

FROM FOREIGN LANDS TO NIGERIAN BATTLEFIELDS: UNDERSTANDING THE INFLOW AND LEGAL DYNAMICS OF 'FOREIGN TERRORIST FIGHTERS' IN NIGERIA*

Abstract

The threat to global peace posed by terrorism had been compounded by the phenomenon of 'Foreign Terrorist Fighters' (FTFs). While terrorism 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, 'FTFs' as a concept denotes individuals who travel or seek to travel to foreign states to perpetrate, plan, support, or train for terrorist acts, including in the context of armed conflicts. The involvement of FTFs in the conflicts in Afghanistan and Syria facilitated the spread of terrorist expertise, weaponry, and ideology across borders. These developments had enabled unprecedented transnational terrorist collaborations peaking with the ruthless September, 11, 2001 al Qaeda-led attack on the soil of the United States of America. Nigeria on its part had been significantly impacted by the menace of FTFs, particularly through the activities of Boko Haram and bandit groups supported by foreign elements. Concerns in this respect largely stemmed from the unabating nature and ever-expanding reach of terrorist threats in this milieu despite the existence of legal regimes, institutions and mechanisms meant to check terrorism both at the domestic and international level. The foregoing therefore informed the need for a structured legal probe through this study.

Key words: 'Foreign Terrorist Fighters', Battlefields, Legal Dynamics

1. Introduction

Contemporary terrorist activities in Nigeria are traceable to fundamentalism especially of religious bent. Some of these activities are traceable to foreign influence. An instance can be found in the second republic religious violence in most parts of Northern Nigeria¹ ignited, as it were, by the infamous Maitatsine Islamic sect². It would be remembered that the religious extremism of the above-mentioned sect obviously had links with foreign influence. The leader of the group, Muhammadu Marwa, was a foreigner, who migrated into Kano in 1945 from Marwa in Northern Cameroon as an Islamic scholar³. The seed sown by Maitatsine crisis seems to be the precursor of Boko Haram insurgency which started off with religious teachings against western civilization. The alliance of Boko Haram with foreign fighters can be gleaned from the sect's and its splinter group's relationship with al Qaeda, as same clearly exemplifies their links in that respect. Thus, like the contemporary Boko Haram and ISWAP (Islamic State's West African Province), Maitatsine was a faith based fanatical sect, which due to its extremist and violent disposition kindled terror threats at the period. Still more, the advent and activities of the 'terror group of the moment' 'lakurawa'⁴, and even the Mamuda terror group equally prove the connexion of extremism, foreign influence and terrorism in Nigeria. Hence, Nigeria is today bedevilled by forms of terrorism that are chiefly driven and fostered by incursion of foreign terrorist elements. In this study, battlefield refers to the broader Nigerian legal and policy landscape where the fight against terrorism is being waged, including by legal proceedings, detention centres, and legislative reforms. In the context of this study, battlefield particularly donates both the physical conflict zones and the legal arenas where Nigeria fights or confronts the challenges posed by foreign terrorist fighters. Legal dynamics connotes the evolutionary development, application, and impact of legal principles, rules, and frameworks in a given context. In the context of this work, it encapsulates how the law evolves, operates, and interacts with real-world events, institutions, or actors. Precisely, it addresses the complex and evolving legal issues, frameworks, responses and challenges involved in addressing the phenomenon of foreign terrorist fighters (FTFs) within Nigeria's territory.

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¹Some 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 belief into his teaming followers. The height of the sect's fanaticism lies in their belief that only they 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. See IO Albert, 'Violence in Metropolitan Kano: A Historical Perspective,' *Urban Violence in Africa, IFRA-Nigeria* (1994) 111-136. 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. IX, 54-70.

²TG 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.

³AI 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.

⁴The 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 Lakurawas? <<https://www.thisdaylive.com/index.php/2024/11/19/who-are-the-lakurawas/>>

2. Meaning and Typology of Terrorism

There is no generally accepted definition of terrorism. Essentially, the bulk of existing definitions on terrorism were either proffered by scholars or are gleaned from the provisions of various laws, including municipal, regional and international instruments. However, for the purpose of this work, a working understanding of terrorism from will be drawn from these sources. Thus, for Schmid, 'terrorism is the peacetime equivalent of war crimes'⁵. For 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.'⁶ Fernandez holds that terrorism is 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.⁷ According to Laqueur, terrorism constitutes the illegitimate use of force to achieve a political objective when innocent people are targeted.⁸ In Nigeria, there is seemingly no simple and easily comprehensible definition of the term despite an existing framework⁹. 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.'¹⁰ USA Patriot Act gave a dual definition of the term in the international¹¹ and domestic¹² contexts. At the global stage, the United Nations Security Council defines 'terrorism' as '...criminal acts, including against civilians, committed with the intent to cause death or serious bodily injury or taking of hostages, with the purpose to provoke a state of terror in the general public or in a group of persons or particular persons, intimidate a population or compel a government or an international organization to do or abstain from doing any act....'¹³

Drawing from the foregoing, it is therefore 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.

Terrorism within the prism of international law can be classified or categorized into several typologies considering the diverse motivations, methods or *modus operandi* and objectives of terrorist groups. The significance of the grouping lies in its importance in the choice of module or framework for combating each type.¹⁴ This fact resonates in the various attempts at classifying the subject by experts in the field, including, Schmid,¹⁵ Jogman, Wilkinson¹⁶ and Gibbs¹⁷, among others. It is instructive to state that the categorization is not closed as scholars classify terrorism in varying ways. However, on a broader plain, the most prevalent is the dual categorization into state versus the non-state terrorism¹⁸, otherwise regarded as 'the individual' or 'anti-state terrorism'. In the context of this study, the following typologies

⁵AP 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.

⁶JM Poland, *Understanding Terrorism: Groups, Strategies, and Responses* (Pearson, 2010), p1.

⁷G Palmer-Fernandez, 'Terrorism, Innocence and Justice Philosophy and Public' *Quarterly* [2008] (3),24.

⁸W Laqueur, *The New Terrorism, Fanatism and the Arms of Mass Destruction* (New York: Oxford University Press, 1999), p 5.

⁹In Nigeria, 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.

¹⁰The U.S. Code of Federal Regulations, 28 C.F.R. Section 0.85

¹¹'international terrorism' according to section 802(2) thereof 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

¹² '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.

¹³United Nations' S/RES/1566 2004.

¹⁴This stems principally from the fact that a particular counter terrorism framework may prove efficacious or suitable for one type but ineffective for another type.

¹⁵AP Schmid & AJ Jongman, *Political Terrorism: A Guide to Actors, Authors, Concepts, Data Basis, Theories and Literature* (Amsterdam: North Holland Publishing Co., 1988)

¹⁶P Wilkinson, 'Why Modern Terrorism? Differentiating Types and Distinguishing Ideological Motivations', in CW Kegley Jr. (ed) *The New Global Terrorism Characteristics, Causes, Control* (New Jersey: Prentice Hall, 2003)

¹⁷JP Gibbs, 'Conceptualization of Terrorism' *American Sociological Review*, 54:3, 1989, 329-340

¹⁸FJ Hacker, *Crusaders, Criminals, Crazies: Terror and Terrorism in Our Time*, (New York: W.W Norton & Co., 1976).

have been identified as relevant, to wit: state terrorism, state sponsored terrorism, religious terrorism,¹⁹ ethno-nationalist terrorism,²⁰ international terrorism,²¹ and domestic terrorism.²² Among the above groupings, state terrorism and state sponsored terrorism are most times confused as one and the same; however, they differ to a large extent. Thus, in terms of specifics, state terrorism is that perpetrated by the state against its citizens or residents, particularly through repressive actions. State terrorism is said to evolve from the Jacobin Rule in post-revolution France in the 18th century. It is compulsive to observe that some scholars have queried the inclusion of this phenomenon in the league of terrorism typologies on the ground that state repressive violence is properly characterized as 'human rights abuse', which are prohibited within the exclusive domain of international human rights law.²³

It is, however, instructive to observe that the foregoing does not derogate from the reality, to wit, using state apparatus to oppress political opponents or persons from minority ethnic groups through state backed unlawful arrests, detention and even assassination is terrorist in nature. In simple terms, state terrorism is the use of state coercive force to advance individual, party or regime interest as against national interest with little or no regards for humanity and human rights considerations. State sponsored terrorism on its part finds expression in sovereign state's support or orchestration of terrorist acts against another state, either directly (through its official agents) or indirectly (using proxy terror organizations). State sponsored terrorism is mostly employed as an alternative to war carried out with a view to achieving the destabilization of the target state. The current skewed global alignment appears to encourage this type of terrorism. Thus, Iran's open support and apparent sponsorship of some international terror organizations in its proxy war against Israel, US and the Western interests amply exemplifies state sponsored terrorism. Other types of terrorism include, political terrorism,²⁴ left-wing terrorism,²⁵ right-wing terrorism,²⁶ among others. It is important to reiterate that the classifications herein are not closed as other numerous variants or types of terrorism do exist, with each class exhibiting certain peculiar characteristics, even as the activities, features and nature of a terror group can transcend more than one category at a time.

3. Legal Meaning of 'Foreign Terrorist Fighters'

It is apt to commence the voyage into discovering the meaning of the phrase, 'foreign terrorist fighters' by observing that the term 'fighters' as reflected here does not necessarily refer to 'fighters in wars or armed conflicts'. Thus, contrary to the denotative persuasions, 'foreign terrorist fighters' (FTFs) in legal parlance is more of a technical concept and does not exclusively refer to 'foreign terrorists,' fighting in armed conflicts or wars in foreign lands'. In terms of genealogy, the development of the concept of 'foreign terrorist fighters' is strongly linked to the emergence of the 'Global War on Terror' (GOT)²⁷ after the September 11, 2001 al Qaeda-led terror attack on the United States of America. It is equally a direct off-shoot of the 2011 conflicts in Syria that resulted in fluid movement of 'terror linked persons' from different parts of the globe to the conflict zone, with persons who were hitherto non-terror affiliates, joining the

¹⁹This occurs when religion is leveraged upon as a platform to perpetrate terrorism. Here the terrorist groups involved are religious based, even as religion is deployed a tool for terrorism through extremism, violence, radicalization and promotion of hate against non-adherents. The activities of Boko Haram, ISIS, al Qaeda and other such groups are categorized as religious terrorism. It is compulsive to observe that this type of terrorism is the most prevalent in our contemporary world, even as the development accords with Rapoport's Four Wave Theory of terrorism, which placed the current milieu within the religious wave era.

²⁰This type of terrorism is propelled by the desire for ethnic or national liberation in the form of autonomy, independence or secession from a larger entity, especially in a situation of perceived segregation, subjugation and injustice against a component ethnic group.

²¹International terrorism is the type of terrorism that transcends the international borders and mostly carried out by an assemblage of terrorist from diverse national backgrounds, with impacts on international or foreign interests. The activities of al Qaeda fall within this categorization.

²²Terrorist activities that are localized within the territory of a sovereign state are classified 'domestic' as their terror impact range lies within the concerned country.

²³T Becker, *Terrorism and the State: Rethinking the Rules of State Responsibility* (Oxford: Hart Publishing, 2006) p112; See JJ Lambert, *Terrorism and Hostages in International Law* (Cambridge: Grotius Publications Ltd, 1990) p 15; See also R Goodin, *What's Wrong with Terrorism?* (Cambridge: Polity Press, 2006) p102.

²⁴Political terrorism aims to achieve political objectives, such as overthrowing a government, disrupting political processes, or influencing policy decisions. This type of terrorism is often addressed through international legal frameworks that promote political stability and counter-terrorism measures.

²⁵Left-wing terrorism is motivated by ideologies such as communism or socialism, aiming to overthrow capitalist systems.

²⁶Right-wing terrorism is often driven by fascist, nationalist, or supremacist ideologies.

²⁷The term 'global war on terror' (GOT) was conceived from the background of another similar term, 'war on terror,' which originated from the rhetoric of President Reagan in 1984 following the tragic terrorist bombing of the US Military Barracks in Beirut, leading to the death of 241 United States (US) and 58 French Peacekeepers.- See, A Silver, 'How America Became a Surveillance State', *Times Magazine Online*, 18 March, 2010> <http://content.time.com/time/nation/article/0,8599,1973131,00.html>. See also, M Toaldo, 'The Reagan Administration and the Origin of the War on Terror: Lebanon and Libya as Case Studies' *New Middle Eastern Studies*, 2 (2012) pp2-3 &10-15. For further reading, see B Netanyahu (ed) *Terrorism: How the West Can Win* (New York: Farrar, Strauss and Giroux, 1986). Precisely, GOT is more directly linked to the aftermath of the September, 11, 2011 terrorist attack on US soil. Just like the 'war on terror' of President Reagan, GOT emanated from similar rhetoric and is the brainchild of the Bush's administration. See D A, Crockett, 'George W. Bush and the Unrhetorical Rhetorical Presidency', *Rhetorics and Public Affairs*, 6(3) 3003, pp 463-86. Thus, the hitherto existing concept of 'war on terror' could be described as the formal basis upon which President Bush drew his own concept (global war on terror) while declaring and executing his popular extra territorial engagements against the masterminds of the 9/11 attack. GOT simply refers to the totality of measures (including law enforcement, military, economic and diplomatic) taken by a sovereign state, states or the international community to combat terrorism through actions that transcends territorial boundaries. It encompasses military and intelligence operations of seeking out, arresting, targeting and neutralizing identified terrorists (with link to a particular case) in any part of the globe.

Islamic States in Iraq and Syria (ISIS) from across the world, a situation which peaked between 2011 and 2015. Most importantly, the emergence of the term is equally anchored on the seeming indelible global terrorist threat bequeathed by the conflict at the close of hostilities, to wit, returning fighters carrying the business of terror back to their country of abode or origin and in some instances to an entirely newly assigned country of responsibility.

The concept of 'foreign terrorist fighter' therefore emerged out of the UN Security Council (UNSC)'s response to the globalised terrorist threat at the time which of course arose from the above background. It will be recalled that the UNSC has severally by way of resolutions expressed its unwavering resolve at tackling global terrorism of which the resolution on terrorism financing is a classic example.²⁸ More specifically, the phrase 'foreign terrorist fighters' first appeared in the United Nations Security Council Resolution (UNSC Resolution) 2170,²⁹ which Resolution did not offer a definition in that respect. The term was however defined by subsequent UNSC Resolution, precisely, UNSC Resolution 2178³⁰ as:

Individuals who travel or attempt to travel to a state other than their states of residence or nationality for the purpose of the perpetration, planning, or preparation of, or participation in, terrorist acts or the providing or receiving of terrorist training, including in connection with armed conflict.³¹

It is clear from the above, that the term 'foreign terrorist fighters' have got a legal definition considering the efficacy of the UNSC Resolutions particularly that reached by the Council in the exercise of its powers under Chapter 7 of the Charter of the United Nations. Although, the preceding definition appears to be comprehensible enough, even as it obviously simplifies the concept. However, contrary to the foregoing, available literature shows that the term 'foreign terrorist fighters' has generated so much controversies among scholars, such that it has been 'unjustly problematized' in some quarters³². Against this background, it is observed that delving into the conceptualization of foreign terrorist fighters obviously would involve profound mental gymnastics and cognitive stress; more so when the concept is juxtaposed alongside the term, 'foreign fighters', which unfortunately have erroneously been severally used interchangeably by most scholars as well³³. According to Bilkova, 'foreign terrorist fighters,' are individuals who travel or attempt to travel outside their country of origin, with the purpose of engaging in terrorism'.³⁴ With the adoption of UNSC Res 2396³⁵ of 2017, the frontiers of foreign terrorist fighters was further enlarged to include returning terrorist fighters who have gone to support the designated terror group in the conflict zones. This element was in fact present in UNSC Res 2178, particularly paragraph 4 thereof however passive but most importantly was not reflected prominently in the definition offered by the Resolution. According to Randy Borum³⁶, FTFs can be categorized into four primary types, viz: the Revenge Seeker³⁷, Status Seeker³⁸, Identity Seeker³⁹, and the Thrill Seeker⁴⁰.

4. Motivations for Enlisting as Foreign Terrorist Fighters

There are innumerable motivating factors that could propel individuals to enlist in a terrorist organization and most particularly as foreign terrorist fighters. According to the United Nations Office on Drugs and Crime (UNODC)⁴¹, there is no unitary psychological profile in that respect, as studies on persons who travelled to Syria Arab Republic found several factors, political, religious and personal that account for the involvement with the Islamic State in Iraq and the Levant (ISIL)⁴². Aside, the broader political, religious and personal motivations, the UNODC identifies other specifics,

²⁸UNSC Resolution 1373 which adopted unanimously on 28th September, 2001 is a counter terrorism measure following the Sept 11 terrorist attack on the US. Note, the adoption of the Resolution introduced a new dimension to international counter-terrorism law by requiring all member states to criminalize various acts associated with terrorism, as well as with the participation in financing, planning, preparation, or perpetration of such.

²⁹UNSC, Threats to International Peace and Security Caused by Terrorist Acts, 15 August, 2014, S/RES/2170 (2014).

³⁰UNSC, Threats to International Peace and Security Caused by Terrorist Acts, 24 September, 2014, S/RES/2178 (2014).

³¹*Ibid.*, paras.8 of the preamble and paras. 5 &6(a).

³²See V Bilkova *op. cit.* (note 56), p 2., wherein the author made an assertion indicative of this controversy, thus, 'The conceptualisation of the phenomenon has undergone changes as well. Attention has been turned from the situation at the battle field to that in the countries of origin. The regulation no longer falls under the law of armed conflict but under international criminal law or, even, under an emerging international counter-terrorism law. And foreign fighters have become foreign terrorist fighters. These developments may seem relatively unimportant and mostly technical in nature. Yet, in reality, they represent a paradigmatic shift. And this shift comes at a price'

³³*Ibid.*, considering the excerpts from Bilkova's assertion which reads thus, 'foreign fighters have become foreign terrorist fighters' presupposes the drive to muddle up the two concepts by a scholar of class for the purpose of creating the impression that a new class, 'foreign terrorist fighters' is indeed problematic and invariably unnecessary. This of course portrays the level of controversy that surrounds the concepts among scholars.

³⁴*ibid.*

³⁵UNSC Resolution 2396 para 38 of the preamble.

³⁶R Borum, 'The Etymology of Radicalisation', in *The Handbook of the Criminology of Terrorism*, Gary LaFree and Joshua D. Freilich, eds. (Wiley-Blackwell, 2016).

³⁷This category of FTFs is frustrated and angry, hence they seek an outlet to discharge these emotions toward some person, group or entity that they may see as being at fault.

³⁸ This category of FTFs seeks recognition and esteem from others and in pursuance of which they are propelled into terrorism.

³⁹This category of FTFs is primarily driven by a need to belong and to be a part of something meaningful, this FTF defines his or her identity or sense of self through group affiliation.

⁴⁰ This category of FTFs is attracted to the group (terrorist group) because of the prospects for excitement, adventure, and glory.

⁴¹UNODC, *Foreign Terrorist Fighters Manual for Judicial Training Institutes Middle East and North Africa* (Vienna: UNODC,2021) pp12&13.

⁴²*Ibid.*

which are herein viewed as constitutive elements that could be subsumed under the broader factors.⁴³ Thus, it is submitted that the desire to live in a caliphate, prophecies of a final battle, as well as the desire to defend one's religion through war in this case, 'jihad' constitute religious motivations. Political motivations include enlisting on grounds of political alignment, while personal motivations could incorporate factors like finance, revenge and thrill.

5. The Phenomenon, Presence and Manifestations of 'Foreign Terrorist Fighters' in Nigeria

Although terrorism and the phenomenon of foreign terrorist fighters are global threats, they however present some level of peculiarities within each country or state. Within the Nigerian territorial space, the phenomenon of foreign terrorist fighters can be better appreciated when viewed through the prism of the activities of Boko Haram, the Islamic States' West African Province (ISWAP), as well as Kidnappers and extremists with foreign elements and links. The unique situation in Nigeria stems from the fact that most terror groups of global significance have their frontiers extended to the country, with Boko Haram, ISWAP and of late, the Lakurawa, all having foreign links, sponsorship and collaborators in that wise. While fighters are largely recruited locally, training, supply of logistics and expert man-powers are majorly from parent terror groups like al Qaeda, ISIS and the likes. Also of importance is the fact that operations of the 'deemed local terror groups' like Boko Haram have trans-border trappings and are felt beyond Nigeria and across countries like Chad, Niger, Cameroon. Thus, instances abound when well identified terrorists who are citizens of one of the countries operate in some other. The foregoing highlights the very peculiar situation of Nigeria, considering the fact that the menace and threat posed by these elements is at present a major security concern in the country and has remained in the front burner of public discourse for a relatively long time.

With specific reference to Boko Haram and ISWAP, the groups are sustained by connections with global terror networks and foreign terrorist fighters. It would be recalled that in 2015, Boko Haram pledged allegiance to the Islamic State of Iraq and the Levant, leading to the emergence of a splitter which rebranded as the Islamic State's West Africa Province⁴⁴ and since then has intensified its brutal attacks, graduating into conventional fighting with the military; holding of territories. Thus, the conflict became and has remained a major threat to peace and security not only in Nigeria but the entire Lake Chad region. It is also important to state that during its early years, Boko Haram had some ideological and operational links with Al-Qaeda in the Islamic Maghreb (AQIM), including training and funding⁴⁵. There are also indicators that the sect maintains links with Hezbollah⁴⁶, gets expertise and supply of foreign fighters as well as ran arms deal with it⁴⁷. However, these connections although were not deeply institutionalized, it brought foreign terrorists with much expertise within the folds of the sect, even as the splitter terrorist group; ISWAP, since its formation has maintained closer ties with ISIS central leadership.

⁴³These factors include, (i) Living in a caliphate: an FTF may possess a desire, coupled with a sense of duty, to live within a caliphate under the governance of sharia law in a manner that the FTF believes was ordained by the Prophet himself. The narrative of ISIL (Da'esh) involves labelling governments in Muslim countries as un-Islamic, whilst reinforcing the idea that Muslims should be living in a place where sharia is the supreme law guiding both political and social aspects of life. The caliphate is perceived as a utopian destination for the supposedly pious Muslim; (ii) A just war: especially in the early stages of the conflict in the Syrian Arab Republic, many FTF perceived their role as that of defending Islam and protecting followers of their own religion, all while fulfilling a religious requirement to undertake 'hijra' and fight in a holy war. Some were genuinely driven by the humanitarian suffering of the Syrian people, reinforced by horrific images of the conflict and stories of government atrocities publicized in jihadist propaganda. It was only on arrival that many of these individuals fully adopted the jihadist doctrine and ideology.¹⁸ The term 'hijra', originally used to refer to the migration of the prophet Muhammad from Mecca to Medina, has been turned by both Al-Qaida and ISIL (Da'esh) into a rallying call to arms and construed as an obligation to migrate and undertake jihad in defence of Muslim lands.¹⁹ Issue 3 of the ISIL (Da'esh) magazine Dabiq was titled 'A call to Hijra'. Containing articles such as 'There is no life without jihad, and there is no jihad without hijra', followers were instructed to answer the call of their leader al-Baghdadi and move to the Khilafah [caliphate].²⁰; (iii) ISIL (Da'esh) success and legitimacy: the victories initially accomplished by ISIL (Da'esh) gave it an aura of power and invincibility. In defeating Syrian and Western-backed Iraqi forces and occupying large swathes of territory, ISIL (Da'esh) achieved more than any movement since the mujahideen war in Afghanistan. Control of territory enabled it to create the appearance of a credible functioning government, financed by oil revenues and other captured wealth. The symbolic power of this success was immense and interpreted by supporters as a sign of divine blessing, in affirmation of ISIL (Da'esh)'s path to creating a new world order.²¹ (iv) Prophecies of the Final Battle: classical Islamic prophecies predict that Armageddon and Islam's final battle with its enemies will take place in the region of Sham (Greater Syria) and be led by the Mahdi (Muhammad's successor).²² These prophecies became a fundamental part of the ideology of ISIL (Da'esh). According to ISIL (Da'esh) propaganda, the captured town of Dabiq was to be the scene of this final apocalyptic battle between Muslims and Christians. Many FTF viewed this as their chance to take part in the 'battle to end all battles',²³ leading to the Day of Judgment and salvation for the righteous. Fighting is seen as a chance to atone for past sins and achieve martyrdom; (v) Financial: ISIL (Da'esh)'s allure also extends to material benefits. Some defectors from ISIL (Da'esh) have mentioned promises of food, luxury goods and cars, and having their debts paid.²⁴

⁴⁴See Nigeria's Boko Haram pledges allegiance to Islamic State BBC News, 7th March, 2015.

⁴⁵According to Ambassador Anthony Holmes, Deputy to the Commander for Civil-Military Activities (DCMA) of United States Africa Command (AFRICOM), members of Boko Haram are being trained by Al Qaeda in the Lands of the Islamic Maghreb (AQIM)-see Al Qaeda-linked group finds fertile territory in Nigeria as killings escalate," Paul Cruickshank and Tom Lister, CNN, November 18, 2011, pg. 2. Available at :<<http://articles.cnn.com/2011-11-18/africa/worldafricanigeria-militants11lboko-haram-maidugurinigeria-state/2?ls=PM:AFRICA>> The group is also believed to have ties to the Somali militant group al Shabaab -see "Nigeria UN bomb: Video of 'Boko Haram' bomber released," BBC News, September 18, 2011. Available at: <<http://www.bbc.co.uk/news/world-africa-14964554>>

⁴⁶Hezbollah is terrorist group based in Lebanon.

⁴⁷The arrest of some Lebanese and recovery of large cache of arms by Nigerian Security forces on 28 May 2013 from a house located at No 3 Gaya, Road off Bompai Road, Kano belonging to one Abdul Hassan Taher Fadlalla; a Lebanese national is corroborative in this sense. See Nnenna Ibeh, 'Owner of Abuja's Wonderland Amusement Park, Amigo Supermarket linked to terrorism' *Premium Times*, May 30, 2013.<<https://www.premiumtimesng.com/news/137033-owner-of-abujas-wonderland-amusement-park-amigo-supermarket-linked-to-terrorism.html?tzic=1>> This led to the manhunt for Fauzi Fawad, the co-owner of Amigo Supermarket and Wonderland Amusement Park, was named as a member of a Lebanese Hezbollah terrorist cell in Nigeria as according to the JTF, Mr. Fawad's name was mentioned by 'all those arrested,' for being in possession of heavy weapons, and other terrorism related activities.

In all, the international connection of Boko Haram, particularly with ISIS, has been instrumental in sustaining its insurgency by providing training, funding⁴⁸, weaponry, foreign fighters and propaganda support. Thus, with the network of foreign terrorist fighters, the group resoundingly announced its terror exploit at the global scene consequent upon which the US Department of States designated it a foreign terrorist organization and a specially designated global terrorist on November 14, 2013⁴⁹. Admittedly, the group's terror capability has been greatly reduced in recent times largely because of internal divisions⁵⁰ and the fact that Nigerian military's efforts, supported by regional forces, has adversely impacted on the group's cohesion and effectiveness.

With respect to banditry, the current wave of banditry in Nigeria can hardly be separated from mainstream terrorism and activities of foreign terrorist groups. Banditry, particularly in the Sahel region and parts of Nigeria, has increasingly been linked to foreign terrorist fighters and terrorist groups for certain reasons, including the fact that bandits and terrorist groups often exploit the same networks for smuggling weapons, people, and goods. Also, terrorist groups draw their membership from local bandits; who may be prompted by pecuniary incentives or ideological reasons, even as the relatively porous border allows foreign terrorist fighters to bring expertise and resources, enhancing the capabilities of local bandits. The security situation around Katsina state occasioned by the nefarious activities of a conglomeration of bandits and terrorists from Niger Republic well exemplifies this link. Thus, Nigeria's borders with Chad, Niger, and Cameroon are porous, facilitating the movement of fighters across the region. Evidently, ideological alignment with jihadist groups, economic incentives, and social or political grievances stand as attracting factors for foreign terrorist fighters. With respect to kidnapping in Nigeria, it is equally fueled by foreign elements. Thus, it is instructive to observe in that regard that at the global stage, kidnapping has been with mankind for a very long time⁵¹, just as it is equally not a new phenomenon in Nigeria⁵². However, what is relatively new and of growing concern is the deployment of kidnapping as a 'terror tool' and the involvement of foreign influence (foreign terrorist fighters) in the coordination, planning, execution and in provision of expertise in that respect. Kidnapping and the involvement of foreign terrorist fighters are significant issues in Nigeria, peaking with remarkable cases like the Chibok Girls⁵³ and Dapchi⁵⁴ incidents among other sundry terror linked kidnap cases in the country perpetrated by Boko Haram and their other collaborators.

It is instructive to state that the involvement of foreign terrorist elements has in fact heightened the situation in Nigeria. Presently 'army of kidnappers' operate in Nigeria mainly under different terror labels like 'bandits', 'Boko Haram', 'ISWAP', 'Lakurawa' and some other largely clandestine and faceless groups. Another area of manifestation of FTFs in Nigeria is in the activities of extremists. As observed earlier, modern day terrorism in Nigeria is traceable to extremism (more particularly religious extremism), which is tied to the influence of foreign elements. Illustrative in this sense was the Matatsine terror waves and crisis in most parts of Northern Nigeria (which was ignited at the time by the

⁴⁸Thus, there are plethora of evidence of the group receiving funding from outside the country, sometimes from foreigners and at other times from Nigerians abroad. For instance, on March 25, 2022, the U.S. Department of the Treasury's Office of Foreign Assets Control (OFAC) designated a network of six individuals (Abdurrahman Ado Musa, Salihu Yusuf Adamu, Bashir Ali Yusuf, Muhammed Ibrahim Isa, Ibrahim Ali Alhassan, and Surajo Abubakar Muhammad) connected to Nigeria-based terrorist group, Boko Haram. All six were found guilty of establishing a Boko Haram cell in the United Arab Emirates (UAE) to raise funds for and provide material assistance to Boko Haram insurgents in Nigeria. This was a follow-up action to earlier conviction of the affected persons for related offence in September, 2021 by the UAE Federal Court of Appeals in Abu Dhabi. Specifically, Abdurrahman Ado Musa, Salihu Yusuf Adamu, Bashir Ali Yusuf, Muhammed Ibrahim Isa, Ibrahim Ali Alhassan, and Surajo Abubakar Muhammad were convicted for transferring \$782,000 from Dubai to Boko Haram in Nigeria. Salihu Yusuf Adamu and Surajo Abubakar Muhammad were sentenced to life imprisonment for violations of UAE anti-terrorism laws; Abdurrahman Ado Musa, Bashir Ali Yusuf, Muhammed Ibrahim Isa, and Ibrahim Ali Alhassan were sentenced to 10 years in prison, followed by deportation. See U.S. Department of Treasury, 'Treasury Sanctions Six Individuals for Raising funds in the United Arab Emirates to Support Nigeria's Boko Haram Terrorist Group' Press Release of 25 march, 2022 < <https://home.treasury.gov/policy-issues/financial-sanctions/recent-actions/20220325>> accessed 21 July, 2024.

⁴⁹*Ibid.*

⁵⁰The division in Boko Haram and the emergence of ISWAP led to the death of Abubakar Shekau. Shekau reportedly killed himself on 19 May 2021 by detonating a suicide vest during the battle of Sambisa Forest between Boko Haram and Islamic State's West Africa Province. See 'Abubakar Shekau: Nigeria's Boko Haram leader is dead, say rival militants' *BBC Onlinenews*, June 7, 2021. < <https://www.bbc.com/news/world-africa-57378493>> accessed July 21, 2024.

⁵¹At the global stage, kidnapping was said to have evolved from about 1673 through the practice of stealing children for use as servants or labourers in the then American colonies. The word 'kidnapping' 'was first recorded in the English lexicon in 1678, as describing the aforementioned practice (which at a time extended beyond just children to include adults). The initial purpose of kidnapping was to secure or drive the labour requirements for plantations in colonies, such as the ones in North America at the time. See TG Ishaya, *et al.* A deeper examination of the word under reference, indicates that it is a product of the fusion of two separate words, 'kid' and 'napping'. 'Kid' in this sense refers to 'child' or 'children' and is said to have an informal air, even as it is considered a low slang. On its part, 'napper', is a possible variant for the verb 'nab' which means 'to snatch' or 'steal' - *ibid.* Today, the meaning of the word 'kidnapping' has evolved beyond reference to 'kids' or children alone.

⁵²Within Nigeria, kidnapping has a long history, dating back to early historical times when certain unwholesome kidnap-like practices held sway. Thus, in ancient times, there were trends of seizing individuals (particularly strangers) for mostly ritual purposes like burial of prominent chiefs, warriors and other sundry fetish practices. However, modern day kidnapping in Nigeria (which has become largely ransom driven today) can be traced to militant agitations in the Niger Delta region of the country. The first act of kidnapping in the region started in 2006, however, these early incidents were not ransom-driven but basically to draw attention to a vast issue bordering on exploitation and marginalization of the people in that enclave- See 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. Unfortunately, criminals later hijacked the struggle and scaled it up to a ransom-motivated venture- see, News Watch, June 29, 2009 p.16.

⁵³BO Nweke, *Law of Armed Conflict in the Context of Nigeria's Counter Insurgency Engagements*, (Ibadan: University Press, 2023) p132. The abduction of 276 school girls from a Government Secondary School in Chibok, Borno State by Boko Haram through the night of 14th to the early hours of 15th April, 2014 was an incident that sparked global outrage with the Bring Back Our Girls (BBOG) crusade.

⁵⁴*ibid.* The Dapchi School Girls abduction occurred on 19th February 2018. In the incident, 110 students of Government Girls Science and Technical College, Dapchi, Yobe State, were abducted by Boko Haram.

unorthodox beliefs and practices⁵⁵ of the notorious Maitatsine Islamic sect during the Shagari regime).⁵⁶ Thus, it would be recalled that the religious fanaticism of the aforementioned sect obviously had links with foreign influence. Significant in this sense is the fact that the leader of the group, Muhammadu Marwa was a foreigner, who emigrated into Kano in 1945 from Marwa in Northern Cameroon as an Islamic Scholar.

The foregoing evidences the fact that extremism in Nigeria is a significant security issue, with groups such as Boko Haram and the Islamic State West Africa Province (ISWAP) still posing severe terror threats at the national, regional and global levels. The situation is obviously being exacerbated by the involvement of foreign elements (Foreign Terrorist Fighters), who bring in various forms of support to further terrorist mission. The nexus between extremism in Nigeria and Foreign Terrorist Fighters presents a complex challenge that requires a multifaceted response; hence the imperative to address both the local and international dimensions of this issue is imbedded in the objective of this study.

6. Regulations and Legal Dynamics of FTFs in Nigeria

At the global level, the quest to utilize the instrumentality of law to check the nefarious activities of terrorist and most particularly FTFs has a long and chequered history and could be said to have commenced almost immediately terrorism was perceived as a threat to the survival of the human race⁵⁷. Nevertheless, documented efforts in this wise can be traced back to about the early 20th century, when nations began recognizing the need for legal frameworks to combat politically motivated violence. One of the earliest instances was the League of Nations' efforts in the 1930s to draft a Convention for the Prevention and Punishment of Terrorism, following the assassination of King Alexander I of Yugoslavia in 1934. Although the convention was never widely ratified, it marked a foundational moment in international attempts to codify legal measures against terrorism. Post-World War II, the growth of international aviation led to further legal instruments like the Tokyo (1963), Hague (1970), and Montreal (1971) Conventions, which addressed hijacking and acts of violence aboard aircraft. The modern era of counter-terrorism laws was significantly shaped by the events of September 11, 2001, which triggered a global overhaul of security and legal systems. In the aftermath, the United Nations Security Council adopted Resolution 1373, mandating that all member states criminalize terrorism, freeze assets of suspected terrorists, and strengthen border controls. This led to the proliferation of national counter-terrorism legislation worldwide, thus, making for a framework of laws with typically expanded surveillance powers, redefined terrorism-related offences, and introduced preventive detention measures (which are all aimed at enhancing state capacity to contain the spread of terror ideas, anticipate and neutralize terrorist threats in a cooperative sense).

Within Nigeria's domestic jurisdiction, early efforts to legally contain terrorism in general could be pinned on the Criminal Code⁵⁸ and the Penal Code Acts. However, the earliest legal efforts to specifically address foreign terrorist fighters (FTFs) in Nigeria can be traced to the Terrorism (Prevention) Act of 2011, which marked the country's first comprehensive legal framework specifically addressing terrorism. Prior to this, Nigeria relied on general criminal laws like the Criminal Code Act and Penal Code to prosecute acts that could be considered terrorist in nature, such as unlawful assembly, murder, and treason. However, these laws were insufficient in tackling the complex and transnational nature of modern terrorism, especially in the face of growing threats posed by groups like Boko Haram. The 2011 Act was enacted in response to increasing domestic and international pressure following a surge in terrorist activities, including the 2011 UN Building bombing in Abuja. It was further strengthened by the Terrorism (Prevention) (Amendment) Act of 2013, which expanded the definition of terrorism, criminalized material support to terrorist organizations, and introduced measures to counter financing of terrorism. Today, the Terrorism Prevention and Prohibition Act, 2022 holds way as the current major and most encompassing counter-terrorism legislation in the country⁵⁹. This law contains specific provisions addressing the issue of foreign terrorist fighters by criminalizing travel or attempts to travel for the purpose of terrorism, and enabling law enforcement to arrest, prosecute, and rehabilitate individuals involved in such activities, in line with UN Security Council Resolution 2178 (2014), 2178, 1373, 2396 just to mention a few.

International Regulation of FTFs

This refers to a collection of specialized international legal instruments that are purposely meant to specifically address the global terrorist threats posed by foreign terrorist fighters as a focus. These Instruments include: United Nations Security

⁵⁵Some 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 they 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. See IO Albert, 'Violence in Metropolitan Kano: A Historical Perspective,' *Urban Violence in Africa, IFRA-Nigeria* (1994) 111-136. 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. IX, 54-70.

⁵⁶TG 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.

⁵⁷while it is yet unsettled among scholars as to the first identified terrorist, act of terror or incidence of terrorism in human history, the Thugs of India from 2500 years ago, the Sicari (Sicarii Zealots of 66-73 CE) and the Assassins of the eleventh century are usually viewed as some of the earliest terrorists-See J Gearson, *The Nature of Modern Terrorism* in *Super-terrorism-Policy Responses* (Oxford: Blackwell Publishing, 2002), p14.

⁵⁸ Now contained in Chapter C.38 of the Laws of Federation of Nigeria, 2004.

⁵⁹ B O Nweke p. 119

Council Resolution 2170⁶⁰, United Nations Security Council Resolution 2178⁶¹ and United Nations Security Council Resolution 2396⁶² as well as the United Nations Security Council Resolution 1373 of 2001⁶³, which were all adopted under the binding powers of Chapter VII of the United Nations Charter. The above is aside the general counter-terror legal framework comprising an avalanche of conventions, protocols and treaties dwelling on terrorism in general.

Domestic Regulation of FTFs

This is an assemblage of laws, statutes and regulations that are enacted or made by Nigerian government to prompt or give an enablement to combating FTFs within the larger crime; 'terrorism' in Nigeria through the law. The laws in this category includes, the Constitution of the Federal Republic of Nigeria, 1999 (as amended), Terrorism Prevention and Prohibition Act (TPPA)⁶⁴, the Proceeds of Crime (Recovery and Management) Act, 2022, Money Laundering Act 2022. Other laws within this framework include, Economic and Financial Crimes (EFCC) Act, the Nigerian Financial Intelligence Unit Act (NFIU), National Security Agencies Act, and the Police Act, just to mention a few. Thus, with respect to the constitution, it is instructive

⁶⁰This resolution was unanimously adopted on 15th August, 2014 by the United Nations Security Council (UNSC) at its 7242nd meeting, under the binding powers as contained in Chapter VII of the United Nations Charter. It is by paragraph 12 of the preamble thereto the first legal instrument and UNSC Resolution to introduce the term 'foreign terrorist fighters' into the lexicon of international law. The resolution came in response to the flow (fluid movement) and rising international exploits of the Islamic State in Iraq and the Levant (ISIL), Al Nusrah Front (ANF) and other frontline terror groups and al Qaeda affiliates, especially considering the threat to international peace and security posed by same (para. 18 of the preamble). It specifically by paragraph 4, demanded that ISIL and other al Qaeda affiliate terror groups cease their acts of terrorism and immediately disarm and disband. The resolution equally obligates Member States to take national measures to suppress foreign terrorist fighters and to ultimately bring them to justice in accordance with applicable international laws (para. 8 thereof).

⁶¹Basically, the resolution obligates states to criminalize activities of FTFs and to have in place laws allowing for prosecution of foreign terrorist fighters and those who finance and facilitate their activities (para.6). This resolution was unanimously adopted on September 24, 2014 by the United Nations Security Council (UNSC) at its 7272nd meeting, under the binding powers as contained in Chapter VII of the United Nations Charter. In practical terms, it is in fact a follow-up to its preceding UNSC RES 2170 as it not only dwell on same subject but proceeded to filling the gap of absence of a definition for the term 'foreign terrorist fighters' in the earlier resolution (The definition of foreign terrorist fighters can be gleaned from a combined reading of the provisions of Para.8 of the Preamble to the Resolution as well as Paras. 5 &6(a) of the Resolution, which cumulatively contains the definition in that respect).

⁶²The main thrust of UNSC Resolution 2396 is that it deals with returning or relocating terrorist fighters by establishing a legal regime applicable to foreign terrorist fighters returning to their countries of origin or relocating to third states (returnees and relocators)- UNSC RES.2396, Para.30. This was also buttressed in US Mission to the United Nations, *Fact Sheet: Resolution 2396 (2017) on Foreign Terrorist Fighters (Returnees and Relocators)*, 21 December 2017. The resolution equally obligates states to have systems to develop watch-lists of known or suspected terrorists (including foreign terrorist fighters)-para.13 thereof. It contains provisions requiring or mandating airlines to provide advance passenger information (API) to the appropriate national authorities, and to develop the capacity to use passenger name records (PNR). The resolution requires Member States, in accordance with domestic and international law, to intensify and accelerate the timely exchange of relevant operational information and financial intelligence regarding actions or movements, and patterns of movements, of terrorists or terrorist networks, including foreign terrorist fighters among other obligations in paras.11, 12 and 5 respectively.

⁶³The resolution is foundational and significant for being the first UNSC resolution to urge member states to pass or amend legislation at domestic levels, even as it is the first thematic UNSC resolution under Chapter VII of the Charter of the United Nations. Also, the resolution is foresighted in establishing a subsidiary body of the Security Council, the Counter-Terrorism Committee (CTC)-(Art.6 thereof), to monitor the implementation of the resolution, which is global in scope. This resolution was unanimously adopted on September 28, 2001 by the United Nations Security Council (UNSC) at its 4385th meeting, under the binding powers as contained in Chapter VII of the United Nations Charter. The UNSC Resolution 1373 is a foundational international counter-terrorism instrument which principally dwells on prevention of terrorism financing as its main thrust, even as it equally addresses issues bordering on eliminating the supply of weapons to terrorists, suppressing the recruitment of terrorists as well as denying safe haven to terrorists, among others.

⁶⁴On 12th May, 2022, the Terrorism Prevention and Prohibition Act, 2022 came into force repealing the hitherto existing Terrorism Prevention Act 2011 as Amended by the Terrorism Prevention (Amendment) Act, 2013. Essentially, the objective of the Act is to provide for effective, unified and comprehensive legal, regulatory and institutional framework for the detection, prevention, prohibition, prosecution and punishment of acts of terrorism, terrorism financing, proliferation and financing the proliferation of weapons of mass destruction in Nigeria, among others. Thus, in furtherance of the foregoing objectives, the statute brought in some innovative provisions; which basically include the establishment of the National Counter Terrorism Centre and the Nigeria Sanction Committee (sections 6 and 9 of the Act respectively). With specific reference to FTFs, the Act created some offences in that respect and provisions touching on same. For instance, terrorism financing under the Act is punishable with life imprisonment, while knowingly providing explosive device or other lethal device to terrorist is punishable on conviction for a term of imprisonments of not less than twenty years, even as life imprisonment is the maximum sentence in that regard same is applicable for recruitment of persons to be members of a terrorist group or participate in terrorist acts and for soliciting property for the commission of terrorist act- (these are contained in sections 21,17,18 and 19 respectively). Also by the Act, knowingly providing facilities (premises houses, buildings, ship, aircraft or equipment) under one's charge in support or for use in terrorist acts is punishable on conviction with at least twenty years imprisonment (section 20, this provision is of direct relevance to FTFs), just like the provision in section 25, which is to the effect that membership of a terrorist group is punishable on conviction with a term of imprisonment of not less than twenty years and up to maximum of life imprisonment. Similarly, by section 4 the Attorney General of the Federation is vested with the authority and responsibility for strengthening and enhancing the existing legal framework on combating terrorism and terrorism financing, and proliferation and financing of the proliferation of weapons of mass destruction to ensure; conformity of Nigeria's counter-terrorism laws, policies and other measures with United Nations Conventions on Terrorism and terrorism financing, international standards and maintain international co-operation required for preventing and combating international acts of terrorism among other such powers and responsibilities. This of course includes to ensure the implementation of the provisions of United Nations Security Council Resolutions (UNSCRs) related to Targeted Financial Sanctions on Terrorism Financing, Proliferation of Weapons of Mass Destruction and Proliferation financing ; to ensure the prosecution of terrorism and terrorism financing offences, proliferation and financing the proliferation of weapons of mass destruction, and other offences under this Act ; and to ensure the facilitation of adherence to relevant UNSCRs related to Terrorism Financing (TF) and Proliferation Financing (PF), including UNSCR 1267 and 1273 and successor resolutions. Significantly, the provisions on the National Counter-Terrorism Centre in section 6; (which is charged with the duty to function as the coordinating body for counter terrorism financing in Nigeria. It is equally bestowed with the responsibility of coordination of counter terrorism policies, strategies, plans and support in the performance of the functions of the National Security Adviser) and that on Sanction Committee in section 9 (which has as part of its mandate recommendations to the Attorney General of the Federation for purposes of designation as a terrorist or terrorist group any person or organization that has committed or attempted to commit or facilitated acts of terrorism among other responsibilities. See S. 10 thereof.) are of direct relevance to combating FTFs. In all, the Act empowers security agencies to investigate terrorism matters captured therein, even as it donates an extra territorial jurisdiction on the Federal High Court (section 76 thereof).

to state that Nigeria operates a constitutional democracy, in which the constitution is looked upon as both the *grundnorm* and the *fons et origo* of the legal system⁶⁵ having precedence over all other laws in the country⁶⁶ as well as binding force on all persons, organs and organisations.⁶⁷ The strategic importance of the constitution in combating FTFs in the country stems from the fact that all institutions, agencies and laws within the framework are created or made pursuant to it, to the extent that they all, must accord with the dictates of the Constitution. With specific reference to FTFs, the TPPA contains certain relevant provisions, thus Terrorism financing under the Act is punishable with life imprisonment, while knowingly providing explosive device or other lethal device to terrorist is punishable on conviction for a term of imprisonments of not less than twenty years, even as life imprisonment is the maximum sentence in that regard⁶⁸ same is applicable for recruitment of persons to be members of a terrorist group or participate in terrorist acts⁶⁹ and for soliciting property for the commission of terrorist act.⁷⁰

7. Implications of International Regulation of 'Foreign Terrorist Fighters' on Nigeria

The avalanche of rules, measures, treaties, conventions and regulations relating to foreign terrorist fighters at the global stage have far reaching implications for Nigeria as a member of the international community. The implications come in various forms, including an obligation at international law to adopt certain International Conventions⁷¹, obligation to criminalise certain acts under its domestic law and to generally pass municipal laws on terrorism⁷². Also of importance is the responsibility

⁶⁵ *Fasakin Foods Nig. Ltd V. Martins Shosanya* (2006), NSCQR, Vol. 26, 641.

⁶⁶ Section 1(3)

⁶⁷ Constitution of the Federal Republic of Nigeria, 1999 (as amended), Section 1 (1)

⁶⁸ Sections 21 and 17 of the Act.

⁶⁹ Section 18

⁷⁰ Section 19.

⁷¹ The international legal framework for counter terrorism imposes on states certain international conventions as well as obligations to adopt certain other conventions and treaties not so imposed. More specifically, this is against the backdrop of UNSC resolutions, 1267(1999), 1373(2001) and 1624(2004), which imposed obligations on states to adopt at the time, the 16 multilateral international conventions against terrorism and which generally defines, proscribe and punish terrorism-see Jean-Paul Laborde, 'Countering Terrorism: New International Criminal Law Perspectives,' Visiting Experts' Paper Series 132nd International Senior Seminar, United Nations Asia and Far East Institute for the Prevention of Crime and the Treatment of offenders (UNAFEI), January-February, 2006. <www.unafei.or.jp/http://www.nytimes.com/2007/07/29/books/review/power-t.html> accessed 2/4/25 cited in Amitai Etzioni, Terrorists: A District Species,' Terrorism and Political Violence, 23, 2011, p2. In compliance with these obligations, Nigeria has ratified and adopted several international conventions and treaties as part of its obligations to counter-terrorism. These international instruments provide a framework for Nigeria to combat terrorism through various measures, including legal, administrative, and operational actions. Some of the international instruments that are imposed on member states (Nigeria inclusive) by virtue of various UNSC resolutions includes the following UNSC Resolutions, RES 1373(2001), RES 2170(2014), RES 2178(2014), RES 2396 (2017), 2368(2017) among others, which were all adopted by the UNSC under its binding powers as contained in Chapter VII of the United Nations Charter. Other key international conventions and treaties that Nigeria is obligated to adopt and has so adopted include, International Convention for the Suppression of the Financing of Terrorism, 1999, which was adopted by Nigeria on June 16, 2003, the International Convention for the Suppression of Terrorist Bombings, 1997 adopted by Nigeria on September 20, 2013. Also, Nigeria adopted the United Nations Convention against Transnational Organized Crime 2000 (Palermo Convention) on June 28, 2001, Convention on Offences and Certain Other Acts Committed on Board Aircraft (Tokyo Convention, 1963) - September 18, 1969, Convention for the Suppression of Unlawful Seizure of Aircraft (Hague Convention, 1970) was ratified by Nigeria on March 13, 1973. Nigeria ratified the Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation (Montreal Convention, 1971) on March 30, 1973. Nigeria adopted the African Union Convention on the Prevention and Combating of Terrorism (1999) on July 14, 2002. Nigeria adopted the International Convention Against the Taking of Hostages, 1979 on September 26, 2001. It should be noted that this list is not exhaustive as Nigeria has adopted and ratified numerous other international counter-terrorism instruments in fulfillment of its international obligations. From the foregoing, it is instructive to conclude that Nigeria has complied to a large extent with the obligation to adopt certain international counter-terrorism instruments and same is a reflection of Nigeria's commitment to international efforts in countering terrorism and its obligations under international law. However, it does appear that this duty goes beyond this considering the requirement for domestication under our municipal law, more precisely, the Nigerian constitution-see Constitution of the Federal Republic of Nigeria, 1999 (as amended), section 12. Also, the peculiarity of Nigeria comes with the imperative for modification of some of the adopted laws to uniquely address the unique situation.

⁷² International law generally imposes on states, the responsibility not only to adopt certain international conventions but to equally enact anti-terror laws of some kinds within its domestic legal system in the same respect. Nigeria's obligations to enact domestic anti-terror and allied laws stem from various international treaties, conventions. Thus, Certain UN Convention and Protocols equally places duty on states to enact anti-terror laws. For instance, the international Convention for the Suppression of Terrorist Bombings (1997) obligates states to criminalize terrorist bombings and to establish jurisdiction over offences committed. In the same vein, the International Convention for the Suppression of the Financing of Terrorism (1999) places obligation on states to pass local legislation criminalizing acts of financing of terrorism, including enacting measure to detect and freeze funds intended for terrorist activities. Also, United Nations Security Council (UNSC) resolutions most of which Nigeria as a country has ratified or is bound by comes with similar obligations. An example in this respect is the UNSC RES. 1373 adopted in the wake of the 9/11 attack. The resolution obligates states to enact laws criminalizing the financing of terrorism, among other related crimes. Similarly, UNSC Res. 2178 (2014)-places obligations on states to enact laws and adopt measures towards preventing the recruitment, organization, transportation and equipping of foreign terrorist fighters (FTFs). These international instruments as observed above require member states to take appropriate legislative, administrative, and operational measures to combat terrorism and related activities. It is in compliance with the foregoing obligations, that Nigeria enacted most of its anti-terror laws, including the Terrorism Prevention and Prohibition (Amendment) Act 2022, Money Laundering (Prevention and Prohibition) Act, NO.14, 2022, Proceeds of Crime (Recovery and Management) Act 2022, Cyber-Crime Prevention, Prohibition, etc (Amendment) Act 2024, among others. It is thus instructive to state that Nigeria's domestic laws, such as the Terrorism (Prevention) Act and its amendments, are designed to align with these international obligations and ensure comprehensive counter-terrorism measures are in place as they are obviously a fulfillment of the country's obligations in that respect. In all, Nigeria's legislative efforts are aimed at fulfilling its international obligations while addressing the specific challenges posed by terrorism within its borders. The enactment and continuous updating of anti-terrorism laws demonstrate Nigeria's commitment to combating terrorism and aligning its legal framework with international standards.

for international cooperation⁷³ and to regulate its citizens and generally ensure that territories within its control are not used as safe-haven for terror activities⁷⁴.

8. Impacts of Terrorism and Presence of Foreign Terrorist Fighters on Nigeria

Fall-outs from the activities of FTFs on Nigeria have been negative in every respect and manifestations in that respect are felt in various forms, including impacts on the economy⁷⁵, national and international security, human rights⁷⁶, social and diplomatic relations⁷⁷ as well as infrastructural development⁷⁸, just to mention a few. With specific reference to the impact of the activities of FTFs on national and international security, the singular fact that the activities of local terror groups in the country and conflicts arising therefrom spans beyond the borders of Nigeria, affecting Chad, Cameroun and Niger makes it a threat to international peace and security. Within Nigeria, the threat has equally been directly affecting foreign and international interest, the attack on a United Nation's Humanitarian Helicopter⁷⁹ as well as the infamous attack and kidnapping of some staff of the US Mission (Embassy and Consulate) by unknown assailants⁸⁰, which is one of the most recent in this category further buttresses this point. Also, the fact that the international borders along the Lake Chad region have become unsafe for virtually

⁷³International law imposes obligations for international cooperation on states in the global counter-terrorism effort. These obligations are founded on Conventions, treaties, and resolutions. Significantly relevant this respect is Article 2(g) of the UNSC RES.1373 which is to the effect that states are under obligation to prevent the movement and travel of terrorists and to intensify law-enforcement, cooperation to counter-terrorism. Other such provisions include, obligations of states to accelerate the timely exchange of operational information and financial intelligence on terrorist actions and movements, including FTFs-(UNSC RES.2396, Para. 5) and to develop watch-list of known or suspected terrorists- (UNSC RES.2396, Para. 13), (including those that are its citizens). Other areas that states cooperate internationally include mutual legal assistance (which basically covers investigation, extradition and prosecution of terrorist suspects) as well as in giving effect to United Nations Security Council Resolutions to implement sanctions. It should be noted that state cooperation could exist at bilateral or multilateral levels, which could be at sub-regional, regional, continental and global level. Nigeria takes a leading role in the West African sub-region and the African Union in terms of initiatives and support for counter-terrorism, even as it is equally among the most visible and active nations in the global counter-terror efforts of the United Nations.

⁷⁴Nation-states (including Nigeria) owe as part of their international counter-terror obligation the responsibility to follow-through the activities of citizens (whether in diaspora or locally) with a view to monitoring their inclinations to terrorism as well as connections and links with terrorist groups. Similar responsibilities equally exist on the part of states with respect to other residents and visitors. Accordingly, legal provisions relevant to the foregoing are scattered in numerous international instruments, conventions and treaties. Specifically, by Article 2(g) of the UNSC RES.1373, states are under obligation to prevent the movement and travel of terrorists and to intensify law-enforcement, cooperation to counter-terrorism. This singular obligation entails some level of regulation and monitoring at least to detect terrorists. Also, the UNSC RES.1373 also contains provisions obligating states to freeze the assets of known terrorists and their supporters-UNSC RES.1373, Art.1(c). States are equally under obligations to accelerate the timely exchange of operational information and financial intelligence on terrorist actions and movements, including FTFs- (UNSC RES.2396, Para. 5) and to develop watch-list of known or suspected terrorists- (UNSC RES.2396, Para. 13) (including those that are its citizens). In furtherance, Airlines are equally mandated to provide advance passenger information (API) to appropriate national authorities (UNSC RES.2396, Para. 11), so as to develop the capacity to use passenger name records (PNR)- UNSC RES.2396, Para. 12. The responsibility towards monitoring of citizens, which is usually done through the referenced legal avenues, is in fact an obligation brought about by the international legal mechanism for counter-terrorism, to which Nigeria is committed. This is moreso as activities of citizens' impacts on the reputation and standing of their country before the international community. Hence, diplomatic strains often result from terror linked to citizens of countries, for instance, Egypt's experience suffices as example in this regard. Flowing from the above, Nigeria as a sovereign state has the obligation to regulate and monitor activities of citizens, residents and visitors. These responsibilities which are direct implications of the international legal mechanism for counter-terrorism and regulation of FTFs, are essentials to fulfilling one of the most important international obligations on the part of the country; to collaborate with other countries to investigate/prosecute Nigerians linked to terror activities anywhere in the world. The case of Abdulmutallab (the underwear bomber) as well as the on-going trial of Simon Ekpa and his cohorts in Finland practically illustrates the enormity of these responsibilities.

⁷⁵The creation of palpable fear among citizens and residents especially in the North East has led to abandonment of productive activities like farming, thus leading to food scarcity, hunger and poverty. It has also led to increase in the number of school drop outs, sporadic migrations, collapse of the tourism industry and sharp decline in foreign investment in general, even as the corporate/international image of Nigeria has been badly battered by the threat. Besides, increased budgetary spending by the Government on the counter-terrorism efforts portends grave consequences for other sectors, especially infrastructural development which is prerequisite for economic advancement of any society as the sector is struggling for allocation in the face of declining fortune of oil. All these have direct impact on the ability of the Government to take care of the growing number of internally displaced persons arising from the plethora terror induced crisis in the country, hence the humanitarian concern.

⁷⁶Human Rights violations have been a major trademark of terrorists' activities world over. Thus, it is a very pronounced feature of the Boko Haram conflict, the abduction of innocent civilians who are subjected to various degrees of inhuman treatments including torture, excruciating execution, rape and forced marriage to Boko Haram members are some examples of Human Right violations attributable to the sect. On the part of bandits, ISWAP and of late the 'lakurawa' the pattern is still same. Although there have also been series of allegations of extra judicial killings, deaths in custody, mass and arbitrary arrests, unlawful detention and torture against government forces by Amnesty International and some foreign interests including the United States of America (USA)⁷⁶ against security forces in the course countering acts of terror. It is instructive to point out that, these allegations against government security forces are still largely unproved, admittedly however, they are of persuasive negative effect on the image of Nigeria in the international domain. See - Amnesty International, 'Stars on their Shoulders, Bloods on their Hands' <www.amnesty.org>AFR 44 on 14th September, 2020.

⁷⁷International terror activities traceable to a country, its citizens or proxies have a way of impacting on not only the reputation of the country concerned but could even lead to diplomatic row and rupture. Also, citizens of terror-linked countries suffer a lot of stigmas, including tough visa conditions, nationality profiling as well as tight scrutiny and searches at international travel and control points like airports. A typical example is Iran, which the West views as a terrorist country because of its affiliations to most 'terrorist organizations'. Also, the case of *United States v Umar Farouk Abdulmutallab*, No 2: 10-CR 2005, (2005) US District Court of Michigan, Detroit is illustrative in this respect. Thus, the arrest and prosecution of Abdulmutallab (a Nigerian) in the US for terrorism impacted negatively on the international image of Nigeria, leading in some instances to what appears to be a kind of nationality profiling, with so many innocent Nigerians suffering the stigma as well.

⁷⁸Increased budgetary allocation and spending by the government on counter-terrorism has been impacting negatively on other competing needs, particularly infrastructural development. Being that infrastructural development attracts investors and is a driver for economic advancement, the growth of commerce and industry, the fact that the sector is struggling for allocation calls for serious concern.

⁷⁹The UN Humanitarian Air Service Helicopter was hit at Damsak, a community in Borno State, about 150 kilometers (90 miles) from Maiduguri, the State capital on 4th July 2020, killing two (2) persons including a five (5) year old child.

⁸⁰A J Blinken, 'Attack on U.S. Convoy in Nigeria', *US Embassy and Consulate in Nigeria (Press Statement)*, May 17, 2023 <<https://ng.usembassy.gov/attack-on-u-s-convoy-in-nigeria/>>

all human activities courtesy of the terror propelled Boko Haram conflict; which necessitated the formation of multi-national joint task force, shows the impact of terrorism as a threat at the international level. Similarly, incessant abduction and killing of foreigners has also led to global concern, with the United States of America, United Kingdom, China and Israel at one time or the other making offers and efforts towards assisting Nigeria in its counter-terrorism campaigns and in alleviating the impacts of the crisis on the citizens, this is coupled with the United Nations commitment in this respect.

9. Counter Terrorism Efforts in Nigeria

Several efforts have been channelled towards countering terrorist activities in Nigeria. While some of these efforts are completely domestic, others arose from bilateral understanding or supports of individual friendly states. In the same vein, there have been commitments in this respect flowing from regional, continental as well as by the international community (at the multi-national level) towards curbing terrorism in Nigeria. At the national level, initially, the response was with a police action;⁸¹ The partial declaration of state of emergency in the affected states was equally deployed as a response by the Federal Government at some point, there were also reported attempts at negotiations, however subtle in that respect. Meanwhile, among the plethora of efforts of the Nigeria Government in this regard, the establishment of the Joint Task Forces (JTFs)⁸² and the enactment of the Terrorism Prevention Act⁸³ are of great significance and impact in the counter insurgency effort and so deserve mention herein. In terms of bilateral efforts, in response to ravaging acts of terrorist in the country, Nigeria built formidable bilateral relationship and cooperation with different states as a counter-terrorism measure. Thus, individual States in different ways have availed and are still offering assistance to Nigeria in response to the Boko Haram conflict in particular and other terror related threats. For instance, the United States of America (USA) is reported to have supported the Nigerian Military and Police with US \$6.3 million in 2014, up from US \$6.2 million in 2013.⁸⁴ The US trained more than 6,200 troops to participate in international peacekeeping force.⁸⁵ According to Amnesty International, the US and Nigeria holds frequent meetings to discuss Nigeria's strategy in fighting Boko Haram⁸⁶, among such similar supports from other nations⁸⁷ In the area of regional cooperation, the Multinational Joint Task Force (MNJTF) has since inception remained so prominent and immensely relevant to the safety of the Lake Chad region in view of constant threats arising from Boko Haram activities and other traces of insecurity in the region⁸⁸. With this platform, the troops are able to cooperative militarily with ease for efficient combat operation uninhibited by the complexities of national sovereignty. The MNJTF has the endorsement of the African Union Peace and Security Council.⁸⁹

With respect to international efforts, it is instructive to state that Nigeria is signatory to plethora of international treaties and has equally ratified at the international level multiple counter terror conventions, including, the 1979 International Convention against the Taking of Hostages, 1997 International Convention for the Suppression of Terrorist Bombings 1999. International Convention for the Suppression of the Financing of Terrorism, among others. Nigeria is equally an active member of the

⁸¹Wherein members of the Boko Haram sect; including their leader (Mohammed Yusuf) were allegedly clamped down upon, arrested, detained and summarily executed.

⁸²Some existing task forces in the country includes, Operation Hadin Kai, Operation Hadin Daji, Operation Udo Ka nma, Operation Delta Safe, Operation whirl stroke and the Special Task Force are of great relevance in this respect. Operation Whirl Stroke was specifically set up to counter armed herdsmen and militia groups operating in Benue, Nasarawa, Taraba and Zamfara States. It was commenced on 8th May, 2018 and consists of all the Military Services, Police and Department of State Services (DSS). The Special Task Force (STF) on its part was set up to militarily tackle mainly ethno-religious conflict in Plateau State and some parts Bauchi and Kaduna States.⁸² Despite the exploits of these task forces, the conflict seems to persist, thereby casting doubt as on the capabilities of our security forces or more precisely, the efficacy of the modus; (use of task force) are apparently called into question

⁸³Now Terrorism (Prevention and Prohibition) Act, 2022. Essentially, the objective of the Act is to provide for effective, unified and comprehensive legal, regulatory and institutional framework for the detection, prevention, prohibition, prosecution and punishment of acts of terrorism, terrorism financing, proliferation and financing the proliferation of weapons of mass destruction in Nigeria, among others⁸³. Thus, in furtherance of the foregoing objectives, the statute brought in some innovative provisions; which basically include the establishment of the National Counter Terrorism Centre,⁸³ the setting up of the Nigerian Sanction Committee⁸³ and the establishment of a seeming adequate legal and institutional framework for improved international cooperation, inter-agency collaboration and freezing of terrorist assets. The initial 2011 and even the 2013 amendment Act were enacted as a response to the Boko Haram conflict. Being that the sect deploys terrorism as its major tactics in the conflict, there was the need for a legal instrument to drive the counter terrorism effort of the country. The statute has since come into force remained the most efficacious legal tool of the counter insurgency efforts of the Nigerian Government. Thus, counter insurgency operations against Boko Haram gained the required legal traction with the enactment of the present Act and the preceding ones. Lawful interception of communications,⁸³ tracking of suspects, investigation and prosecution of terrorist suspects under the Act are easier courtesy of some radical provisions,⁸³ the bulk of which has been aptly captured and discussed in chapter 3 of this work. Although, the series of Terrorism Prevention Acts in Nigeria have always been heavily criticized by Human rights Activists for being pro-law enforcement, the usefulness of these laws in the counter insurgency operation in the country as evidenced in the successes recorded through their application cannot be over emphasized. Thus, as at date in our domestic law, the operative counter terrorism law and latest in the series; the Terrorism Prevention and Prohibition Act 2022 is very much being relied upon (by the Nigerian security forces and Courts) as the principal legislation in the nation's counter insurgency effort.

⁸⁴Amnesty International Report *op. cit.*, <www.amnesty.org> accessed 27th October, 2020.

⁸⁵*Ibid.*

⁸⁶*Ibid.*

⁸⁷An example in this regard is that Nigeria is reported to have received arms from Canada, China, Czech Republic, Russia, South Africa, Ukraine and the USA in 2013 and 2014 respectively. Other interventions and assistance in this regard includes; the reported training of about 1,200 personnel of the Nigerian Security forces made up of soldiers, police and the Department of State Services by Russian Special forces in about September, 2014- see Terrorism: 1,200 Nigerian Security Personnel leave for Russia, *Vanguard News Paper*, 27th September, 2014 <<http://www.vanguardngr.com/2014/09/terrorism>> accessed 20th October, 2020. Also, in this regard are military cooperation for Joint Military exercises and exchange training programmes between the Nigeria Defence Ministry and over 17 countries including USA; France, United Kingdom, Germany, Russia, Turkey and Pakistan with whom Nigeria signed a memorandum in this respect since 2012. See- Amnesty International, 'Stars on their Shoulder, Blood on their Hand', <<http://Nigeriadefence.com/story.asp4>> accessed on 12/6/2021>.

⁸⁸The MNJTF gives multinational bite to the effort at rooting out Boko Haram; as it comprises of troops from mostly Nigeria, Niger and Chad.

⁸⁹African Union, 'The Communiqué of the African Union Peace and Security Council's 489th Meeting of 3rd March, 2015 PSC/PR/COMM.COLXXXIX,' <<http://www.peaceon.org/uploads/psc-489-comm-boko-haram-03-03-2015-doc-pdf>> as reported on Amnesty International, 113-114.

United Nations and operates as such benefits from its vast counter-terror networks. Thus, the Nigeria's counter terror efforts rely heavily of the international efforts or mechanisms and same has been of great benefit to the country. Response/efforts of humanitarian non-governmental organizations (NGOs) stems from the fact that terrorism generally leaves on its trail, severe humanitarian situations. For instance, as the terror threats in Nigeria rages on, the humanitarian crisis arising therefrom (particularly in the Northeast) has continued to soar, with acute shortage of food⁹⁰, water, medicine and other necessities, it became imperative for Humanitarian Non-governmental Organizations (NGOs) to step in to rescue the vulnerable civilian population from the apron string of hunger, psychological trauma and physiological infirmities prevailing therein. Hence, numerous NGOs have been providing aids ranging from food, medicals, water, cash, shelter, education, protection, among others to the populace. With food ranking as the most prevalent form of aid received by the people, health care, clean water and cash assistance ranking next, while protection, the least, the humanitarian NGOs have fared relatively well in their duties⁹¹.

10. Responsibilities for Terrorism in International Law

International law places varying level of legal responsibility or liability on perpetrators and supporters of terrorist acts, as well as violators of counter-terror obligations. In other words, acts of terrorism, generally attracts some consequences, which nature is dependent on the status of perpetrators, or sponsors as individual⁹², state or group⁹³. With respect to states, international law generally lacks a comprehensive mechanism to hold states sponsors of terrorism criminally accountable⁹⁴. State unlike natural persons cannot be criminally culpable. However, under the International Law Commission's Articles on Responsibility of State for International Wrongful Acts⁹⁵, certain non-criminal liabilities can be incurred by state with respect to terror related roles as 'every internationally wrongful act of a State entails the international responsibility of that State'⁹⁶. Broadly speaking, a class of liability could arise on the part of states for attributable or imputable acts of terror⁹⁷ on the one hand and for failure to meet international counter terrorism obligations⁹⁸ on the other hand. Each of course comes with different consequences, which requires the initiation, activation or invocation of responsibility⁹⁹. Generally, it is the state which is directly injured by

⁹⁰The impact of the humanitarian crisis is so severe, for instance it was even reported that feminine was likely to have occurred in Borno, killing an estimated 2,000 people in Bama Local Government Area alone, between January and September, 2017 – See Humanitarian outcomes; ESCORT Humanitarian Access SCORE report: Northeast Nigeria; January 2020 pg 5. See also FEW NET (Edwards 2017, p.4).

⁹¹Although, humanitarian responses in the region were adjudged to be initially slow to scale up, it has grown rapidly since 2016 (when full scale humanitarian activities took off in the area) from the presence of few NGOs to the significantly large number of Humanitarian NGOs and UN agencies currently operating there; who are equally reported to have collectively employed an estimated 4,000 aid workers

⁹²In international law, individuals identified as terrorists are subjected to arrest, prosecution as well to military actions. Also, they may be denied entry or exit by states, subjected to deportation or extradition as the case may be.

⁹³Where a group or organisation is found to perpetrate terrorism, international law will activate and impose certain liabilities on such groups, usually by invoking certain punitive measures like listing as a terror group, proscription and freezing of accounts linked to the identified organisation, among other measures

⁹⁴The current position at international law is that states are generally immune from criminal culpability for their sponsorship and financing of terrorism. Indeed, the revision to the international law Commission's Draft Articles on State Responsibility completely excludes the notion of state criminal responsibility.

⁹⁵The International Law Commission (ILC) first adopted its Draft Articles on Responsibility of State for International Wrongful Act in 2001 during its 53rd Session. The United Nations General Assembly (UNGA) accepted same as part of the ILC Report after over 50 years of work on the task and consequently adopted the Article on January 28, 2002. Note, the ILC primarily functions to codify and progressively develop international law. It was established in 1947 by the UNGA under Article 13(1)(a) of the UN Charter, which instructs the Assembly to encourage the progressive development or codification of international law. The body comprises 34 individuals recognized for their expertise and qualifications in international law, who are elected by the UNGA every five years.

⁹⁶ Articles on Responsibility of State for International Wrongful Act, Article 1.

⁹⁷*ibid*, Article 2(a) and (b). Generally, a state in whose territory crimes are orchestrated is not automatically responsible for them. Thus, the ICJ held in the Corfu Channel Case, that it is not possible to conclude 'from the mere fact of the control exercised by a state over its territory and waters that a state necessarily knew or ought to have known of any unlawful act perpetrated therein nor that it should have known the authors—see *Corfu Channel Case, (United Kingdom v. Albania) (Merits)*, ICJ Rep. 1949, p 4. In other words, for liability to arise, the wrongful acts (in this case, terrorism) must be Imputable or attributable acts to the state See Art 2, Articles on Responsibility of States for International Wrongful Acts adopted by ILC in 2001. In practice, such acts can be attributable to a state where: (i) the wrongful act was done or occurred in the hands of state officials or agents, Art.4, for such are generally regarded as 'acts of state'-Art.7. This responsibility will not be diminished even where the official is discovered to have exceeded his/her authority. –Art. 7; (ii) the wrongful act was done by a group or organization exercising governmental powers in a failed state: It should be noted that in a failed state, wherein an organization or group assumes the role of government, their actions are treated as acts of state-Art. 9, the situation in Afghanistan is illustrative in this sense; (iii) Wrongful acts done by private actors under the effective control of the state: states are responsible for wrongful acts of private actors which they direct or over which they exercised effective control-Arts 4 & 8, see also Jennings & Watts (eds), *Oppenheim's International Law*(Oxford, 2008), 9th edn,p501. Effective control in this sense refers to effective control the particular wrongful and not some kind of general control- see *Military and Paramilitary Activities in and against Nicaragua (Nicaragua v. United States of America) (Merits)* ICJ Rep. 1986, p14 (paras. 86-93). This position was reaffirmed by the ICJ in 2007 in the Genocide Case – *Application of the Convention on the Prevention and Punishment of the Crime of Genocide (Bosnia & Herzegovina v. Serbia & Montenegro)* Judgment ,26 February, 2007, ICJ Rep. 2007, p 91; (iv) Where the state (which does not exercise effective control at the time of the act) subsequently 'acknowledges or accepts' the conduct as its own. The Tehran Hostage case (United States Diplomatic and Consular Staff in Tehran (*United States v. Iran*), ICJ Rep. 1980,p3 is illustrative in this respect as the ICJ held in that case that while the 'direct responsibility of Iran for the original takeover of the US Embassy in Tehran in 1979 was not proved, subsequent statements in the face of the incident involving hostage –taking by students created liability on the part of the state.- see specifically p35 at para.74 thereof. See also ILC Articles, Article 11.

⁹⁸In International law, there is a long-standing obligation on states not to allow their territory to be used to commit harmful acts against other states- See Declaration on Principles of International Law Concerning Friendly Relations and Cooperation among States in Accordance with the Charter of the United Nations; GA RES/25/2625 (XXV), Adopted by consensus on 24th Oct. 1970, UN Doc.GA/RES/25/2625, Principle 1 at para. 9- See also Chapter2.2.2, *Corfu Channel Case, SS Lotus (France v. Turkey)*. 127 PCIJ Series A, N.10. Specifically, various UNSC RES. equally reiterated and expanded this position by expressly obligating states inter alia to refrain from providing support, 'active or passive', 'deny safe haven' to persons involved in terrorism- See UNSC RES. 1373, See also UNSC RES 1624 (2003), UN Doc. S/RES/1624, which focuses on preventive measures.

⁹⁹With respect to where acts of terrorism are imputed or attributable to a state, the injured state may resort to counter-measures like suspension of trade agreements between them and the offending state, suspension of air services agreements. Other reactions in this respect may involve the freezing of assets of the offending state, including its citizens and in more extreme cases to act in self-defence or to take any measure

an internationally wrongful act that primarily may invoke the responsibility of the wrongdoing state. However, where the obligation breached is owed to a group of states and is established for the protection of a collective interest of the group', or where 'the obligation breached is owed to the international community as a whole, non-directly injured states by the ILC Articles, (specifically Article 48(2) (a) and (b) thereof) can ask for cessation of the wrongful conduct, for assurances of non-repetition and for reparation in the interest of the injured state or beneficiaries of the obligation¹⁰⁰.

11. Intricacies of Investigation and Prosecution of Terrorist Acts at the International Level

The investigation of international terrorism is a complex venture which requires a wide range of actions and considerations, including having a good understanding of international law¹⁰¹, specific counter-terror laws of affected states as well as international customary law and practices among States, the workings and laws of international organisations like the UN and the ICC and the ICJ. Specifically, investigators and prosecutors seeking to prove terrorism at the international level must be aware of the imperative to gather evidence to establish beyond reasonable doubt, the following: i) The underlying acts- that is, the specific conduct(s) or act(s) that constitutes the offence. This could be the act of bombing, killing, etc. among others.¹⁰² In terms of prosecutorial strategy and choice, it is more result oriented to prioritise the prosecution of those with the greatest degree of responsibility than their subordinates or foot soldiers. This is premised on the fact that terrorist crimes are built on ideology, hence it will be more effective to deter prospective terrorists by holding those who formulated such ideologies accountable¹⁰³ and make them unavailable to continue to exert such influence. It should be noted that by the unique nature of terrorism a good understanding of where (sources) to get the required evidence is equally essential in this respect. Evidentiary sources for international terrorism include:

- i) Interceptions (intercepted telephone and email conversations)
- ii) Statements (from defendants and co-defendants, family members)
- iii) Letters, pictures
- iv) Analysis of social media such as Facebook
- v) Searches (house, bodily search, ship etc)
- vi) Observations, intelligence from both local and foreign sources.

It is instructive to point out that international terrorism possesses certain peculiar features that make investigations and prosecution in that respect cumbersome. These features include:

- i) Evidence being sought for may be located/ scattered in different countries, enclaves or across difficult terrains like war zones that are difficult to access.
- ii) Large number of offenders that may be scattered in different countries., among others¹⁰⁴

12. Conclusion and Recommendations

The influx of 'Foreign Terrorist Fighters' (FTFs) into Nigeria and their involvement in various acts of terrorism as well as terror sparked conflicts has added a transnational dimension to the country's security crisis. The porous borders, weak regional cooperation, and inadequate domestic legal frameworks have made Nigeria vulnerable to the entry, recruitment, and operation of this marque of terrorist. Moreover, with a complicated counter-terrorism legal framework, which lacks of clarity on FTFs has continued to undermines the prosecution, detention, and repatriation processes, while also posing risks to human rights compliance. Accordingly, to effectively address the threat of FTFs, Nigeria must apart from domesticating all relevant international instruments, enact comprehensive domestic legislation that clearly defines, criminalizes, and regulates issues relating to foreign terrorist fighters. Border control, intelligence sharing with regional partners, and establishment of specialized prosecutorial and rehabilitation mechanisms should be prioritized in addition to a balanced approach that respects international human rights standards to curb foreign terrorist infiltration and extremism in the interest of national security.

authorised by the Security Council Resolution under Chapter VII of the Charter of the UN-See ILC Articles on State Responsibilities, Arts 21 & 59. In situation breach of international obligations, response may take the form of diplomatic or political pressure to achieve a cessation of the act. Other responses may be in the form of severance of diplomatic relations and resort to the organs of the UN or the ICJ- See C Gray, *Judicial Remedies in International Law* (Oxford, 1987).

¹⁰⁰This implies that states that are directly impacted by the wrongful acts obviously have wider powers than the non-directly injured states in terms of activation of response or activation of the responsibility of the offending state. It should however be noted that if the internationally wrongful act amounts to gross or systemic breach of obligations under peremptory norms, such as serious violation of human rights or of the basic rules of IHL, or the unlawful use of force, states are not only entitled, but may be obliged, not to recognize the situation of unlawfulness and to act together to end it. -See ILC Articles, Article 40 & 41 thereof, which cumulative is to the effect that states must not recognise or facilitate the situation that has given rise to the wrong.

¹⁰¹The sound knowledge of particularly, international counter-terrorism laws; conventions, protocols, treaties, etc is a necessity for investigators of terrorism at the international level.

¹⁰²(i) The contextual elements- that is the context or milieu in which or where the act or acts constituting terrorism were committed. This could be in war situation or at peacetime. Consideration in this sense is essential in determining the forum for trial (as acts of terrorism committed during wars can be tried before the ICC); (ii) The mode of liability: Considerations as to whether the suspect is a direct perpetrators or commanders who directed such actions; (iii) Evidence to establish the responsibility of commanders or those who ordered the terrorist act or those who tolerated or failed to prevent the act. This can be deduced from information indicating a chain of command, or hierarchy, reporting procedure or communication within a group or evidence of suspect's liability to issue orders and such orders being relied upon.

¹⁰³See OHCHR, Rule of Law Tool for Post-conflict states: Prosecution Initiatives (2006) p 8, [www.ohchr.org/Documents/Publications/Rule of Prosecution.pdf](http://www.ohchr.org/Documents/Publications/Rule_of_Prosecution.pdf)

¹⁰⁴Investigation and prosecution can be expensive and could spread or go on for long time, with sometimes accompanying uncertain ties owing to jurisdictional complexities. It requires expertise and specialist inputs. Victims may require assistance (particularly the vulnerable ones). Gravity of the offence may be deduced from both the underlying act and the contextual elements. Thus, a terrorist act of bombing may have as contextual element, the intimidation of the population or coercing government or international organisation.

It should however be noted that with specific reference to terrorism financing, the recommendations of the Financial Action Task Force (FATF) are regarded as the global best practice. They are in brief expressed thus; Recommendation 5: Terrorist Financing Offense (criminalization of terrorism financing), Recommendation 6: Targeted Financial Sanctions related to Terrorism and Terrorism Financing, Recommendation 8: Non-Profit Organizations (mitigating risks of abuse), Recommendation 10: Customer Due Diligence (CDD), Recommendation 20: Reporting of Suspicious Transactions, Recommendation 36: International Cooperation