

TERRORISM AND COUNTER-TERRORISM PARADIGMS AND MODELS IN SELECTED JURISDICTIONS: LESSONS FOR NIGERIA*

Abstract

As terrorism continues to pose serious threat to global peace and security, the quest to preserve the human race necessitated a progressively evolving legal response across jurisdictions in the bid to address the menace. The development consequently gave rise to the drive for states to transplant mechanism and framework that have succeeded elsewhere. It is in the light of the above that this article offers a legal analysis of counter-terrorism frameworks in select jurisdictions, touching the United States, the United Kingdom, Egypt and India, largely from the Nigerian standpoint. It focuses on legislative strategies, institutional structures, human rights safeguards, and operational effectiveness. Drawing on statutory provisions such as Nigeria's Terrorism (Prevention and Prohibition) Act, 2022, the USA Patriot Act, and similar laws in the UK, Egypt and India, this article critically examined how states balanced security imperatives with democratic accountability and the rule of law. Using the doctrinal approach, it explored the legal underpinnings of preventive detention, surveillance powers, asset forfeiture, and trial procedures for terrorism-related offences. The study identified key strengths and limitations in each legal regime, highlighting recurring challenges such as overreach, procedural opacity, and the erosion of civil liberties. It further distills actionable lessons for legislative refinement, institutional collaboration, and rights-respecting enforcement in developing jurisdictions, particularly Nigeria. The work concluded by advocating for Nigeria's strict adherence to best practices; adopting a more harmonized counter-terrorism model that incorporates international human rights norms, fosters inter-agency coordination, and prioritizes both security and justice in the global fight against terrorism.

Keywords: Terrorism, Counter-terrorism, Legal Regime, Nigeria

1. Introduction

It appears that extremism is the root cause of modern-day terrorism in Nigeria.¹ Often times, this extremism, otherwise called fundamentalism, is tied to foreign influences. Illustrative in this sense was the Maitatsine terror waves and crisis in most parts of Northern Nigeria which were ignited at the time by the unorthodox beliefs and practices² of the notorious Maitatsine Islamic sect during the Shagari regime³. It would be recalled that the religious fanaticism of the sect had links with foreign elements. The leader of the group, Muhammadu Marwa, was a foreigner, who was said to have immigrated into Kano in 1945 from Marwa in Northern Cameroon as an Islamic Scholar⁴. Thus, the seed of terrorism planted in Nigeria by Maitatsine Islamic sect gave birth to similar force traceable to Boko Haram sect⁵ associated with the current state of terror in many parts of northern Nigeria. The alliance of Boko Haram with foreign fighters can be gleaned from the sect's and its breakaway group's (ISWAP⁶) relationship with al Qaeda, as same clearly exemplifies their links in that regard. Thus, like the contemporary Boko Haram and ISWAP, Maitatsine was a faith based extremist group, which because of their extremist and violent disposition, ignited serious terror threats at the time. Furthermore, the emergence and activities of the 'terror group of the moment' 'lakurawa'⁷, and even the Mamuda terror group equally gives credence to the connections between extremism, foreign influence and terrorism in Nigeria. Nigeria is today bedevilled by the kind of terrorism that is largely propelled and nurtured by influx of foreign terrorist elements. This study analyses counter-terrorism frameworks in select jurisdictions, focusing on legislative strategies, institutional structures, human rights safeguards, and operational effectiveness. It proposes most of the findings as lessons for Nigeria.

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¹ IO Albert, 'Violence in Metropolitan Kano: A Historical Perspective,' *Urban Violence in Africa, IFRA-Nigeria* (1994) 111-136.

² *ibid.* Some of such weird beliefs and practices of the sect include their incorporation of different kinds of rituals into their model of Islam, which many *kanawas* considered un-Islamic. Other eerie conducts of the sect include its leader's condemnation of the Quran and arguments against the prophethood of Prophet Mohammed as well as declaring himself a prophet. See Federal Government of Nigeria (FGN), *Report of Tribunal of Inquiry on Kano Disturbances* (Lagos: Federal Government Press, 1981) p 15. Marwa, as the leader the sect equally preached against the use of modern gadgets like wrist watches, motor vehicles and even bicycles and was able to inculcate same believe into his teaming followers. The height of the sect's fanaticism lies in their believe that only them are genuine Muslims deploying of all manner of threats and force to gain converts, one of which is their leader's *modus* of invoking curse on those who refused to accept his teachings. It was this unwholesome practice that gave him the name 'Maitatsine', meaning, 'one who curses' in line with his popular assertion that 'Allah will punish whoever refuses to accept what I teach' ('*Wanda bai yarda ba Allah ta tsine mishi*'). Despite its anti-order practices, the Maitatsinist reputedly had intimidating membership, particularly in Kano. Thus, according to Balogun, membership of the sect was estimated to be between six and ten thousand in 1980- See SA Balogun, 1989. 'Islam in Nigeria: Its Historical Development. In: *Nigeria Since Independence*': *The First 25 Years* (1989). Vol. LX, 54-70.

³ TG Ishaya, *et al.*, 'Kidnapping and Abduction in Nigeria: Threat to National Security and Socio-economic Development', *Journal of Innovation Research and Development*, (2019)8(10)49-76.

⁴ AI Olawale, 'Violence in Metropolitan Kano: A Historical Perspective,' *Urban Violence in Africa, IFRA-Nigeria* (1994) 111-136. See also, A Adamu, Maitatsine: Act VI Scene VI, *Citizen*, (Feb, 1993) 1, 16-17.

⁵ The group started off with religious teachings against western civilization

⁶ Islamic State's West African Province

⁷ The word 'lakurawa' means 'recruits' in the Hausa language, See B Aburime, Nigeria's Unending War Against Insurgency and the Emergence of the Lakurawa Group: Implications for Security Forces and Way Forward in ThisDay, Who are the Lakaruwas? <<https://www.thisdaylive.com/index.php/2024/11/19/who-are-the-lakurawas/>>

2. Contextual Clarifications

In order to make for better appreciation, clarification of key terms in the study is necessary.

Terrorism

It is instructive to observe that the term ‘terrorism’ is yet with no generally accepted definition even in the field of international law⁸ as dwelling on efforts at attaining a universal definition of terrorism is still a mirage⁹. However, a working understanding of terrorism drawn from sources is possible. Schmid gives a simple and concise definition of the subject when he posits that, ‘terrorism is the peacetime equivalent of war crimes’¹⁰. According to Poland, ‘terrorism is the premeditated, deliberate, systematic murder, mayhem and threatening of the innocent to create fear and intimidation in order to gain a political or tactical advantage, usually to influence an audience’.¹¹ Fernandez on his part, views terrorism as the organized use of violence against civilians or their property, the political leadership of a nation, or soldiers (who are not combatants in a war) for political purposes.¹² Laqueur believes that terrorism constitutes the illegitimate use of force to achieve a political objective when innocent people are targeted¹³. It is however important to assert that terrorism entails so much more than all the submissions above. Drawing from the foregoing, it is opined that terrorism or acts of terrorism refers to indiscriminate and intentional criminal acts carried out to cause destruction of valuables, death, harm or fear to person (s) of either select or random background without necessarily an instigating provocation emanating from the victims. It refers to the illegitimate creation and exploitation of fear through violence or threat of same on particularly ‘the innocent’ in pursuit of a set goal.

Counter-terrorism

In a broad sense, counterterrorism can be defined as ‘practices, tactics, techniques and strategies that governments, militaries and other groups adopts to fight terrorism’¹⁴. Counter-terrorism involves executing some laid down procedures and arrangements towards the detection, prevention or neutralization of terrorist threats or exploits¹⁵. According to Makinda, counter terrorism has moved from reactionary measures to now encompass proactive and continuing practices that anticipate, prevent and pre-empt terrorist activities¹⁶. Counter terrorism, according to the United States Joint Doctrine, simply refers to ‘operations that include the offensive measures taken to prevent, deter, pre-empt and respond to terrorism and ‘as actions taken directly against terrorist networks and indirectly to influence and render global and regional environment inhospitable to terrorist networks’¹⁷.

3. Major Counter-Terrorism Paradigms

It may be necessary to distinguish counter-terrorism policies from counter-terrorism paradigms. Counter-terrorism policies include measures put in place to do any or all of the following: freeze financial assets of terrorist organisations, join international anti-terrorism treaties, use force extra-territorially, provide military and economic aid to other states and stipulate guidelines

⁸Same inexactitude in terms of definition of the term holds way in the law enforcement, intelligence, military/national security and the international counter-terrorism sector.

⁹Even in Nigeria, there is seemingly no simple and easily comprehensible definition of the term despite an existing framework. Thus, the Terrorism Prevention Acts, both the Principal Act of 2011 and the Amendment Act of 2013, as well as the current Terrorism (Prevention and Prohibition) Act, 2022, did not define terrorism but rather gave a somewhat verbose definition of ‘act of terrorism’(which can be gleaned from the combined effect of section 2(3) and the interpretation provisions in section 99 of the Act ;containing a sweeping definition to the effect that ‘act of terrorism’ means any act specified in section 2 of this Act.) and proceeded to criminalize and prohibit same- See TPAA, (2022), S.2(1) as well as 2(3) thereof. Similarly, within the US, terrorism has multiple definitions. For instance, it has been defined as ‘the unlawful use of force and violence against persons or property to intimidate or coerce a government, the civilian population, or any segment thereof, in furtherance of political or social objective-see The U.S. Code of Federal Regulations, 28 C.F.R. Section 0.85. On the part of the USA Patriot Act, according to section 802(2) thereof ‘international terrorism’ means activities that- a) involve violent acts or acts dangerous to human life that are a violation of the criminal laws of the United States or any State, or that would be a criminal violation if committed within the jurisdiction of the United States or any State; b) appear to be intended- i) to intimidate or coerce a civilian population; ii) to influence the policy of a government by intimidation or coercion; or iii) to affect the policy of a government by mass destruction, assassination, or kidnapping; and c) occur primarily outside the territorial jurisdiction of the United States, or transcend national boundaries in terms of the means by which they are accomplished, the persons they appear intended to intimidate or coerce, or the locale in which their perpetrators operate or seek asylum. While ‘domestic terrorism’, according to section 802(5), means activities that- (a) involve acts dangerous to human life that are a violation of the criminal laws of the United States or of any State; (b) appear to be intended- (i) to intimidate or coerce a civilian population; (ii) to influence the policy of a government by intimidation or coercion; or (ii) to affect the policy of a government by mass destruction, assassination, or kidnapping; and (c) occur primarily within the territorial jurisdiction of the United States.

¹⁰AP Schmid, *The Definition of Terrorism, A Study in Compliance with CTL/9/91/2207 for the U.N Crime Prevention and Criminal Justice Branch*, December, 1992. The instant definition offered by Schmid has attained global popularity, such that it was cited with approval by the Supreme Court of India in *Singh v Bihar*, 2004 SOL Case No.264, April 2, 2004, para.16 <http://supremecourtsonline.com/> (Upholding Conviction under the Indian Terrorist and Disruptive Activities Act of 1987 of a number of heavily armed individuals who attacked a group of Police Officers). See also, MP Scharf, ‘Defining Terrorism as the Peacetime Equivalent of War Crimes: Problems and Prospects,’ *Faculty Publications*, (2004) 229.

¹¹JM Poland, *Understanding Terrorism: Groups, Strategies, and Responses* (Pearson, 2010), p 1.

¹²G Palmer-Fernandez, ‘Terrorism, Innocence and Justice Philosophy and Public’ *Quarterly* [2008] (3), 24.

¹³W Laqueur, *The New Terrorism, Fanatism and the Arms of Mass Destruction* (New York: Oxford University Press, 1999), p 5.

¹⁴P Wilkinson, *Terrorism and Democracy: The Liberal State Response*, (London: Routledge, 2006) p 6.

¹⁵BO Nweke, *op cit.* n 16, p 176.

¹⁶S Makinda, ‘Terrorism, Counter-terrorism and Norms in Africa’, *African Security Review*, 15-13, 2006 p 27

¹⁷US Department of Defence, Joint Chief of Staff, Counter Terrorism, Publication 3-26, 2009 pp.6, p v (introduction)

for exercise of law-enforcement assaults against terrorist sites.¹⁸ It is also important to note that individual state policies do not stop at the state's borders as they tend to blur the lines between domestic and foreign policies, it thus involves law enforcement, intelligence and defence agencies networking across territorial barriers. Counterterrorism approaches or paradigms, on the other hand, simply refer to the operational tools and framework within which the mechanisms for combating terrorism are activated. They are tools and measures that advance counterterrorism objectives¹⁹. There are so many modules, paradigms or approaches to countering terrorism as scholars are not in agreement as to a standardized classification. For instance, Crelinstein and Schemid classified counterterrorism approaches into the 'soft line' and 'hard line' approaches and the 'domestic criminal justice' and 'war' or 'low intensity conflict approaches'²⁰. Pillar, on his part, categorised counterterrorism into defensive and offensive approaches²¹. For Paul Rogers, he dichotomised it into, traditional approach, direct military approach and the indirect approach.²² However, when arguments bordering on the legality of counterterrorism responses are considered, the debate is usually narrowed or reduced into the criminal justice versus military force contestation²³, hence the importance of dwelling on these two predominant paradigms.

Criminal Justice/Enforcement Paradigm/Model

At the very core of this paradigm are certain requirements, namely, the prosecution of terror suspects before a fair and transparent court system based on clearly designated offences created by law.²⁴ It emphasises and deploys traditional crime fighting mechanisms like investigation, arrest, prosecution, conviction and punishment of terror suspects rather than using exclusive military force to fight the menace as an 'act of war'. This approach views terrorism as a crime, terrorists as criminals and in effect, applies criminal justice mechanism in addressing terrorism and bringing terrorists to account. It has been observed that all conventions against terrorism ever adopted under the auspices of the United Nations, and even the earlier League of Nations inexorably envisaged terrorism as a crime to be dealt with through the creation of proscriptive legal norms.²⁵ Thus, it is important to state that the various UN enabled international treaties on terrorism addresses different aspects of the threat largely through the prism of criminal justice approach. Many countries²⁶ have in place anti-terror mechanisms that emphasise counterterrorism through this paradigm. In the US legal system, for instance, the law enforcement paradigm has also been utilised in addition to its popular 'war rhetoric' to pursue and bring terrorists to justice. Thus, within her system, criminal trials and convictions for terror related offences are illustrated by some notable cases including, *United States v Rahman*²⁷, wherein the defendant (Rahman, otherwise called the 'blind Sheikh') was sentenced to imprisonment for life for his role in the first attempted bombing of the World Trade Centre in 1993, among others²⁸.

¹⁸MY Omelicheva, 'Counterterrorism: The State of Scholarship, Directions for Future Data Collection and Analysis' Perspective on Terrorism, 1(2), 2007.....p2 Note : Counter terrorism policy also include defensive and offensive respectively such as securing vulnerable infrastructure on the one hand and intelligence collection operations, legislations and enforcement measures on the other hand.-See RD Crelinstein & AP Schmid, 'Western Responses to Terrorism: A Twenty-Five Year Balance Sheet', *Terrorism and Political Violence*, volume 4 Number 4, 1992. See also, 2006, M Torres, Jordan & Horseburgh, 'Analysis and Evolution of the Global Jihadist Movement Propaganda', *Journal of Terrorism and Political Violence*, Volume 18 Number 3 Fall 2006, pp399-421.

¹⁹S Makinda, *op. cit.* (note 16), p 27.

²⁰RD Crelinstein & AP Schemid, 'Western Responses to Terrorism: A Twenty-Five Year Balance Sheet' *Terrorism and Political Violence*, Vol. 4, 1992.

²¹PR Pillar, 'Counterterrorism' in PD Williams (ed), *Security Studies: An Introduction*, (New York: Routledge, Taylor & Francis Group, 2008) p328.

²²P Rogers, 'Terrorism', in PD Williams (ed), *Security Studies: An Introduction*, (New York: Routledge, Taylor & Francis Group, 2008) p 176.

²³GE Maggs, 'Assessing the Legality of Counterterrorism Measures Without Characterizing them as Law Enforcement or Military Action', *Template Law Review*, Vol. 80, 2007, pp663-665.

²⁴See United Nations Counterterrorism Committee Executive Directorate (CTED), 'Survey of the Implementation of Security Council Regulation 1373', New York, (S/2008/379), 2008. Note, that the framework established under Resolution 1373 provides the basis for the development of a domestic counterterrorism strategy that is rooted in due process and human rights protection in the arrest and prosecution of terrorists.

²⁵See David W Glazier, 'If I Could Turn Back Time: Re-lawyering the War on Terror', Loyola University Law School Legal Studies Paper No.2008-30, October 2008, p11.

²⁶In this regard, Nigeria's counterterrorism legal framework is criminal justice based. Spain for instance utilised the law enforcement counterterrorism approach and took decisive actions against terrorists (after the Madrid attacks in 2004). It will be recalled that the attack led to arrest of 29 suspects who were quickly arraigned for their involvement in the planning and execution of the attacks. See Heidi Michelle Schlagheck, 'The Importance of International Law in Counterterrorism: The Needs for New Guidelines in International Law to Assist States Responding to Terrorist Attacks' (Unpublished Dissertation, Virginia State University, 2006) p 145. It is important to observe that even the US (although banks on military force modul) still pay premium to this approach considering the volume of prosecution of terror related case in the country.

²⁷189 F.3d 88, 11(2d cir, 1999)

²⁸Other examples include *United States v Moussaoun*, No.1:01CR00455-001(E.D.Va. May 4, 2006.), wherein the defendant (considered the 20th hijacker during 9/11), *United States v Yuniz*, 924 f.2d 1086(D.C.Cir.1991), wherein Fawaz Yunis (defendant) who hijacked and blew up a Royal Jordanian Flight 402 in 1985 was according prosecuted using this paradigm. Also, *United States v Rezaq*, 134 F.2d. 1121(D.C. Cir.1998)., wherein the defendant was prosecuted in for air piracy based on an oversea hijacking in which an American passenger died. The facts of the case were that in 1985, Omar Rezaq hijacked an Air Egypt flight shortly after takeoff from Athens, and ordered it to fly to Malta. On arrival, Rezaq shot several of the passengers, killing two of them before he was apprehended. He pleaded guilty to the charge of murder and served seven years imprisonment in Malta. Shortly after his release from prison in Malta in 1993, Rezaq was taken into custody in Nigeria by US authorities and taken to the US for trial. It is also worthy of note to state that in 2000, the Southern District Court of New York indicted Osama bin Laden with several other defendants for the US Embassies bombing in Tanzania and Kenya. see *United States v Bin Laden*, 109F.Supp.2d211(S.D.N.Y 2000). Although Osama himself was not arrested, some of the defendants however pleaded guilty, and were convicted and sentenced to various terms of imprisonment. See *United State v El Hage*, 213, F3d 74 (2dCir.2000). Similarly, the cases of

Criminal justice paradigm presents some advantages ranging from the fact that it activates a somewhat preventive dimension to countering terrorism, appears civil in nature and in tune with human rights requirements, among other like attributes. This stems from the fact that all international counterterrorism treaties and even domestic laws enacted in fulfilment of these treaties are known to contain preparatory offences, with obligations on states to criminalise actions preparatory to terrorist attack, such as conspiracy, financing, incitement, recruitment and the likes; hence terror threats are more easily prevented before they occur. Also, because of the constitutional safeguards inherent in criminal trials in most national jurisdictions, the criminal justice paradigm would ordinarily guarantee a higher level of compliance and respect for human rights.²⁹ Within Nigeria, the series of arrests and prosecution of terrorists including extradition and international cooperation in this wise is expressive of the application of the criminal justice model in the country's counter terrorism effort³⁰.

Military Force/Armed Conflict Paradigm/Model

This model leverages on deployment of military force as a means of countering terrorism. The decision to utilise military force in this sense is usually informed by the very nature of the terror group in issue and more particularly its capability, reach and weaponry. This paradigm perceives and tackles terrorists like adversaries in war situations. Prior to the 9/11 terrorist attack on the US, terrorism was largely viewed by most states as mere crimes, which requires just the traditional criminal justice or law enforcement response. However, some states at the time were already applying military force against terrorists in what they deemed extreme circumstances³¹. At that time, Israel was remarkable as the only country that developed its counterterrorism strategy around the use of military force, apparently because of the peculiarities of threats, which made it imperative to strive beyond the usual practice in order to safeguard its very existence as a nation³².

It is interesting to note that the military force paradigm gained international traction after the 9/11 attack (an extreme situation) which of course elicited extra-ordinary response not only from the US but the international community. Accordingly, George Bush Jr., the then US President, in what appears to be an insight into the culminating factors for use of military force against terrorist, stated thus:

I know that some people question if America is really in a war at all. They view terrorism as a crime, a problem to be solved mainly with law enforcement and indictment. After the World Trade Centre was first attacked in 1993, some of the guilty were indicted and tried and convicted and sent to prison. But the matter was not settled. The terrorists were still training and plotting in other nations, and drawing up more ambitious plans. After the chaos and carnage of September the 11th, it is not enough to serve our enemies with legal papers. The terrorists and their supporters declared war on the United States, and war is what they got³³.

While deploying military force in the 'war on terror' has raised several legal challenges, including which law should apply, it is instructive to observe that the situation appears to blur the lines between International Humanitarian Law and counter terrorism laws (whether at the domestic or international level). In all, the proliferation of transnational terrorist groups with global reach, who possess sophisticated weapons and readiness to target and inflict greater damage on human life and property, makes resort to military force a favoured paradigm³⁴. Other reasons include the fact that many terror groups in the present age have acquired financial muscle and war chest to fund and develop advanced weaponry technology, even as some are nation-

United States v Salameh, 152 F3 d88(2nd Cir 1998) as well as *United States v Yousef*, 927 F. Supp 673(S.D.N.Y 1996) are illustrative of the deployment of the law enforcement or criminal justice counterterrorism model in the US, just like the case of *United States v Umar Farouk Abdulmutallab*, No: 2: 10-CR 2005, (2005) (US District Court of Michigan, Detroit. See also Sebastian Rotella, 'US Had Planned to Interview Would-Be Bomber on Landing', *Seattle Times*, Jan. 6, 2010.

²⁹Jolyon Ford, *Beyond the War on Terror: A Study of Criminal Justice Response to Terrorism in the Maghreb* (S.A Institute for Security Studies, Monograph 165, July 2009) p30.

³⁰Some notable terrorism cases prosecuted in Nigerian courts, include *FRN v. Mohammed Yusuf & Others* (2011) 6 NWLR (Pt. 1242) 55, which involved the prosecution of Mohammed Yusuf, the leader of the Boko Haram sect, and others for terrorism-related offenses; *AGF v. Aliyu Bello & 3 Others* (2017) LPELR-43545(SC), wherein, the defendants were charged with financing terrorism and other related offenses; *State v. Kabiru Umar* (2014) 10 NWLR (Pt. 1415) 515, the defendant, Kabiru Umar (a.k.a. Kabiru Sokoto) was prosecuted for masterminding the 2011 Christmas Day bombing at St. Theresa Catholic Church in Madalla, Niger State; *FRN v. Aminu Sadiq Ogwuche & Others* (2015) LPELR-40835(CA), the defendants were prosecuted for their involvements in the April 2014 Nyanya motor park bombing in Abuja.

³¹This is amply illustrated by the much criticized very controversial US bombing of Tripoli in 1986 following Gadhafi's sponsored terrorism against it, the US bombing of al Qaeda training camps in Sudan in year 2000 as well as the 1991 bombing of Iraqi Security Headquarters in Bagdad following Iraqi failed assassination plot against the then US President, George Bush. See Walter Gary Sharp Sr. 'The Use of Armed Force against Terrorism: American Hegemony or impotence', 1 Chi. J. Intl. 37 (2000) p41. Thus, the US alongside Israel are known to have resorted to this paradigm much earlier under certain situations.

³²Heidi Michelle Schlagheck, *op. cit*, pp132-135

³³President George W. Bush, State of the Union Address, (Jan.20, 2004) <<https://www.whitehouse.gov/briefingroom>>accessed 2/3/25. Interestingly, the instant statement was re-echoed by his predecessor, President Barack Obama in his National Security Remarks on May 21, 2009, saying 'Now let me be clear. We are indeed at war with al Qaeda and its affiliates' –See President Barack Obama, Remarks by the President on National Security (May 21, 2009. <<http://www.whitehouse.gov/the-press-office/Remarks-by-the-President-on-National-Security-5-21-09>. See generally, Ved p. Nanda, 'Introductory Essay: International Law Implications of the United States 'War on Terror', *Dev. J. Int'l & Poly*, vol.37:4, 2009, p.514.

³⁴Peter Chalk, *West European Terrorism and Counter-Terrorism: The Evolving Dynamic* (1996) pp25-44&65-90.

states in disguise³⁵ (with almost all the capabilities of a sovereign state). Thus, dealing with international terrorists operating in territories where they enjoy active or passive supports, or in failed or rogue states, diminishes the efficacy of law enforcement approach,³⁶ but with military force, such situation can be better handled.

In Nigeria, the series of military operation against Boko Haram and ISWAP, clearly exemplifies the deployment of the military force paradigm by the country in combating these terror groups. Thus, military or Joint Security operations against terror are scattered in different parts of the country, even as they are codenamed variously and distinctively with Operation Hadin Kai, Safe Haven, Whirl Stroke, Delta Safe, etc and other ad hoc military interventions in that order.

4. Counter-Terror Regime in Some Jurisdictions

The subject of this study makes it expedient to explore the counter-terrorism frameworks of other countries for purposes of analysis and comparison with a view to finding out how other jurisdictions have fared and whether there are lessons to be drawn therefrom. Accordingly, and premised on the need for spread, coupled with constraints brought about by the impossibility of delving into the situations in all states of the world, certain strategic countries selected from America, Europe, Asia and Africa are herein are studied. The United States of America (USA) is featured because of its globally acknowledged leadership position in world affairs³⁷ as well as vast experience in counter-terrorism. The United Kingdom aside being one of the world powers is equally considered strategic because of its leadership position in counter-terror efforts within the continent of Europe and beyond. India and Egypt are assessed important owing to their vast experiences in counter-terrorism within their respective continents of Asia and Africa.

United States of America

It is apt to commence an analysis or appraisal of the position of counter-terrorism laws in select jurisdictions across the globe with a consideration of the situation in the United States of America, because of the country's vast experience and strategic leadership position in global counter-terrorism resolve. As a prelude, it is compulsive to observe that the US, despite its history and past experiences, does not have a unified definition of terrorism³⁸ as various definitions of the term are scattered in numerous federal laws³⁹. Hence, the definition of the term in the US federal law has been described to be 'as confused as in international law'⁴⁰. For instance, an examination of the USA Patriot Act⁴¹ which appears to be the country's principal counter-terror law and of direct relevance to international terrorism shows that the Act views the subject thus:

2) the term 'international terrorism' means activities that-

- a) involve violent acts or acts dangerous to human life that are a violation of the criminal laws of the United States or any State, or that would be a criminal violation if committed within the jurisdiction of the United States or any State;
- b) appear to be intended-
- i) to intimidate or coerce a civilian population;
- ii) to influence the policy of a government by intimidation or coercion; or
- iii) to affect the policy of a government by mass destruction, assassination, or kidnapping; and
- c) occur primarily outside the territorial jurisdiction of the United States, or transcend national boundaries in terms of the means by which they are accomplished, the persons they appear intended to intimidate or coerce, or the locale in which their perpetrators operate or seek asylum;⁴²

The Act defines domestic terrorism thus⁴³:

5) the term 'domestic terrorism', means activities that-

- (a) involve acts dangerous to human life that are a violation of the criminal laws of the United States or of any State;
- (b) appear to be intended-
- (i) to intimidate or coerce a civilian population;

³⁵Most terrorist groups in contemporary times are proxies used by countries to fight enemy states. Hezbollah and Hamas clearly exemplify this as they are undeniably under the Iranian sponsorship and control.

³⁶See Neil C Livingstone, *Proactive Responses to terrorism: Reprisals, Preemption, and Retribution*, in Charles W. Kegley, Jr. (ed) *International Terrorism: Characteristics, Causes and Control*

³⁷The US is considered the most powerful country of the world with record of innumerable terror and counter-terror experience, hence the need to explore the counter-terrorism framework of this great nation.

³⁸BO Nweke, *Law of Armed Conflict in the Context of Nigeria's Counter Insurgency Engagements*, (Ibadan: University Press, 2023) p30.

³⁹Federal laws like the USA Patriot Act, US Department of State, (2000): Title 22 of the US Code as well as the U.S. Code of Federal Regulations, among others contains varying definitions in this respect. It should be noted that just like what obtains at the international scene, the numerous US federal legislations, executive orders and federal agencies regulations focuses on aspects of the subject of terrorism that are of utmost interest to the framers of each.

⁴⁰NJ Perry, 'The Numerous Federal Legal Definitions of Terrorism: The Problem of Too Many Grails,' 30 *J. Lewis*.249, (2004), pp 249-50 (examining twenty-two definitions of terrorism under the US federal laws).

⁴¹USA Patriot Act, is an acronym for 'Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism'. The Act, enacted in response to the 9/11 terrorist attacks, holds historical significance as a legislative response to enhance national security and counterterrorism efforts in the United States. It was signed into law by President George W. Bush on October 26, 2001, and built upon the foundation laid by its predecessor, the Anti-Terrorism and Effective Death Penalty Act of 1996. The PATRIOT Act is a comprehensive piece of legislation aimed at equipping law enforcement agencies with expanded powers to investigate, prosecute, and bring terrorists to justice, while also imposing stricter penalties for acts of terrorism. Thus, the law requires the financial industry to report suspicious customer behaviors to prevent terrorism-related money laundering-see sections 351 and 359 thereof.

⁴²S. 802(2) thereof

⁴³S.802(5)

- (ii) to influence the policy of a government by intimidation or coercion; or
- (ii) to affect the policy of a government by mass destruction, assassination, or kidnapping; and
- (c) occur primarily within the territorial jurisdiction of the United States.

The above definition is criticized as being imported from the Foreign Intelligence Surveillance Act of 1978⁴⁴, which was meant to be a limited and narrow statute.⁴⁵ Nevertheless, the provisions therein are strategic in the country's body of anti-terrorism laws. Also, of unique significance is the fact that the USA Patriot Act references and builds upon the definition of international terrorism found in the United States Code⁴⁶, rather than creating its own new definition. In other words, the definitions of 'international terrorism' under United States Code and the USA Patriot Act are thus closely related, as the latter relies on and builds upon the legal framework provided by the former. The US Department of States⁴⁷ on its part not only gave a definition of terrorism but equally conceptualizes 'international terrorism' as well as 'terrorist groups'. Accordingly, as contained therein, 'the term 'terrorism' means premeditated, politically motivated violence perpetrated against non-combatant targets by subnational groups or clandestine agents, usually intended to influence an audience'. It defines 'international terrorism' to mean 'terrorism involving citizens or the territory of more than one country', while 'terrorist groups' in its words, 'means any group practicing, or that has significant subgroup that practice, international terrorism'. The U.S. Code of Federal Regulations on its part defines terrorisms as 'the unlawful use of force and violence against persons or property to intimidate or coerce a government, the civilian population, or any segment thereof, in furtherance of political or social objective.'⁴⁸

From the foregoing, it is important to observe that there are material differences in the definition provisions of the federal laws examined above. However, they still share some commonalities to an extent, particularly with the presence of the essential element of 'violence' in all of them. Nevertheless, it is pertinent to state as rightly opined by Perry, that the lack of a unified definition of the subject under the US federal laws has created a lot of confusion in practice, especially as it concerns the designation process of individuals and groups as terrorists⁴⁹. The above notwithstanding, a cursory look at the US counter-terror legal framework through the prism of the US Patriot Act reveals certain unique features. One distinct feature of the USA Patriot Act is the provision allowing Law Enforcement Agencies to conduct investigations without alerting or 'tipping off' suspects⁵⁰. This approach enhances the element of surprise and may prevent suspects from evading capture or destroying evidence. While this is not outlawed in Nigeria, there is no express provision of such significance in the country. Furthermore, the US counter-terror legal framework has in-place a counter Terrorism Fund specifically provided for by the USA Patriot Act⁵¹. The Counter Terrorism Fund (CTF) does not have a specified limit on the amount that can be deposited into it, even as same is exclusively dedicated to financing counterterrorism activities. This is in sharp contrast with the situation in Nigeria where the Terrorism Prevention Act has no equivalent provision for similar dedicated fund set aside for the execution of counter-terror responsibilities. Thus, funding for counterterrorism efforts in Nigeria is subject to the usual appropriation mechanisms of the government, potentially leading to bureaucratic delays and ultimately inefficiency. The closest to this provision under the Terrorism (Prevention and Prohibition) Act (TPPA) is the victim's compensation fund⁵², which is dedicated for compensation of victims of acts of terrorism, including families of deceased victims.

Noteworthy is the fact that the original USA Patriot Act has come under amendments through the instrumentality of various subsequent laws. Some of the remarkable amendments in this respect were mainly brought about by the USA Patriot Improvement and Reauthorization Act 2005⁵³ and the USA Freedom Act 2015, which significantly amended the Patriot Act,

⁴⁴Foreign Intelligence Act, 1978 (FISA 50 U.S.C & 1801© 2006).

⁴⁵L.K. Donoghue, 'The Cost of Terrorism: Power, Politics and Liberty' (2008) pp1-2, *Sudha Setty*, pp24-25.

⁴⁶United States Code, Section 2331 of Title 18.

⁴⁷US Department of State, (2000): Title 22 of the US Code, Section 2656 (d) as quoted in US Department of State, Pattern of Global Terrorism 1999, Washington, D.C, Department of States, April, 2000, p viii.

⁴⁸See 28 C.F.R. Section 0.85

⁴⁹NJ Perry, *op. cit.*, note 66. P 270.

⁵⁰This is commonly referred to as 'sneak and peek' warrants and same is specifically provided for under section 213 of the Act. In practice, it works like a kind of discreet investigation as it permits delayed notification of the execution of search warrants, meaning investigators can search a premises or access information without immediately notifying the target. This approach is pro-law enforcement and serves enormous advantages in that regard particularly as it is designed to prevent suspects from fleeing, destroying evidence, or jeopardizing ongoing investigations. It is instructive to state that in practical terms, by this mechanism, notification is delayed for a specific period and must be approved by a judge.

⁵¹USA Patriot Act, 2001, Section 101. Specifically, the provision authorizes the creation and use of the fund to support counter-terrorism efforts. The fund serves to provide ready resources for the Department of Justice (to ensure seamless execution of its investigative and prosecutorial counter-terror responsibilities) and other federal agencies in their efforts to combat terrorism. It particularly covers costs connected to terrorism investigation and law enforcement operations bearing on counter-terrorism.

⁵²This is provided for under section 44 of the TPPA. The fund is financed through budgetary allocations from the government, contributions from international organizations, donor agencies, and private individuals, proceeds from forfeited properties and funds recovered from terrorism-related activities. In terms of administration, the fund is managed by a designated committee or authority tasked with ensuring transparency and accountability. Although, this provision is commendable as same highlights the government's commitment to addressing the plight of terrorism victims and promoting restorative justice, there is still need to create a dedicated counter-terrorism fund just as obtained in the US.

⁵³The amendments brought about by this Act Introduced additional safeguards, including improved oversight of surveillance activities. Also, it reauthorized key provisions that were set to expire, such as those related to roving wiretaps and access to business records under Section 215, even as it made many provisions of the original PATRIOT Act permanent.

particularly its surveillance provisions, among others⁵⁴. These amendments were partly spurred by human rights concerns and the need to take tougher measures against terrorism and its purveyors. To put it in simple terms, they were in fact responses to evolving concerns about balancing national security with individual privacy and civil liberty.

As observed earlier, the US counter-terrorism legal framework is multi-legislation in approach as the Patriot Act (just like the Nigeria's TPPA) operates alongside other federal laws, prominent among which are the Homeland Security Act 2002⁵⁵ and the National Defense Authorization Act (NDAA), containing provisions for the detention of terrorism suspects, military tribunals, and other counter-terrorism measures. Similarly, the framework is equally built on a multi-agency enforcement mechanism, allowing a pool of contribution from a vast number of agencies, including the National Security Agency (NSA)⁵⁶, the Central Intelligence Agency (CIA)⁵⁷, Federal Bureau of Investigation (FBI)⁵⁸, National Counterterrorism Center (NCTC)⁵⁹, Department of Homeland Security (DHS)⁶⁰, US Department of Defense (DoD),⁶¹ Office of the Director of National Intelligence (ODNI)⁶² as well as the US Department of State⁶³ and the US Secret Service (USSS)⁶⁴, among others. These agencies and bodies collaborate to address threats at all levels, be it domestic, international, physical, and cyber. In summary, the US legal framework for counter-terrorism is remarkable for certain unique features, which include broad statutory authority,⁶⁵ robust surveillance mechanism,⁶⁶ inherent Preventive Detention and Trial Mechanisms,⁶⁷ embodiment of Financial Counter-Terrorism

⁵⁴The Act ended the bulk collection of telephone metadata by the National Security Agency (NSA) under Section 215 even as it gave leverage for the Implementation of new transparency and reporting requirements for government surveillance activities.

⁵⁵This Act created the Department of Homeland Security (DHS) and consolidated various federal agencies to enhance national security and coordinate counter-terrorism efforts.

⁵⁶The NSA is empowered to monitor global communications for intelligence and counter-terrorism purposes with focus on signals intelligence (SIGINT), cyber-security, and intercepting terrorist communications.

⁵⁷The CIA's responsibilities centers around gathering and analyzing intelligence on foreign threats to U.S. national security, including international terrorism, with overseas intelligence gathering, disrupting terrorist networks abroad, and preventing attacks on U.S. interests.

⁵⁸The FBI is the primary federal law enforcement agency responsible for investigating and preventing acts of terrorism within the United States. It leads the Joint Terrorism Task Forces (JTTFs) and operates the Counterterrorism Division.

⁵⁹The NCTC integrates and analyzes terrorism-related intelligence from across the federal government to provide a comprehensive view of threats. Its focus centers on counter-terrorism strategy and coordination among intelligence and law enforcement agencies.

⁶⁰DHS is tasked with preventing terrorism and enhancing national security through its sub-agencies like: i) Transportation Security Administration (TSA): Focuses on securing transportation systems, ii) Customs and Border Protection (CBP): Monitors borders to prevent the entry of terrorists or dangerous materials, iii) Immigration and Customs Enforcement (ICE): Investigates cross-border criminal activities, including terrorism, iv) Cybersecurity and Infrastructure Security Agency (CISA): Protects critical infrastructure from cyber and physical threats.

⁶¹The U.S. Department of Defense (DoD) is responsible for defending the US against external aggression. With specific reference to counter-terrorism, it utilises the platforms of the U.S. Special Operations Command (USSOCOM) and U.S. Northern Command (USNORTHCOM), the military conducts counter-terrorism operations. It focusses on overseas counter-terrorism missions, military strikes, and direct-action operations.

⁶²It oversees and integrates the efforts of the U.S. Intelligence Community in counter-terrorism efforts with focus on strategic coordination and intelligence analysis.

⁶³The U.S. Department of State leads international counter-terrorism efforts through diplomacy and programs like the Bureau of Counterterrorism with focus on building global counter-terrorism partnerships and addressing the root causes of terrorism.

⁶⁴The U.S. Secret Service (USSS) protects national leaders and investigates threats against them, including terrorism-related activities. The agency focuses on preventing attacks on high-profile targets.

⁶⁵This is reflected all through the vast provisions of the USA PATRIOT Act (2001), which expanded surveillance capabilities, allowed roving wiretaps, and authorized access to business records under Section 215. Also, another reflection of the broad-based statutory authority under the US counter-terror law is the Foreign Intelligence Surveillance Act (FISA) (1978) which regulates electronic surveillance for foreign intelligence purposes. (the Act was amended by the FISA Amendments Act of 2008 to include Section 702, permitting surveillance of non-U.S. persons outside the U.S.). The Material Support Statute (18 U.S.C. § 2339B) is another law in this respect. It criminalizes providing material support, such as funds or resources, to designated foreign terrorist organizations. See *Holder v. Humanitarian Law Project*, 566 U.S. 1 (2010), which upheld the constitutionality of the Material Support Statute, ruling that even non-violent aid to terrorist organizations can further terrorism.

⁶⁶This is reflected in Executive Order 12333, which authorizes foreign intelligence collection by intelligence agencies like the NSA and CIA. In same respect, Section 702 of FISA allows warrantless collection of communications of non-U.S. persons outside the U.S. The surveillance mechanism within the US counter-terror system appears so extreme such that same has come under strong criticism. See *ACLU v. Clapper* (2015), wherein the NSA's bulk telephony metadata program under Section 215 of the Patriot Act was challenged. The Second Circuit found the program exceeded statutory authority, contributing to the passage of the USA Freedom Act (2015), which curtailed bulk data collection. The extreme posture of the US legal system culminated in the sponsorship of Protect Our Civil Liberties Act which was introduced in 2023 by Representative Greg Steube (R-Fla.) with the aim of repealing both the USA Patriot Act and the FISA Amendments Act of 2008. This legislation focuses on restoring constitutional protections by eliminating broad surveillance powers that critics argue have enabled government overreach. The bill addresses concerns about warrantless wiretaps, searches, and data collection under these laws. Key provisions in these acts, such as Section 215 of the USA Patriot Act, allowed the collection of Americans' private records and communications without adequate oversight. These powers have faced criticism for enabling privacy violations and facilitating surveillance abuses, including alleged misuse by the FBI. Steube emphasized that national security and civil liberties can coexist without overextending government authority. Currently, the bill is at the initial legislative stages, having been referred to several House committees, including Judiciary and Intelligence. Its progress will depend on congressional support and the broader debate on balancing security and individual rights

⁶⁷US laws bestow on law enforcement agencies enhanced authority when it comes to the arrest and detention of individuals suspected of engaging in terrorist activities. These provisions are specifically designed to facilitate the swift apprehension of suspects and to prevent potential threats to national security. This is exemplified by the Military Commissions Act (2006), which establishes military commissions for trying alien unlawful enemy combatants as well as Authorization for Use of Military Force (AUMF) (2001) which Authorizes the President

Measures,⁶⁸ Immigration and Border Controls,⁶⁹ Civil Liberties Safeguards⁷⁰ as well as International Cooperation mechanisms.⁷¹ The US counter-terror legal framework supports a technology backed system that uniquely blends aggressive domestic measures, such as expansive surveillance, with international collaboration to combat transnational terrorism. The legal framework pays premium to the 'potency of judicial ratification'⁷², even as it consistently evolves to address emerging threats, such as cyber-terrorism and domestic extremism, while attempting to balance civil liberties and national security concerns. Broadly, it is compelling to observe that the differences between Nigeria's counter-terror laws and that of the US lies particularly in certain provisions relating to investigations, funding mechanisms, and compensation for victims as reflected above.

United Kingdom

United Kingdom (UK) operates a multi-legislation counter-terror legal framework consisting of several laws including the Terrorism Act 2000⁷³, Anti-Terrorism, Crime and Security Act 2001⁷⁴, Prevention of Terrorism Act 2005⁷⁵, Terrorism Act 2006⁷⁶, Counter-Terrorism Act 2008⁷⁷, Counter-Terrorism and Security Act 2015⁷⁸, Investigatory Powers Act 2016 (the Snoopers' Charter)⁷⁹ as well as the Counter-Terrorism and Border Security Act 2019⁸⁰ among others. The framework equally encompasses and has embedded in it, counter-terror strategies, notably, the 'Prevent' and 'Contest' strategies. Despite the multi-legislation posture of the framework, the Terrorism Act 2000 stands unique, as the foundational counter-terrorism law in the UK. Thus, as the bedrock or cornerstone of the country's counter-terror framework, it laid the foundational definition of terrorism in the UK from which other definitions of the subject contained in most laws in that jurisdiction are built⁸¹. The UK's counter-terrorism framework incorporates a multi-agency enforcement mechanism with vast number of agencies and organisations synergizing to prevent, detect, and respond to terrorist threats. The agencies in this respect include, the MI5 (The

to detain individuals associated with terrorist organizations. See the case of *Hamdi v. Rumsfeld*, 542 U.S. 507 (2004), in which the court recognized the President's authority to detain enemy combatants under the AUMF but affirmed detainees' right to challenge their detention.

⁶⁸This is exemplified in the provisions of the International Emergency Economic Powers Act (IEEPA) (1977) which authorizes the President to regulate financial transactions involving designated foreign threats. Also, the Bank Secrecy Act (1970) mandates financial institutions to assist the government in detecting and preventing money laundering and terrorist financing. See Holy Land Foundation for Relief and Development Case (2008), wherein the foundation was convicted for funneling money to Hamas, emphasizing strict enforcement of financial support bans.

⁶⁹See REAL ID Act (2005), which sets federal standards for identification to prevent fraudulent IDs used by terrorists. See also, INA § 212(a)(3), which authorizes denial entry to individuals involved in terrorism. In *Kleindienst v. Mandel*, 408 U.S. 753 (1972), the court affirmed the executive branch's authority to deny entry based on national security concerns.

⁷⁰Despite the robust provision of the framework, the framework is still subject to checks to protect civil liberties. For instance, with respect to the Fourth Amendment Protections: Courts have scrutinized government actions under the Fourth Amendment. Thus, in *United States v. Jones*, 565 U.S. 400 (2012) ruled that attaching a GPS device to a vehicle constitutes a search under the Fourth Amendment.

⁷¹The U.S. participates in global counter-terrorism frameworks, such as the Financial Action Task Force (FATF), and works with allies like Canada, the UK, and Australia to address transnational threats. Also, in terms of international cooperation, the US as the leader in the global counter-terror effort relies heavily on Extradition Treaties to bring suspects to justice and on United Nations Security Council Resolutions to implement sanctions in same respect. Thus, the case of *United States v. Yousef* (1998), is instructive here as it demonstrates an instance where international cooperation was leveraged upon by the U.S. in prosecuting a mastermind of the 1993 World Trade Center bombing who was apprehended overseas. The US also utilises international cooperation as a veritable tool in its much criticized 'Global War-on-Terror' mechanism or approach to international terrorism.

⁷²The system relies on the potency of judicial pronouncements and is built around judicial support for legal fortification. For instance, in *Holder v. Humanitarian Law Project* (2010), the Material Support Statute received judicial blessings and fortification, as its constitutionality was upheld; with the court acknowledging that even non-violent aid to terrorist organisations can further terrorism.

⁷³The Terrorism Act, 2000 is the bedrock or cornerstone of the country's counter-terror framework; it laid the foundational definition of terrorism in the UK from which other definitions contained in most laws in that jurisdiction are built. It provides powers for proscribing organisations, stop and search, and freezing terrorist assets, even as it also established offences such as membership in a proscribed organisation or providing material support to terrorists.

⁷⁴The Anti-Terrorism, Crime and Security Act 2001 was introduced after the 9/11 attacks to expand powers for detaining suspects and freezing assets. The Act provides for measures on information-sharing and border security.

⁷⁵This Act introduced 'control orders,' a precursor to current terrorism prevention measures. 'Control Orders' under the Act were issued by the Home Secretary to restrict the activities of individuals suspected of involvement in terrorism. The restrictions could be in the area of electronic tagging, curfews, travel restrictions, Prohibitions on certain forms of communication and association, restrictions on work or internet access. It is important to note that the powers granted to the Home Secretary came under repeated legal challenges due to concerns about their compatibility with human rights, ultimately leading to the replacement of control orders by the Terrorism Prevention and Investigation Measures Act 2011 (TPIM), 2011.

⁷⁶Provides for offences relating to the encouragement of terrorism, dissemination of terrorist publications and training for terrorism. It equally expanded detention periods for suspects prior to charge.

⁷⁷The Act focuses on policing and the use of intelligence in counter-terrorism, incorporating provisions for post-charge questioning and enhanced sentencing for terrorism-related offenses.

⁷⁸It introduced the Prevent Duty, requiring public bodies to prevent people from being drawn into terrorism. Also, it introduced temporary exclusion orders for suspected foreign fighters.

⁷⁹The Act provides a framework for surveillance and interception of communications to combat terrorism. It is also known as the 'Snooper's Charter,' it regulates surveillance and intelligence gathering and provides specifically for powers to intercept communications and collect bulk data and access to internet connection records for counter-terrorism investigations.

⁸⁰The Act updated offences within the UK counter-terror framework to include actions such as viewing terrorist material online and entering or remaining in designated areas.

⁸¹Terrorism Act, (UK) 2000, section 1.

Security Service)⁸², MI6 (The Secret Intelligence Service)⁸³, Government Communications Headquarters (GCHQ)⁸⁴, the Metropolitan Police Counter Terrorism Command (SO15)⁸⁵, Counter Terrorism Policing Network⁸⁶, The Joint Terrorism Analysis Centre (JTAC), The Home Office, National Crime Agency (NCA), Crown Prosecution Service Counter Terrorism Division (CPS CTD), Border Force, Prevent Programme Teams, Military and Special Forces, among others.

Comparatively, the UK counter-terror legal framework shares some similarities with that of Nigeria, even as they differ in some respects. Thus, both leverage on international cooperation at different degrees, with Nigeria's reliance on international support ranking higher than that of the UK. This is despite Nigeria's regional leadership status. In terms of strategy, Nigeria shows signs of heavy reliance on military operations, community engagement and criminal prosecution while the UK has in place well-developed internal preventive strategies that have strong legal backings and mainly identified as the 'prevent strategy' and 'contest strategy'. Also, in terms of challenges, it is observed that Nigeria's counter-terror drives are constrained by resources and challenged by human rights concerns, and religious and multi-ethnic complexities which have created difficult legal and operational terrain. On its part, in the UK, the country still faces concerns bordering on balancing national security and civil/human rights but appears more readily responsive in that regard. This disposition is evident in the timely amendment of the much-criticized powers of 'control orders' under the Prevention of Terrorism Act 2005. While admitting that both country's frameworks appear designed to address their peculiar counter-terror needs, the age-long multi-dimensional and more tech-enabled framework (particularly in the area of cyber-terrorism and counter-terror surveillance) of the UK stands significant lesson for Nigeria. In all, a cursory look at the entire counter-terror legal framework of the UK and more particularly the provisions of the Anti-Terrorism, Crime and Security Act 2001, greatly portrays the country's profound resolve against terrorism in a strong and united manner, even as it is a fulfilment of its obligation to the European Union (EU)⁸⁷.

India

India's initiative towards evolving a legal framework for counter-terrorism dates back to 1967⁸⁸ with the enactment of the Unlawful Activities (Prevention) Act (UAPA) 1967. The Act serves as the lead and principal counter-terrorism law within the Indian national jurisdiction amidst other counter-terror laws.⁸⁹ The UAPA has since undergone several amendments.⁹⁰ Basically, the Act has provisions covering terrorist acts involving use of explosives as well as chemical and biological substances, even as it provides for the attachment of assets linked to individual terrorist or group. The statute equally empowers the government to designate as unlawful, organisations linked to acts of terrorism⁹¹. The definition of terrorism under the Act is significant because of its apparent wide coverage. Specifically, Unlawful Activities Prevention Act (UAPA) defines a 'terrorist act' thus:

Whoever, with intent to threaten the unity, integrity, security or sovereignty of India or to strike terror in the people or any section of the people in India or in any foreign country, does any act by using [weapons described in the POTA definition], in such a manner as to cause, or *likely to cause* death of, or injuries to any person or persons or loss of, or damage to, or destruction of, property or [other damage to infrastructure and defence], or detains any

⁸²The MI5 is responsible for domestic intelligence and counter-terrorism. It focuses on identifying and disrupting terrorist plots within the UK. The agency's key functions include surveillance, intelligence gathering, and analysis.

⁸³The MI6 handles foreign intelligence operations, gathering information on international terrorist threats to the UK. The agency's functions include collecting intelligence abroad to protect UK interests.

⁸⁴The GCHQ specializes in signals intelligence (SIGINT) and cybersecurity, focusing on preventing cyber-attacks and monitoring communications of terrorist organizations. Its key functions encompass decrypting communications, cyber defence and monitoring extremist online activity.

⁸⁵The Metropolitan Police Counter Terrorism Command (SO15) is the lead police unit for counter-terrorism operations in London and across the UK. Its key function touches on investigating terrorism-related incidents, gathering evidence, and conducting arrests.

⁸⁶This is a nationwide collaboration of UK police forces working to prevent and respond to terrorism. It is set up to carry key responsibilities handling intelligence, threat assessment, and coordination of counter-terrorism investigations.

⁸⁷The European Convention on Human Rights, I.E.T.S. 5 (1968) requires that all anti-terrorism legislation of member state be codified into a single statute and that human rights concerns be addressed within comprehensive anti-terrorism legislation. Note that the UK at the time was still a member of the EU. Interestingly, the provisions of this Act were adopted and replicated in the later Anti-Terrorism, Crime and Security Act 2001 (UK), which was in fact enacted to fulfill the country's obligations under Resolution 1373, See Clive Walker, 'Terrorism and Criminal Justice: Past, Present and Future', *Criminal Law Review*, 2004, p 311.

⁸⁸The country's early history of existence terror related threats could well account for this. Remarkable early terror incidents in India include, the assassination of Mahatma Gandhi on January 30, 1948 by Nathuram Godse (which incident was motivated by political and ideological opposition to Gandhi's policies of non-violence and communal harmony. Other such early terror incidents are the hijacking of Indian Airlines Flight in 1971 (This incident marked the beginning of hijackings as a form of political terrorism in India with the militants that hijacked the Airline demanding the release of political prisoners as condition for its safe return), the Naxalite movement of 1967 that led to violent activities by left-wing extremist groups, including attacks on police, government officials, and infrastructure, the Partition-Related Violence (1947) which occurred following India's partition resulting in widespread communal violence erupted between Hindus, Muslims, and Sikhs, leading to the death of hundreds of thousands of people. These incidents cumulatively necessitated the drive of India to evolve a counter-terror legal framework.

⁸⁹Other counter-terror laws in India includes, the National Investigation Agency Act, 2008 (NIA Act), which established the National Investigation Agency (NIA) as a central counter-terrorism enforcement agency with powers to investigate and prosecute terrorism-related offenses across states without prior approval from state governments. The Act equally established the NIA special courts for the expeditious trial of terror cases. Other laws in that respect include, the Prevention of Money Laundry Act, 2002, the Armed Forces (Special Powers) Act, 1958, among others.

⁹⁰The latest version of the Act is that of 2019, designated the Unlawful Activities (Prevention) Act, 2019.

⁹¹Unlawful Activities Prevention Act (UAPA), Section 3

person and threatens to kill or injure such person in order to compel the Government in India or the Government of a foreign country or any other person to do or abstain from doing any act, commits a terrorist act.⁹²

Admittedly, the foregoing definition is so broad that it encompasses any act intended to disrupt the sovereignty, unity, integrity, and security of India, which invariably includes seditions or insurrection. Although, the broad scope or coverage of the Act aims at countering evolving forms of terrorism, it has however faced criticism for potential misuse against dissent and civil liberties. It is noteworthy to observe that the 2019 Act expanded the framework by incorporating provisions that allow the government to label individuals, not just organizations, as terrorists, as well as enhanced measures for seizure of properties linked to terrorist activities.

The legal framework in India differs greatly with that of Nigeria in the area of burden of proof. While Nigeria prides in ‘presumption of innocence’, Indian has provisions that presume a suspect guilty until proven innocent⁹³. This presumption of guilt places the burden of proof on the defendant, requiring accused persons to prove their innocence. Thus, in effect, this effectively reverses the burden of proof traditionally borne by the prosecution in the Nigerian law, under which ‘presumption of guilt’ as obtained in India is unknown. Under the Nigerian TPPA as well the entire *corpus juris* therein⁹⁴, the burden to prove a person's guilt rests squarely on the prosecution⁹⁵, subject to certain few exceptions.⁹⁶ In Nigeria, the presumption of innocence is a fundamental principle of criminal law and is constitutionally protected⁹⁷.

As observed above, the Indian counter-terror legal regime is multi-legislation in approach. In this regards, other important laws within the framework include the Prevention of Money Laundry Act 2002⁹⁸, The Armed Forces (Special Powers) Act 1958 (AFSPA)⁹⁹, the Information Technology (IT) Act 2000¹⁰⁰, Anti-Hijacking Act 2016¹⁰¹, the Indian Penal Code 1860¹⁰² as well as the Cyber-Crime Prevention (Amendment) Act 2004¹⁰³, among others. In terms of enforcement of counter-terror laws, India has in place an array of enforcement agencies, which include the National Investigation Agency (NIA), State Police Forces as well as the Indian Armed Forces. Other such agencies include the Intelligence Bureau (IB)¹⁰⁴, Research and Analysis Wing (RAW)¹⁰⁵, National Security Guard (NSG), Multi-Agency Centre (MAC), State Anti-Terrorism Squads (ATS) as well as various Financial Intelligence Units, among others. These agencies work within their respective mandates to counter terrorist threats. This could be just to prevent terrorist activities, investigate cases, and prosecute offenders under counter-terror laws as the case may be. More still, prosecution of terrorism cases in India has a somewhat unique feature with existence of Special Terror Courts established under the NIA Act¹⁰⁶. The NIA Special Courts are specifically created for purposes of fast-tracking terror cases and to make for expeditious trials. Appeals against the judgments of NIA Special Courts lie with the jurisdictional High Court, while final appeals (final appellate jurisdiction) are to the Supreme Court for legal or constitutional issues.¹⁰⁷ NIA Special Courts operate directly under central government mandates¹⁰⁸, enabling a unified approach to prosecuting terror cases across state boundaries. The Special Courts are vested with exclusive jurisdiction for the trial of

⁹²S.15 Unlawful Activities (Prevention) Amendment Act, 2008, No. 35, Acts of Parliament, 2008 (India). Note the POTA; Prevention of Terrorism Act was one of the predecessor legislations, which gave rise to the initial Unlawful Activities Prevention Act, (UAPA)2004 from which the Amendment Act of 2008 derive.

⁹³Unlawful Activities Prevention Act (UAPA), section 43E. It should be noted that this presumption only arises under certain circumstances, to wit; Thus, the section places the burden on the accused to prove their innocence when certain incriminating materials or evidence (for instance, arms, explosives, or other substances related to the commission of a terrorist act) are found in their possession (or where there is evidence of participation in a conspiracy to commit a terrorist act on the part of the accused), even as it only applies to certain/specific offences. specifically, it applies to offences under Chapter IV (Terrorist Activities) and Chapter VI (Terrorist Organizations) of the UAPA, that is terror-related offences. See also, G. Sovani, Why India Required a Stringent Anti – Terrorist Law <<https://www.ogp.gov>> 2nd December 2024

⁹⁴*State v. James Gwangwan* (2015) 13 NWLR (Pt. 1477), 604; *Okanlawon v. State* (2016), 17 NWLR (Pt. 1510), 455 and *Eyo v. State* (2016) 17 NWLR (pt. 1510) 185

⁹⁵Evidence Act, 2011 (amended) Sections 131, 135 and 139.

⁹⁶*Ibid*, Section 137

⁹⁷CFRN, Section 36 (5)

⁹⁸This Act provides for freezing of funds and assets suspected to be linked to terrorist activities. It equally places on financial institutions the obligation to report suspicious transactions.

⁹⁹The Armed Forces (Special Powers) Act, 1958 forms the legal basis for the participation of the Indian Armed Forces in internal security operations and to take certain action in ‘disturbed’ areas. Specifically, it empowers the Armed Forces to maintain public order in ‘disturbed’ places through arrest, search and use of force without warrant. - See section 4 thereof.

¹⁰⁰The Information Technology (IT) Act, 2000 (As Amended) dwells on provisions that touches on tackling cyber-terrorism and use of digital space and platforms for terror related activities. Section 66F thereof prescribes life imprisonment as punishment for cyber-terrorism. The Act makes it an obligation on the part of social media platforms to remove terror propaganda and to cooperate with law enforcement agencies.

¹⁰¹The Act by section 4(1), prescribes death sentence as maximum punishment for hijacking that results in death of victims or security personnel. This Act specifically addresses aviation related terrorism, which covers offences committed on board Indian aircrafts anywhere in the world or on foreign aircrafts within the Indian airspace. see section 3 thereof.

¹⁰²Certain provisions of the Indian Penal Code, 1860 (IPC) are equally utilized for countering terrorism. For instance, sections 121 and 124A (Dealing with waging of war against the government) and sedition respectively are usually invoked in this regard.

¹⁰³The Cyber-terrorism Prevention Act, 2024(Amendment) provides for measures for combating cyber-terrorism in a more modern form with the use of digital surveillance, even as it expanded existing legal grounds for monitoring encrypted communications, curbing fake news linked to radicalization and online terror-recruitments.

¹⁰⁴This agency is the country’s internal intelligence agency under the Ministry of Home Affairs (MHA); the equivalent of Nigeria’s State Security Service (SSS). Its core mandate is to gather intelligence on domestic terror threats.

¹⁰⁵The Research and Analysis Wing is India’s external intelligence agency. Its core mandate centers on countering external threats, monitoring cross-border terrorism, and gathering intelligence on international terror groups

¹⁰⁶National Investigation Agency (NIA) Act, section 11.

¹⁰⁷NIA Act, section 21.

¹⁰⁸The mandate is such that each Special Court is designated by notification in the official gazette, section 11.

scheduled offenses under the First Schedule of the NIA Act.¹⁰⁹ Apparently, this system has the advantage of offering a speedy trial even as it brings much expertise to play in trial of terror cases. In all, while it may be safe to conclude that India has got a robust legal mechanism to tackle terrorism, the task of balancing civil liberties with national security seems to be areas of concern, as abuse and undue delay have remained major challenges that require reforms.

Egypt

The consideration of Egypt's counter-terror legal framework in this piece is borne out of the country's chequered but unique history with terrorism and terror related threats. Located in North Africa with proximity to the Middle East (a region that has suffered much terrorist exploits), Egypt has rich experience dealing with both domestic¹¹⁰ and international terrorism.¹¹¹ The country has recorded numerous terror attacks on its soil¹¹² as well as strained diplomatic relations with other nations, stemming from allegations of its citizens' involvement in terrorist activities, including perpetration, sponsorship, and harbouring of terrorists across the globe¹¹³. This background gave rise to series of developments leading to the emergence of contemporary counter-terrorism legal regime in the country, which are designed to address persistent threats in that respect. The Egyptian counter-terror legal framework operates on a multi-law module¹¹⁴, with the Anti-Terror Law No. 94 of 2015¹¹⁵ occupying the strategic position of cornerstone legislation in that jurisdiction. The Law contains robust provisions touching on a vast area of the subject of terrorism like definition, punishments and establishment of special courts. It defines 'terrorist act' in a broad manner thus:

Any use of force, violence, threat, or intimidation, domestically or internationally, with the aim of disturbing public order; endangering the safety, interests, or security of society; harming individuals or terrorizing them; endangering their lives, freedoms, public or private rights, or security; harming national unity, social peace, or national security; disrupting the provisions of the Constitution or laws; preventing public authorities, houses of worship, or educational institutions from performing their duties; harming the environment, natural resources, monuments, money, buildings, public or private properties, occupying or seizing them; preventing or hindering the operation of public transportation or communication; obstructing traffic; or obstructing the flow of public and private transportation¹¹⁶.

A close examination of the foregoing provision shows that it is encompassing enough to incorporate almost all acts within human contemplation that have the potentials to exude terror or could disrupt public order or national security, including those that may not involve direct violence. Instructively, this is with respect adjudged too wide a definition. Thus, being so broadly worded, the instant law could precipitate repression and limit rights; for, protest, agitations and such acts of civil disobedience allowed in a democracy are by this provision within the contemplation or class of terror acts in Egypt. In this regard, one significant provision of the Egyptian Anti-Terrorism Law No. 94 of 2015 is that punishes the publication of untrue news about terrorism or news that contradicts official Defence Ministry statement about counterterrorism operations with fines ranging from 200, 000 to 500,000 Egyptian Pounds).¹¹⁷ It equally punishes incitement to commit any terrorist crime in the same way as the crime itself.¹¹⁸ This of course is at variance with the popular position in most countries, which punishes only incitements done in the public or that results in a terrorist attack.¹¹⁹ The Egyptian Anti-Terrorism Law No. 94 of 2015, empowers prosecutors or other investigators to order surveillance and recording of terrorist suspects' communications, internet use and 'whatever takes place in private' for indefinitely renewable 30-day periods without a court order¹²⁰, even as it grants emergency powers to the President in the event of danger of terrorist crime. This allows the President to issue a curfew for a period of 6 months subject to obtaining a majority vote in parliament within seven days, or from the Cabinet if the Parliament is not in session.¹²¹ Another interesting provision of this law is that 'pre-charge' detention of suspects is not placed under the scrutiny of the courts but under the exclusive control of law enforcement agencies or investigators. This differs from the position in Nigeria where powers to issue detention warrants rests on the court, whose discretion also includes powers to renew.

¹⁰⁹These include Offenses under the Unlawful Activities (Prevention) Act (UAPA), Certain offenses under the Indian Penal Code (IPC) related to terrorism (e.g., Sections 121, 124A) as well as Offenses under the Explosive Substances Act, Atomic Energy Act, among others.

¹¹⁰Remarkable in this respect include the terrorist onslaughts from Walayat Sinai (a domestic terrorist group in Egypt) which was formerly called Ansar Beit al-Maqdis (ABM). The group during its peak carried out numerous attacks targeting Egyptian Security forces, government establishment and civilians.

¹¹¹Egypt as a country has faced several terror threats and attacks from international or trans-national terror groups like al Qaeda and the Islamic State, which has sought to exploit political instability and social grievances in the country in advancing its extremist mission.

¹¹²JA Kennedy: Terrorism in Egypt, Examining the Data and What to Expect in 2021 < <https://www.spglobal.com>>

¹¹³*ibid*

¹¹⁴The Constitution (while Art.237 mandates the state to combat terrorism comprehensively, ensuring citizens' freedoms and rights while maintaining public security, Art. permits the declaration of state of emergency as a counterterror measure, thus allowing government to deploy extraordinary measures to address terror threats.) Other important counter-terror laws in that jurisdiction are the Law No. 8 of 2015 on Regulating Lists of Terrorist Entities and Terrorists, Anti-Money Laundering and Combating the Financing of Terrorism (AML/CFT) Framework, among other anti-terror laws.

¹¹⁵This law was enacted by President Abdel Fattah al-Sisi of Egypt on August 15, 2015. The uprising in 2011 and the eventual overthrow of the Mohammed Morsi's regime in 2013 culminated in the promulgation of the Anti-Terror Law No. 94 of 2015.

¹¹⁶Anti-Terrorism Law No. 94 of 2015 (Egypt) Article 1.

¹¹⁷Article 35. It should be noted that under the provision, if the offender publishes such in furtherance of his/her occupation, it could result to a ban from practice for up to a year. Although the rationale behind this provision could be to check proliferation of unreliable or fake news, strict enforcement of same will amount to gagging the press who are by the provision constrained from publishing information that are true but not sanctioned by the Defence Ministry or contradicts its official position.

¹¹⁸Article 8. Under the provision, it is immaterial if the incident was done in public or private or has an effect.

¹¹⁹Unlike Egypt, other countries like Tunisia, Jordan, and Lebanon only criminalises incitement to terrorism that occurs in public or results in a terrorist act. See Human Rights Watch, Egypt: Counterterrorism Law Erodes Basic Rights....

¹²⁰Article 46.

¹²¹Article 53

Another difference between this law and the Nigerian TPPA is that the Egyptian Anti-Terrorism Law No. 94 of 2015 pegs the detention period to seven days¹²².

Aside the Anti-Terrorism Law No. 94 of 2015, other laws within the Egyptian counterterrorism framework include Law No. 8 of 2015 on Regulating Lists of Terrorist Entities and Terrorists, which establishes mechanisms for terrorist designation and asset freezing as well as provides for travel restrictions on individuals listed as terrorists. Others include Emergency Law No. 162 of 1958¹²³, the Cybercrime Law No. 175 of 2018¹²⁴ as well as Law No. 136 of 2014 on the Protection of Public and Vital Facilities¹²⁵, among others. Enforcement of counter-terror laws in Egypt are carried by a vast number of agencies and departments, including, Ministry of Interior¹²⁶ (working mainly through the National Security Agency¹²⁷, Central Security Forces¹²⁸, Criminal Investigation Department¹²⁹), Armed Forces¹³⁰, National Security Council¹³¹, General Intelligence Directorate¹³², Public Prosecution Office¹³³, Anti-Money Laundering and Terrorist Financing Units, as well as Border Guards and Coast Guards, among others.

With respect to international cooperation, Egypt has a robust network of allies and international collaborators in its counter terror effort. Thus, the country is a member of the Arab League and signatory to the Arab Convention on the Suppression of Terrorism. Egypt cooperates with the United Nations and African Union for counter-terrorism initiatives, even as it plays active roles in intelligence sharing with regional allies. In all, the Egyptian counter-terror legal framework is remarkable for use of emergency powers, broad definitions of terrorism that criminalize dissent or peaceful activism and over reliance on the military, including its courts. The situation in Egypt¹³⁴ more than the Nigerian case has drawn criticisms over anti-human rights disposition of the counter-terror regime. However, both countries are still facing the onerous challenges of balancing national security interest with human rights requirements and compliance.

5. Conclusion

Nigeria has made notable legislative progress in countering terrorism, particularly with the enactment of the Terrorism (Prevention and Prohibition) Act 2022. However, the quest to move progressively in order to close gaps in areas such as inter-agency coordination, intelligence sharing, judicial oversight, and the protection of civil liberties is imperative. This stems from the fact that world over¹³⁵, enforcement frameworks often struggle with procedural ambiguities and insufficient human rights safeguards, posing challenges to balancing national security with constitutional freedoms. Nevertheless, lessons from countries like the UK, US, and India emphasize the need for clear legal standards, independent oversight, and institutional accountability in implementing effective counter-terrorism regimes. The study also resonates the gospel that no counter-terror paradigm is perfect, as countries often blend different approaches to suit the peculiarities on ground. As terrorism evolves globally, Nigeria as well all the countries referenced above must completely adapt their respective legal and institutional frameworks to meet international expectations. It is therefore hoped that the forthcoming evaluation by the Financial Action Task Force (FATF)¹³⁶, will confirm the massive progress already made by the country as same will serve as a critical verdict on the nation's progress toward compliance with global counter-terrorism and anti-money laundering standards.

¹²²J Philips Somalia and Al-Qaeda; implication for the war on Terrorism <<https://www.heritage.org>> 7th November 2023. Thus, under the Egyptian law, an arresting officer can hold a terrorism suspect for 24 hours without a warrant, during which a prosecutor can order the person held for seven more days without judicial review. The new law puts the prosecutor in charge of subsequent pretrial detention.

¹²³Which provides for Extraordinary Powers, allowing detention without charge, censorship of media, and the use of military courts during states of emergency

¹²⁴This law criminalizes the use of online platforms for incitement, recruitment, or spreading terrorist propaganda. It authorizes authorities to block websites used promoting terrorism.

¹²⁵This law assigns military courts the authority to try offences related to attacks on public and vital facilities, such as power plants, roads, and government buildings.

¹²⁶The Ministry of Interior is the primary agency responsible for internal security and counter-terrorism operations in Egypt.

¹²⁷The NSA's responsibility centers on intelligence gathering and counter-terrorism operations. It is equally within its purvey to monitor and dismantle terrorist networks

¹²⁸The Central Security Forces is responsible for providing rapid response during terrorist incidents. It is also within its role to conduct operations to secure public spaces and critical infrastructure.

¹²⁹The role of the Criminal Investigation Department includes the investigation terrorism-related crimes, even as it collaborates with other agencies to prosecute suspects.

¹³⁰The Egyptian military play a significant role in counter-terrorism. For instance, it leads operations in regions with high terrorist activity, such as North Sinai, protects borders to prevent the infiltration of terrorist elements. Also, the military utilizes its court to try civilians involved in terrorism-related offenses, especially under laws like Law No. 136 of 2014.

¹³¹The National Security Council formulates policies to address terrorism as well as coordinates between various ministries and agencies involved in counter-terrorism.

¹³²The General Intelligence Directorate (GID) is Egypt's primary foreign intelligence agency responsible for collection of intelligence on international terrorist threats. The GID works with foreign governments to combat cross-border terrorism, even as it provides strategic support to domestic counter-terrorism operations.

¹³³The Public Prosecution Office prosecutes suspects in civilian and military courts; it also oversees investigations into terrorism-related offences and issues orders for surveillance, detention, and interrogation under Article 40 of the Anti-Terrorism Law.

¹³⁴In this respect, Nadim Houry (Human Rights Watch's Deputy Middle East and North Africa Director), rendered one of the most reference criticism on the Egyptian Anti-Terrorism Law No. 94 of 2015 thus: 'with this sweeping new decree Egypt's president has taken a big step toward enshrining a permanent state of emergency as the law of the land,' said 'The government has equipped itself with even greater powers to continue stamping out its critics and opponents under its vague and ever-expanding war on terrorism'. See Human Rights Watch, Egypt: Counterterrorism Law Erodes Basic Rights. < https://www.hrw.org/news/2015/08/19/egypt-counterterrorism-law-erodes-basic-rights?utm_source=chatgpt.com >

¹³⁵ There are still traces of this situation even in advanced countries like the US and the UK.

¹³⁶ The FATF is set to assess Nigeria's readiness to exit the grey list.