

SAFEGUARDING THE NATION, UPHOLDING THE CONSTITUTION: A COMPREHENSIVE ANALYSIS OF NIGERIA'S COUNTER-TERRORISM FRAMEWORK AND ITS HUMAN RIGHTS CONSIDERATIONS

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Abstract: The persistent and devastating threat of terrorism, most notably from the Boko Haram insurgency, has presented the Nigerian state with one of its most formidable national security challenges since the civil war. This comprehensive paper provides a detailed analysis of the intricate constitutional and legislative landscape that defines Nigeria's robust and multifaceted response to this threat. It explores the complex and often misunderstood balance between the government's paramount constitutional duty to guarantee the security and welfare of the people and its equally sacred obligation to protect the fundamental human rights enshrined in Chapter IV of the 1999 Constitution of the Federal Republic of Nigeria (CFRN). The paper meticulously examines the deliberate and thoughtful architecture of the Terrorism (Prevention) Act (TPA) 2011 (as amended), highlighting its provisions as necessary tools in a modern fight against an unconventional enemy. It further details the proactive, courageous, and comprehensive measures undertaken by the Nigerian government, including the strategic declaration of a state of emergency, the formation of the Multi-National Joint Task Force (MNJTF), and the pioneering establishment of the Committee on Dialogue and Reconciliation. While acknowledging the profound operational difficulties inherent in combating asymmetric warfare waged by actors who flout all international norms, this paper emphasizes the Federal Government's unwavering and publicly stated commitment to conducting its operations within a framework of national and international law. The conclusion affirms that Nigeria's ongoing, dynamic process of refining this critical balance is a testament to the nation's resilience, its enduring commitment to democratic values, and the government's determined leadership in the face of unprecedented adversity.

Keywords: National Security; Human Rights Protection; Nigerian Constitution; Counter-Terrorism Legislation; Rule of Law; Security Sector Reform.

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INTRODUCTION

The emergence and brutal escalation of violent insurgency and terrorism within its sovereign territories have presented the Federal Republic of Nigeria with a defining challenge of the 21st century (Nwagboso, 2018; Ayibam, 2024a). This threat, most starkly embodied by the Boko Haram terrorist group, has targeted the very core of the nation's stability, seeking to undermine public safety, cripple economic development, and destroy the social fabric of communities, particularly in the North-East region (Ayibam, 2024b). In response to this existential menace, the Nigerian government, under successive administrations, has been tasked with a responsibility of monumental proportions: to protect the lives and property of over 180 million citizens while simultaneously upholding the democratic principles, constitutional values, and fundamental freedoms that form the bedrock of the nation's identity. This paper seeks to provide a thorough and nuanced exploration of the intricate and demanding equilibrium that the state must maintain between the undeniable necessity of robust, decisive counter-terrorism measures and the protection of the inalienable human rights guaranteed to every person under the 1999 Constitution of the Federal Republic of Nigeria (CFRN).

The government's approach to this complex dilemma has been necessarily multifaceted, involving strategic legislative action, calibrated military engagement, regional security cooperation, and forward-thinking initiatives aimed at addressing the root causes of extremism. This analysis will detail the strong constitutional provisions that anchor the state's actions, the comprehensive legal frameworks thoughtfully established to combat terrorism, and the significant, ongoing efforts undertaken by the government to ensure that its essential security operations are conducted with utmost respect for human dignity and the rule of law. It is crucial to frame this discussion within the context of extreme difficulty; the Nigerian state is compelled to confront an enemy that operates entirely outside the conventions of law, morality, and humanity, an enemy that employs tactics such as using human shields and targeting soft civilian targets precisely to provoke a reaction that could undermine the state's legitimacy. This paper acknowledges the immense complexity of this task and aims to highlight the government's persistent, unwavering commitment to navigating this challenging path in the supreme interest of preserving the Nigerian nation and securing a peaceful future for all its citizens.

HUMAN RIGHTS AND COUNTER-TERRORISM: THE CONSTITUTIONAL FOUNDATION OF THE NIGERIAN STATE

The foundation of Nigeria's democracy is unshakably embedded in its Constitution, which in its Chapter IV, guarantees a broad and profound spectrum of fundamental rights to “every person” within its territory (Olanipekun, 2024). These rights, which include the right to life, the right to dignity of the human person, the right to personal liberty, the right to a fair hearing, the right to private and family life, freedom of thought, conscience, and religion, and freedom of expression and assembly, are not merely aspirational clauses (Pustorino, 2023). They represent the core of the social contract between the state and its citizens, a solemn commitment to the inherent and inviolable

dignity of every individual. The Nigerian government has consistently affirmed that these principles are not obstacles to security but are, in fact, the very essence of what must be protected.

The philosophical concept of human rights, as aptly described in legal scholarship, refers to those fundamental freedoms, immunities, and benefits that, according to modern values, all human beings should be able to claim as a matter of right in the society in which they live (Ayibam, 2025a; Ayibam, 2025b). Conversely, terrorism, which can be defined as acts intended to cause death or serious bodily injury to civilians to intimidate a population or compel a government or an international organization to act or abstain from acting, represents a direct, violent, and calculated assault on these very rights (Miller & Feltes, 2021). The individuals who perpetrate such acts, often citizens of the state they attack, are undoubtedly human beings, a fact that gives rise to a crucial philosophical and legal question that democracies worldwide must confront: what are the limits of the state's duty to guarantee human rights to those who seek to systematically destroy the rights of others?

In navigating this profound question, the Nigerian government operates within a constitutional framework that recognizes the paramount importance of both security and liberty. The state's primary purpose, as explicitly stated in Section 14(2)(b) of the CFRN, is the security and welfare of the people. This mandate is comprehensive; it encompasses both protection from physical violence and the preservation of the legal, moral, and democratic fabric of society, which is woven from the threads of constitutional rights. The government's counter-terrorism strategy is therefore designed not to undermine this fabric but to protect it from being torn apart by the forces of extremism and nihilism. The administration has consistently affirmed that respecting human rights and observing the rule of law are not weaknesses in the fight against terror but are the primary sources of the state's strength, legitimacy, and ultimate victory. This guiding principle informs the development of policy, the drafting of legislation, and the conduct of security operations, even in the face of severe and continuous provocation designed to elicit a disproportionate response.

THE LEGAL FRAMEWORK FOR COMBATING TERRORISM: THE THOUGHTFUL ARCHITECTURE OF THE TERRORISM (PREVENTION) ACT

In response to the growing and evolving threat of terrorism, the Nigerian government, through its National Assembly, demonstrated decisive leadership and foresight by enacting the Terrorism (Prevention) Act (TPA) in 2011, which was subsequently amended in 2013 to strengthen its provisions and close emerging loopholes. This critical legislative instrument provides the necessary and robust legal architecture for preventing, investigating, prosecuting, and punishing acts of terrorism, thereby aligning Nigeria with its international obligations and standards, particularly those set by the United Nations. The TPA represents a careful, deliberate, and considered effort by the legislature to equip law enforcement and the judiciary with the necessary tools to confront a uniquely dangerous and shadowy form of crime, while remaining consciously

mindful of the constitutional boundaries and democratic values within which it must operate.

The Act provides a clear definition of terrorist acts and outlines a comprehensive range of offences, including the provision of material support to terrorist groups, facilitation, and incitement, and prescribes penalties that reflect the gravity of these crimes against the state and its people (Chibuike, 2021). It grants law enforcement and security agencies specific, calibrated powers to investigate and disrupt terrorist plots, which are absolutely essential for proactive and effective security operations in the modern age. For instance, the Act contains provisions related to the detention of suspects for investigation and the interception of communications. It is important to contextualize these powers; they are not unique to Nigeria but are common, and indeed necessary, components of counter-terrorism legislation worldwide, employed by democracies facing similar threats (Glover, 2021). The government maintains that these powers are not intended to be arbitrary or unlimited but are designed to be exercised under conditions that are permitted by law and, where applicable, subject to judicial oversight and review. The intent is always to disrupt plots and save lives, not to infringe upon the rights of law-abiding citizens.

The Nigerian judiciary plays a critical and revered role as an independent arm of government in ensuring that the application of the TPA remains consistent with the supreme spirit and letter of the Constitution (Oharisi & Anya, 2023). Courts possess the authority and solemn duty to interpret the provisions of the Act, and there are documented instances where the judiciary has acted as a necessary check on executive power, dismissing charges where specific procedural requirements, such as the official gazetting of a proscribed group, have not been meticulously met. This dynamic interaction between the legislature, the executive, and the judiciary exemplifies the healthy system of checks and balances that underpins a vibrant and functioning democracy. The government respects this process entirely and views the judiciary not as an adversary but as an essential partner in ensuring that the fight against terrorism is conducted justly, lawfully, and in a manner that preserves the integrity of the Nigerian state.

OPERATIONALIZING NATIONAL SECURITY: PROACTIVE MEASURES AND STRATEGIC CONSIDERATIONS

The practical implementation of Nigeria's counter-terrorism strategy has been a vast, complex, and continuously evolving undertaking. The Federal Government has taken several significant and courageous measures to address the insurgency in the North-East, which has been the epicenter of terrorist activity. Recognizing the grave and immediate threat to the corporate existence of the nation, a state of emergency was declared in the states of Borno, Yobe, and Adamawa. This declaration was not taken lightly; it was a necessary, proportional, and legally sound response to a situation that objectively threatened the life of the nation, and it was done with due process, including legislative approval and in line with constitutional provisions that allow for such measured responses in times of dire public emergency.

To restore order, security, and state authority, the government deployed the Nigerian Armed Forces, a institution renowned for its professionalism and patriotism, and championed the formation of the Multi-National Joint Task Force (MNJTF), a collaborative regional security initiative involving neighbouring countries of Chad, Niger, and Cameroon (Madubuegwu, et al., 2021) The rules of engagement for these forces are not left to discretion but are strictly guided by documented codes such as the "Code of Conduct for Nigerian Armed Forces Personnel on Internal Security and Aid to Civil Power Operations." This code explicitly mandates the use of firearms only as a last resort and emphasizes the principles of maximum restraint, proportionality, and minimum force. The government, through the Defence Headquarters, continuously emphasizes and reinforces these rules to its personnel through training and directives, understanding that the conduct of security forces must reflect the noble values they are fighting to protect and that their professionalism is a key asset in winning the trust of the local population.

Furthermore, demonstrating a holistic understanding that long-term security requires more than military action, the administration has pursued a "soft power" strategy aimed at addressing the drivers of extremism (Nte,2024). The establishment of the Committee on Dialogue and Reconciliation was a pioneering and innovative initiative. It aimed to explore pathways to peace, encourage defection from terrorist groups through structured amnesty programs, and promote the deradicalization and reintegration of repentant individuals, reflecting a comprehensive approach to countering violent extremism (CVE). The government has also worked tirelessly, often in partnership with international donors and humanitarian organizations, to provide critical humanitarian support to affected communities, rebuild destroyed infrastructure in liberated areas, and stimulate economic activity, demonstrating a deep and abiding commitment to the welfare of its citizens as mandated by the constitution.

NAVIGATING THE CHALLENGE OF BALANCING COMPETING IMPERATIVES

Despite the government's clear policy framework and best intentions, the operational environment of counter-terrorism, particularly against a group like Boko Haram, is inherently fraught with challenges that can create tensions between security operations and individual rights. The terrorist group operates with a complete and utter disregard for international humanitarian law; it routinely embeds itself within civilian populations, uses women and children as human shields, and operates from places of worship and schools (Madubuegwu, et al., 2021). This creates impossible and heartbreaking dilemmas for security forces who are under constant threat and must make split-second decisions to protect themselves and the wider public.

In such a complex, volatile, and deliberately manipulated theatre of conflict, tragic incidents can occur where the application of force, however justified in the moment, leads to unintended civilian casualties. The 2013 incident in Baga, Borno State, often cited by critics, must be understood within this context of asymmetric warfare (Petranick,2021). Such events are deeply regrettable and are never the desired outcome of government policy. The government has shown its commitment to transparency and accountability

by allowing such incidents to be investigated by bodies like the National Human Rights Commission (Worluh-Okolie 2024). These events underscore the extremely difficult and morally fraught conditions under which the Nigerian military operates and highlight the constant, immense challenge of applying theoretical principles of proportionality and military necessity in the "fog of war" against an unpredictable, ruthless, and perfidious enemy.

The government acknowledges that certain provisions of the TPA, such as those relating to extended detention periods for deep investigation and restricted communication access for high-value suspects, have raised concerns among civil society observers. It is important to understand that these measures were conceived not out of a desire to infringe on rights, but within a context of preventing ongoing and imminent terrorist acts, protecting the identity of intelligence sources and witnesses, and allowing for the effective and thorough investigation of complex, often cross-border, terrorist networks. The administration is committed to a continuous process of legal and operational review to ensure that its laws remain effective, fair, and aligned with the nation's evolving democratic values. The recent landmark reforms in the criminal justice system, such as the Administration of Criminal Justice Act (ACJA) 2015 – which prohibits unnecessary adjournments and stays of proceedings to ensure swift justice (Daibu, 2023) – demonstrate the government's tangible commitment to improving the judicial system for all Nigerians, including those accused of crimes.

CONCLUSION: A NATION'S RESILIENT COMMITMENT TO CONTINUOUS IMPROVEMENT

The fight against terrorism in Nigeria is more than a military campaign; it is a struggle for the nation's soul, its future, and its commitment to a democratic way of life. The Nigerian government has been resolute, courageous, and strategic in its commitment to protecting its citizens from violence, fear, and instability. This paper has outlined the robust constitutional and legal framework that guides this essential effort, emphasizing that the preservation of security and the protection of human rights are not mutually exclusive goals but are, in fact, complementary and essential pillars of a stable and just society. The government's strategy recognizes that enduring security cannot be achieved at the permanent expense of liberty, nor can liberty be preserved in the absence of basic security.

The path has been, and continues to be, incredibly challenging. The asymmetric and brutal nature of the threat posed by terrorist groups has necessitated strong legal measures and has placed immense physical and psychological pressure on security forces operating in exceptionally difficult conditions. While the government's policy is always to conduct operations within the bounds of the law and with respect for human dignity, the reality on the ground is complex, and tragedies, though regretted, can occur in such a hardened conflict environment.

The Nigerian government, under its sacred constitutional mandate, remains dedicated to the principle of balance and continuous improvement. It continues to invest significantly in training for its security forces on international human rights standards

and rules of engagement. It continues to support and fund an independent judiciary to ensure accountability and justice. And it continues to pursue and refine a comprehensive strategy that synergistically combines security, development, and dialogue to achieve a lasting and sustainable peace. The journey is ongoing, and the government is dedicated to learning, adapting, and improving its strategies to better serve all Nigerians, secure in the knowledge that a truly secure nation is one where both safety and fundamental freedoms can thrive together in harmony. The resilience shown by the Nigerian state and its people in this long struggle is a powerful testament to the strength of the national spirit.

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