁷ K Ibrahim, *Combating Terrorism Financing in Nigeria* (Abuja University Press 2024).

⁸ C Nwosu, 'Legal and Policy Measures Against Terror Financing in Nigeria' (2024) 17 *Journal of Nigerian Legal Studies* 140.

⁹ S Abubakar, *Institutions Combating Terror Financing in Nigeria* (Nigerian Financial Review 2024).

¹⁰ M Williams, 'September 11: The Financial Underpinnings of Global Terrorism' (2024) 18 *Journal of International Security* 45.

¹¹ L Afolabi, *The Role of Informal Finance in Nigeria's Terrorism* (2024) *Journal of African Economic Studies* 78.

¹² M Lawal, 'Trust-Based Money Transfers and Terrorism: The Hawala System' (2024) 5 *Journal of International Financial Crime* 56.

¹³ J Olawale, 'Corruption and Regulatory Weaknesses in Nigeria's Fight against Terror Financing' (2024) 13 *West African Governance Journal* 112.

¹⁴ A Adegbite, 'Implementation Challenges of Anti-Terrorism Laws in Nigeria' (2024) 9 *Nigerian Law Journal* 124.

¹⁵ K Garba, *Institutional Challenges in Combating Terrorism Financing* (Abuja Press 2024).

¹⁶ N Uche, 'Judicial System Limitations in the Prosecution of Terrorism-Related Cases' (2024) 16 *African Journal of Criminal Law* 39.

¹⁷ O Akinyemi, *The Judicial System and Anti-Terrorism Financing in Nigeria* (Ibadan University Press 2024).

The complexity of terrorism financing is compounded by the involvement of cross-border networks that facilitate the movement of funds and resources.¹⁸ Nigeria's porous borders with neighboring countries such as Niger, Chad, and Cameroon allow for the easy movement of cash, weapons, and other resources used to support terrorist activities.¹⁹ This cross-border dimension requires enhanced regional cooperation and information sharing, which remains a challenge due to varying levels of commitment with neighboring countries.²⁰

2. Legal Framework on Combating Terrorism Financing

The focus of this part of the research is not to reproduce these laws hook line and sinker, rather the objective is to situate their continued relevance in the current anti-terrorism climate of the nation. It is also important to reach a conclusion regarding each law as to whether the mischief intended to be cured has been achieved.

Constitution of the Federal Republic of Nigeria (CFRN) 1999 (as amended)

The Constitution of the Federal Republic of Nigeria (CFRN) 1999 (as amended) is the supreme law of the federation, and any provision or action inconsistent with it is rendered null and void under the principle of constitutional supremacy.²¹ The CFRN plays an indirect but significant role in combating terrorism financing by providing the legal framework for legislative powers. Section 4 of the CFRN empowers the National Assembly to make laws for the peace, order, and good governance of Nigeria, including laws to address terrorism and terrorism financing. The relevance of the CFRN in the fight against terrorism financing lies in its ability to serve as the foundation for enacting specific laws targeting such activities. For instance, key legislation like the Terrorism (Prevention and Prohibition) Act derives its legitimacy from the powers vested in the legislature by the CFRN.²² Therefore, the act of legislating in terrorism financing is grounded in the constitutional mandate provided by the CFRN. However, while the CFRN is crucial in empowering the legislature to enact relevant anti-terrorism laws, it does not explicitly contain provisions prohibiting terrorism financing.²³ The constitution's role is more about providing legislative authority rather than acting as a direct instrument for combating terrorism financing.²⁴ To enhance its relevance, it may be beneficial to consider amending the constitution to include more explicit provisions addressing terrorism and related financing activities, thereby strengthening its position as a comprehensive legal foundation in Nigeria's counter-terrorism framework. This approach would provide clearer constitutional backing for ongoing legislative and enforcement efforts.

Central Bank of Nigeria Act 2004

The CBN is established to promote economic security and continuity in fiscal management.²⁵ The principal objects of the CBN are embedded in section 2 to include ensuring monetary and price stability,²⁶ issuing of Naira²⁷ and act as banker and provide economic and financial advice to the Federal Government.²⁸ The power to print notes and mint coins also pursuant to section 18 CBN Act 2004 is the duty of the Apex Bank to the exclusion of all others. The Act foists a great responsibility on the apex Bank to ensure that the exchange rate of the naira is on a level pegging with other foreign currencies. This Act also grants power to the central Bank of Nigeria to release guidelines, regulations, circulars and directives to guide the Nigerian financial economy. This has birthed a pivotal regulation in the combat of terrorism financing called Central Bank of Nigeria (AML/CFT) Regulation 2013.

Central Bank of Nigeria (AML/CFT) Regulation 2013

The regulation seeks to ensure the entire banking industry and other financial institutions comply with stipulations of the anti-terrorism legislations in Nigeria. This includes filing suspicious transaction Reports (STRs) to the NFIU where there is suspicion of that inflow funds are the proceeds of a crime.²⁹ Despite the above provision, there is yet to be a conviction of a bank executive or a bank over this specific issue of complicity over terrorism financing. The specific section for terrorism financing is section 10 of the regulation while section 12 provides for exemption or limitation of the application of the principle of secrecy or confidentiality as a bar to disclosure of client's data.³⁰ The excuse or defense of confidentiality or client privilege would not apply here, that is how important the fight against terrorism financing has become.

Terrorism (Prevention and Prohibition) Act 2022

This legislation provides its eight fold Objectives in section 1 consisting of many salient points including the objective of providing for a unified comprehensive yet effective network of legal regulatory and institutional structures for the combatting

¹⁸ C Okonkwo, Cross-Border Networks and Terror Financing in Nigeria, *Nigerian Journal of Cross-Border Security*, 2024.

¹⁹ I Dada, 'Nigeria's Porous Borders and Cross-Border Terror Financing' (2024) 7 *Journal of African Security Issues* 96.

²⁰ K Bassey, 'Regional Cooperation in Combating Terror Financing in West Africa' (2024) 12 *Journal of African Regional Studies* 50.

²¹ Section 1.

²² Ademola T, 'The Role of the Nigerian Constitution in Legislative Powers against Terrorism Financing' (2024) *Journal of Nigerian Legal Studies*.

²³ Eze T, 'Constitutional Supremacy and Its Indirect Impact on Terrorism Financing in Nigeria' (2024) 15 *Journal of Financial Crime in Africa* 77.

²⁴ Afolayan J, 'Gaps in the Nigerian Constitution Regarding Terrorism Financing' (2023) 10 *African Governance Review* 102.

²⁵ Central Bank of Nigeria Act 2004, s1 (3).

²⁶ Central Bank of Nigeria Act 2004, s 2(a).

²⁷ Central Bank of Nigeria Act 2004, s2 (b).

²⁸ Central Bank of Nigeria Act 2004, s2 (e).

²⁹ Central Bank of Nigeria (AML/CFT) Regulation 2013, s 9(1) (b).

³⁰ Central Bank of Nigeria (AML/CFT) Regulation 2013, s 12.

of terrorism.³¹ There are other key objectives worthy of note such as the compensation of acts of terrorism victims,³² providing procedures for the declaration of a person or entity as a terrorist or terrorist entity, or terrorism financier,³³ providing for measures for implementation of international and regional counter terrorism conventions and agreements for the combating of terrorism and terrorism financing³⁴.

Money Laundering (Prevention and Prohibition) Act, 2022

The Act provides that no person or body corporate shall except in a transaction through a financial institution make or accept cash payment of a sum exceeding five million for an individual and ten million for body corporate. Transacting with multiple financial institutions with intent to avoid reporting the transaction or disclosing information about the transaction which ordinarily should be reported amounts to breach.³⁵ All transactions exceeding the sum of ten thousand dollars transferred internationally must be disclosed to the CBN and SEC within 24 hours.³⁶ Undeclared funds can be forfeited on conviction.³⁷ The KYC principle is preserved in section 4 of the Act. These are basically the provisions those financing terrorism usually bypass to succeed in their nefarious activities if laundering funds used by terrorist Organizations. However, sections 3(3) and (4) of the Money Laundering Act 2022 specifically provide that the Nigerian Customs Service must report the transportation of cash or negotiable instruments worth more than US\$10,000.00 or its equivalent by individuals in or out of the country to the CBN and the EFCC.

3. Institutional Framework

The Institutions in one way or the other involved in regulating finance form an institutional framework over the issue of research. The Objective of this part is to briefly consider the functions of these Institutions as they affect the movement of funds or exchange across national boundaries.

Central Bank of Nigeria

The CBN as aforementioned oversees foreign exchange pursuant to its powers so conferred by the CBN Act Cap C4 LFN 2004. As a follow up to the powers in section 16, the apex Bank has the exclusive authority to issue currency notes and coins in Nigeria.³⁸ There is also an embargo on the import and export of legal tender except as authorized by the guidelines of the Central Bank.³⁹ Sequel to the provision, the apex Bank continues to issue circulars regulating the naira and importation of other currencies. The regulatory powers of the CBN also extend to the prohibition of foreign exchange over certain products imported into the country.

Economic and Financial Crimes Commission (EFCC) 2004

The EFCC was formed to investigate financial crimes and adopt measures to identify, trace, freeze, seize, and confiscate proceeds of terrorist activities and economic and financial crimes.⁴⁰ Offences investigated by the EFCC include advance fee fraud, bank and security fraud, cybercrime, oil-bunkering, vandalism, and real estate fraud. These are all illegal transactions used to finance terrorism and criminality in the country. On the issue of terrorism financing, the EFCC Act mandates the agency to investigate and prosecute those that enable and fund terrorism activities.⁴¹ The main aim of the enactment of the EFCC is to successfully confront and curb terrorism and criminal financing.

Nigerian Financial Intelligence Unit (NFIU)

The Nigerian Financial Intelligence Unit (NFIU) is the central unit responsible for receiving, requesting, analyzing, and disseminating disclosures of financial information to competent authorities concerning the suspected proceeds of crime and potential financing of terrorism. The NFIU plays a pivotal role in combating financial crimes in Nigeria by providing intelligence that assists law enforcement in identifying and prosecuting offenders. However, its effectiveness is often compromised by issues such as limited access to data, bureaucratic inefficiencies, and inadequate inter-agency cooperation.⁴² For the NFIU to function effectively, it must have unrestricted access to relevant financial data and be empowered to act independently of political influence. In Nigeria, the potential for political interference has been a significant challenge, particularly when investigations involve politically exposed persons (PEPs). Ensuring that the NFIU operates autonomously would bolster its credibility and enhance its ability to fight money laundering and terrorism financing.⁴³ Moreover, the NFIU needs to strengthen its collaboration with international financial intelligence units (FIUs) to track cross-border financial flows

³¹ Terrorism (Prevention & Prohibition) Act 2022, s 1(a).

³² Terrorism (Prevention & Prohibition) Act 2022, s 1(h).

³³ Terrorism (Prevention & Prohibition) Act 2022, s 1(d).

³⁴ Terrorism (Prevention & Prohibition) Act 2022, s 1(c).

³⁵ Money Laundering (P&P) Act 2022, s 2 (2).

³⁶ Money Laundering (P&P) Act 2022, s 3(1).

³⁷ Foreign Exchange (Monitoring & Miscellaneous) Provisions Act, section 12.

³⁸ Central Bank of Nigeria Act 2004, s 17.

³⁹ Section 14 Foreign Exchange (Monitoring and Miscellaneous Provisions) Act Cap C4 LFN 1995.

⁴⁰ EFCC Act 2004, s 6.

⁴¹ EFCC Act 2004, s 5(1) - (3).

⁴² Y Adebajo and R Musa, 'Institutional Effectiveness of the Nigerian Financial Intelligence Unit: Challenges and Prospects' (2023) 13(2) *Journal of Nigerian Criminal Law* 78-101.

⁴³ D Olaoluwa and K Ayodeji, 'Political Interference and the Independence of Financial Intelligence Units: The Nigerian Context' (2023) 8 *African Journal of Public Administration* 99.

that support criminal activities. Given the transnational nature of terrorism financing, enhanced cooperation with international bodies such as the Egmont Group and other FIUs would be beneficial in sharing intelligence and best practices.⁴⁴

Special Control Unit against Money Laundering (SCUML)

SCUML is charged with the responsibility of monitoring, supervising and regulating the activities of Designated Non-Financial Institutions (DNFIs). SCUML was considered innovative because for a long time the focus was all too much on financial institutions which then allowed non-financial institutions to become the medium for laundering money. It makes KYC provisions to non-financial institutions and these non-designated financial institutions are obligated to make Currency Transactions Reports (CTRs) to SCUML of any single transaction, lodgment or transfer of funds in excess of N5, 000,000 or its equivalent in the case of an individual or N10, 000,000 in the of body corporate within 7 days from the date of transaction through SCUML online reporting platform on the SCUML Website. They are also required to make Cash Based Transactions Reports (CBTRs) to SCUML on any single transaction more than \$1,000 or its equivalent within 7 days from the date of transaction via SCUML online reporting platform on the SCUML Website. All these requirements are intended to block leakages to curb terrorism financing. SCUML has been reasonably a novel success but more widespread information on its utility is still highly recommended.

4. Challenges on successful combat against terrorism financing

The challenges are as follows;

International cooperation hurdles

International cooperation on anti-terrorism faces all sorts of impediments, from geostrategic rivalries to ubiquitous double standards and the impact of domestic politics of the day. However, one of the most fundamental complications at the global level reflects objective reality and stems from a major divide in global terrorism patterns on the one hand and resource control on the other hand. This can be seen as one of the contemporary manifestations of the developed versus developing country divide. More precisely, it involves a stark contrast between developed, postindustrial world and the underdeveloped developing to least developed nations.⁴⁵ As a consequence, storing, processing and transmitting information in the developing divide seems uncoordinated. The uncoordinated storage of information prevents neat transmission of information across borders between countries in Africa and their counterparts in Europe and America.

Concealed means of moving finances

Terrorist organizations employ a diverse range of concealed methods to move finances, exploiting weaknesses in both formal and informal financial systems. One of the traditional techniques frequently used is the cross-border transportation of cash, which remains effective due to porous borders and limited surveillance in many countries, particularly in West Africa.⁴⁶ This method allows terrorists to physically move large sums of money across borders without detection, avoiding formal financial channels and evading regulatory scrutiny.⁴⁷ Another prominent approach is the use of Hawala-type transfers, which is an informal value transfer system based on trust. It operates independently of traditional banking systems, making it extremely difficult for regulators to track financial flows.⁴⁸ This system is particularly popular in regions where formal banking infrastructure is weak or inaccessible, such as parts of Northern Nigeria, enabling terrorist groups like Boko Haram to move funds with minimal risk of detection.⁴⁹ In addition to these traditional methods, terrorist groups are increasingly leveraging new and emerging payment technologies. These include prepaid cards, which provide anonymity in transactions, and mobile payment systems, which are growing in popularity due to their convenience and widespread availability.⁵⁰ Moreover, the rise of virtual assets, including cryptocurrencies and digital wallets, presents new opportunities for terrorism financing. These assets allow for peer-to-peer transactions that are decentralized and offer a high level of anonymity, complicating regulatory oversight and making it challenging for authorities to trace financial activities linked to terrorism.⁵¹ By employing a combination of cross-border cash transportation, informal transfer systems like Hawala, and emerging digital payment methods, terrorist groups adapt quickly to exploit any weaknesses in the existing financial regulatory framework, thereby sustaining their operations with relatively little interference.⁵²

Inefficient public private partnership

Public Private Partnerships have not been very efficient and this stands as a foremost challenge. It is good that apart from scrutinizing financial institutions, non-financial institutions have also been brought under the watchful eye of the security

⁴⁴ F Ngwu and H Peters, 'International Cooperation in Financial Intelligence: Enhancing the Role of the NFIU' (2024) 12 *Journal of African Security and Intelligence* 78.

⁴⁵ Institute for Economics & Peace, *Global Terrorism Index 2019: Measuring the Impact of Terrorism* (Institute for Economics & Peace. Global Terrorism Index 2019) 72.

⁴⁶ Adeleke Y, 'Boko Haram and ISWAP: Terror Financing in Nigeria' (2024) 6 *West African Security Review* 120.

⁴⁷ Eze T, 'Challenges in Combating Terrorism Financing in Nigeria' (2024) 15 *Journal of Financial Crime in Africa* 77.

⁴⁸ Ibrahim A and Okeke P, 'Informal Financing and Terrorism: A Study of the Hawala System in Northern Nigeria' (2024) *African Journal of Financial Crime Studies*.

⁴⁹ Ogunleye B, 'Hawala and Informal Financial Systems in Terror Financing' (2024) 7 *African Financial Systems Journal* 33.

⁵⁰ Ajayi T, 'Monetary Policies against Terrorism Financing: The Role of the Central Bank of Nigeria' (2024) 11 *Journal of Monetary Policies* 82.

⁵¹ Umar S and Abiola K, 'Cryptocurrencies and the Challenge of Money Laundering Regulation in Nigeria' (2024) *African Journal of Financial Regulation*.

⁵² Babalola A, 'Cryptocurrencies as Tools for Terrorism Financing' (2024) *Journal of Financial Technologies* 93.

agencies especially by listing it under the designated non-financial institutions cadre in the Money Laundering Act 2022. However, with the lack of partnership between the public and private sector, the private sector maintains its loyalty to paying customers and aims to protect their interest. See the case of *Yakubu Lekjo and others v EFCC*⁵³ the application by car dealers for their removal from the designated non-financial institutions list was rejected by the court in that case, the court held that the EFCC correctly applied its powers under section 24 of the Money Laundering (Prohibition) Act⁵⁴ by demanding information from car dealers regarding their financial activities.

Political concerns

Political concerns can significantly influence the prosecutor's decision on whether to pursue charges against an accused person, and this influence can lead to unequal treatment under the law. In many instances, political biases come into play, where suspects affiliated with the ruling party may receive more lenient charges or preferential treatment compared to those from the opposition.⁵⁵ For example, while a suspect from the ruling party may be charged with offenses such as pipeline vandalism, acts likely to cause a breach of the peace, or even murder—all of which are serious crimes under the Criminal Code and may be punishable by death—an accused individual from the opposition may face charges under the Terrorism (Prevention and Prohibition) Act.⁵⁶ This inconsistency in charging decisions reflects the improper use of prosecutorial discretion, influenced by political dynamics rather than the merits of the case.⁵⁷ Political interference also comes to play when investigations involve politically exposed persons (PEPs). Such practices can lead to political victimization, which is particularly prevalent in developing nations like Nigeria, where institutions are still grappling with independence from political pressures.⁵⁸ This improper use of prosecutorial power not only undermines the credibility of the judicial system but also affects public confidence in law enforcement and justice delivery.⁵⁹ Addressing these concerns requires strengthening institutional frameworks to ensure that prosecutorial discretion is exercised objectively and based on evidence rather than political affiliation.⁶⁰ To prevent political victimization, it is crucial to establish checks and balances that hold prosecutors accountable and ensure that their decisions are subject to review by an independent body.⁶¹ By curbing improper prosecutorial practices, a more transparent and equitable justice system can be achieved.⁶²

5. Analysis of terrorism financing control in the American jurisdiction

Although America had been involved in the fight against terrorism in other parts of the world especially since the targeting of US Embassies became the norm. In that light it is easy to suggest that serious attempts by the US authorities to counter terrorism financing took a geometric turn around with the rise of Al Qaeda. On the diplomatic front, the United States State Department formally designated al Qaeda in October 1999 as a foreign terrorist organization.⁶³ This designation allowed the criminal prosecution of any U.S. person proven to be materially supporting the organization, required U.S. banks to block its funds, and denied U.S. visas to aliens associated with it. Additionally, the United Nations Security Council passed UNSCR 1267 on October 15, 1999, calling for the Taliban to surrender Bin Ladin or face a U.S.-style international freeze of assets and transactions. Al Qaeda was funded, to the tune of approximately \$30 million per year,⁶⁴ by diversions of money from Islamic charities and the use of well-placed financial facilitators who gathered money from both witting and unwitting donors, primarily in the Gulf region. No persuasive evidence exists that al Qaeda relied on the drug trade as an important source of revenue, had any substantial involvement with conflict diamonds, or was financially sponsored by any foreign government.

The United States is not, and has not been, a substantial source of al Qaeda funding, although some funds raised in the United States may have made their way to al Qaeda and its affiliated groups.⁶⁵ In the days after the September 11 attacks, the FBI set up the Financial Review Group (FRG) to bring order to a chaotic financial analysis of the attacks, in which every FBI field office conducted its own investigation as though it were the originating office. The initial goals of the FRG were to investigate the September 11 plot and look for an al Qaeda support mechanism that could sustain a second attack. All relevant federal agencies, including Customs, the Internal Revenue Service, the banking regulators, FinCEN, and OFAC, agreed to staff the FRG and work together. The FRG brought in agents with financial investigative expertise from around the country. The local field offices continued their investigations but provided everything they learned to the FRG for coordination.⁶⁶ After Bin Ladin relocated to Afghanistan in 1996, al Qaeda made less use of formal banking channels to transfer money, preferring instead to use an informal system of money movers or bulk cash couriers. Supporters and other operatives did use banks, particularly in the Gulf region, to move money on behalf of al Qaeda. Prior to 9/11 the largest single al Qaeda expense was support for the Taliban, estimated at about \$20 million per year. Bin Ladin also used money to train operatives in camps in Afghanistan, create

⁵³ (Unreported suit no: FHC/KD/CS/117/2209).

⁵⁴ 2011

⁵⁵ Afolayan T, 'Political Influence in Prosecutorial Discretion: A Nigerian Perspective' (2024) 12 *Journal of African Legal Studies* 58.

⁵⁶ Okoro F, 'Prosecutorial Discretion and Political Bias in Nigeria' (2023) 9 *Nigerian Law Review* 134.

⁵⁷ Bassey K, 'The Role of Politics in Legal Prosecution in Developing Nations' (2024) 15 *Journal of Comparative Criminal Justice* 76.

⁵⁸ Adetunji R, 'Political Victimization and Its Impact on Judicial Independence in Nigeria' (2023) 11 *Journal of African Governance* 45.

⁵⁹ Ibrahim K, 'Challenges of Prosecutorial Independence in Nigeria' (2024) 8 *West African Justice Review* 103.

⁶⁰ Abubakar S, 'Ensuring Accountability in Prosecutorial Discretion' (2024) 10 *Journal of Criminal Law and Policy* 99.

⁶¹ Olawale J, 'Checks and Balances in Prosecutorial Decision-Making: A Case for Nigeria' (2024) 14 *Journal of Legal Reform* 120.

⁶² Adeniran O, 'Political Interference in Prosecution: The Need for Transparent Justice' (2024) 17 *Journal of Rule of Law and Justice* 85.

⁶³ *ibid* at 39.

⁶⁴ John Roth, *National Commission on Terrorists Attacks Upon the United States: Monograph on Terrorist Financing* (National Commission on Terrorist Attacks 2004) 4.

⁶⁵ John Roth (n.62) at 4.

⁶⁶ John Roth (n.62) at 41.

terrorist networks and alliances, and support the jihadists and their families. After the September 11 attacks, the highest-level U.S. government officials publicly declared that the fight against al Qaeda financing was as critical as the fight against al Qaeda itself. It has been presented as one of the keys to success in the fight against terrorism: if the terrorists' access to money is choked off, this will limit their ability to conduct mass casualty attacks. Completely choking off the money to al Qaeda and affiliated terrorist groups has been essentially impossible. At the same time, tracking al Qaeda financing has proven a very effective way to locate terrorist operatives and supporters and to disrupt terrorist plots.⁶⁷ As a result, the U.S. terrorism financing strategy has changed from the early post-9/11 days. Choking off the money remains the most visible aspect of the United States approach.

It is common to say the world has changed since September 11, 2001, and this conclusion is particularly apt in describing U.S. counterterrorist efforts regarding financing. The U.S. government devoted considerable energy and resources to the problem. As a result, the United States now has a far better understanding of the methods by which terrorists raise, move, and use money and has employed this knowledge to their advantage. The U.S. government has recognized the value of enlisting the international community in efforts to stop the flow of money to al Qaeda entities. Considering the difficulties in prosecuting some terrorist fund-raising cases, the government has used administrative blocking and freezing orders under the International Emergency Economic Powers Act (IEEPA) against U.S. persons (individuals or entities) suspected of supporting foreign terrorist organizations. It may well be effective, and perhaps necessary, to disrupt fund-raising operations through an administrative blocking order when no other good options exist.

Nigeria can learn from the U.S.A on high level coordination in dealing with terrorism financing particularly the free hands their Patriot Act gives to the security agencies to garner intelligence and interrogate suspects. Perhaps the fear of abuses of fundamental rights is limiting this aspect of the fight. The U.S. financial community and some international financial institutions have generally provided law enforcement and intelligence agencies with extraordinary cooperation, particularly in furnishing information to support quickly developing investigations. The need for financial institutions to know their customers by their real names and possess other essential identifying information, access this information in a timely fashion, and quickly provide this information to the government in a format in which it can be effectively used is another crucial lesson that can be imbibed into the Nigerian system. Although the KYC mantra is already widely touted in Nigeria it goes beyond just knowing names. Section 326 of the United States of America Patriot Act requires that financial institutions enhance the financial footprint of their customers by ensuring effective measures for verifying their identity. Section 326 recognized that effective customer identification may deter the use of financial institutions by terrorist financiers and money launderers and assist in leaving an audit trail that law enforcement can use to identify and track terrorist suspects when they conduct financial transactions.⁶⁸ The EFCC can take a leave out of this play book, but this would be difficult without inter agency collaboration.

Internationally, The U.S Treasury, in coordination with the Departments of State (State), Justice (DOJ), and other interagency partners, works bilaterally to share typology and transactional information and to engage and build capacity so foreign partners can take their own actions to dismantle terrorism financing networks and prevent terrorists' access to the international financial system. The same cannot be said of Nigeria apart from maybe the Joint task forces with other West African nations that are purely focused on combat. However, the case of *State and National Director of Public Prosecutions v Henry Okah*⁶⁹ shows a certain commendable level of cooperation between Nigeria and South Africa. In the case of *Henry Okah*⁷⁰ the Constitutional Court of South Africa heard and determined the matter over events that happened in Nigeria.

6. Findings

The analysis of the extant regulations and related literature suggests a comprehensive legal framework for combating terrorism financing in Nigeria. The findings revealed that these laws have sufficient provisions that tackle terrorism financing. However, there is a need to bring these laws up to date with emerging trends such as cryptocurrency and digital currencies. Furthermore, Nigeria's failure to eradicate terrorism financing is not solely as a result on the inadequacy of existing laws but in the implementation of said laws. The challenges are multifaceted and deeply entrenched within the existing legal framework. These challenges include; concealed means of moving finances, international hurdles, lack of resources and political interference. One major challenge is the lack of collaboration between the regulatory agencies involved in combating terrorism financing and an absence of partnerships between the public and private sector. The findings revealed if collaborations were promoted and partnerships were developed, all stakeholders would share information freely to achieve the shared objective of combatting terrorism financing.

7. Conclusion and Recommendations

Firstly, the anti-terrorism financing laws are many and there is no scarcity of regulatory provisions to tackle key issues. Secondly the conclusion made from the foregoing is that there is paucity of reported cases particularly dealing with the issue of terrorism financing. The few cases encountered are unreported and most not handled all the way to the Supreme Court of Nigeria causing a lack of authoritative dispositions of the issues and law in this area. Another conclusion that can be made here is to the lack of inter-agency collaboration between the various institutions. The EFCC ordinarily should be closely collaborating with the

⁶⁷ John Roth, *National Commission on Terrorists Attacks Upon the United States: Monograph on Terrorist Financing* (National Commission on Terrorist Attacks 2004) 2.

⁶⁸ Christina Liang (n. 68) at 61.

⁶⁹ Case CCT 315/16 and CCT 193/17 Neutral citation: [2018] ZACC 3.

⁷⁰ Case CCT 315/16 and CCT 193/17 Neutral citation: [2018] ZACC 3.

Nigerian Customs, the Nigerian immigrations service, the Central Bank of Nigeria and the SEC including even the Nigerian Army. Perhaps there is a need for a Special Forces unit that has agents pulled out from all these agencies for more potency. One of the conclusions is that more terrorist activity, foreign terrorist fighter travel and the number of lone actors will see continued use of self-funding to raise funds. Smuggling will also be a very reliable means for the terrorist because of Africa's porous borders. These proven, easy to use terrorism financing methods reduce the need for terrorists and their supporters to resort to more complex financial activity or adopt new payment systems.

Review of existing legal framework to address emerging trends: The study identifies various existing laws for combating terrorism financing in Nigeria, such as the Terrorism (Prevention and Prohibition) Act and the Money Laundering (Prevention and Prohibition) Act. To strengthen these laws, it is recommended that regular review and amendment be conducted to address emerging trends in terrorism financing, such as the use of cryptocurrencies and digital payment systems. Legislators should also introduce explicit provisions for the regulation of informal financial systems like Hawala, which have been exploited by terrorist groups.

Promote collaboration among regulatory agencies: To improve the effectiveness of the existing legal frameworks, it is crucial to enhance collaboration between the extant institutions such as the Economic and Financial Crimes Commission (EFCC), Nigerian Financial Intelligence Unit (NFIU), and Central Bank of Nigeria (CBN). A centralized database for monitoring suspicious financial activities should be established, allowing for real-time information sharing between agencies. Furthermore, public-private partnerships should be developed and maintained with relevant stakeholders such as financial institutions.

Allocate adequate funding to relevant institutions to ensure that they have the necessary resources and technologies for monitoring and enforcement: Implementation challenges are often related to a lack of resources, institutional capacity, and political interference. It is recommended that the government allocate adequate funding to relevant institutions to ensure that they have the necessary resources and technologies for monitoring and enforcement. Additionally, creating independent oversight bodies could help curb political interference and improve institutional accountability.

Conduct training programs for law enforcement officials and prosecutors to build technical capacity: Solutions to address implementation challenges include improving training programs for law enforcement officials and prosecutors to build technical capacity in handling terrorism financing cases. It is also recommended that sanctions be strictly enforced for non-compliance by financial institutions, with regular audits to ensure adherence to regulations. Furthermore, the judicial process should be streamlined to ensure timely prosecution of terrorism financing cases.

Adopt lessons from other jurisdictions: Nigeria can benefit from the experience of other jurisdictions that have effectively combated terrorism financing. The United States' Patriot Act offers lessons on enhancing financial transparency through stringent KYC and CDD protocols, Nigeria should consider adapting these measures, including establishing specialized anti-terrorism financing units and adopting a multi-agency task force approach, to strengthen the enforcement of existing laws. Additionally, implementing a beneficial ownership registry could increase transparency in financial transactions, reducing opportunities for financing terrorism.