

COMBATING SECURITY CHALLENGES IN THE NORTH-EAST OF NIGERIA: JUSTIFICATION FOR AN ANTI-TERRORISM COURT.

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ABSTRACT

The northeastern region of Nigeria faces significant security challenges due to the activities of terrorist groups like Boko Haram and ISWAP, resulting in violence, loss of lives, and socioeconomic disruption. Numerous deaths, large-scale displacement and social upheaval in the surrounding areas have been brought about by these organization acts of widespread violence. This paper highlights how vital it is to set up specialized anti-terrorism courts in order to successfully handle these critical problems. It emphasizes the shortcomings of the current legal systems in prosecuting terrorism-related offences by looking at the security environment today and the significant effects of insurgencies on national stability and governance. In order to address these concerns strategically, this paper examines the pressing need for specialized anti-terrorism courts. Through an examination of the state of community security and current legal affairs, it amplifies the shortcomings of the current legal systems in successfully prosecuting offences related to terrorism. Aiming to defend human rights, accelerate trials, and improve judicial efficiency all of which will increase public confidence in the legal system, dedicated courts should be established. This paper makes the case that anti-terrorist courts can handle particular legal issues about terrorism, enhance trial outcomes, and operate as a deterrence against further violence by referencing comparative legal frameworks and global best practices. Ultimately the establishment of these courts is necessary to bring about justice, restore peace, and bolster Nigeria's resolve to fight terrorism.

Keywords: Security, North-East, Nigeria, Anti-Terrorism and Court.

1.0 Background to the study

Persistent security challenges, primarily from terrorist organizations like Boko Haram and the Islamic State in West Africa Province (ISWAP), have afflicted the northeastern part of Nigeria. Numerous lives have been lost, infrastructure has been destroyed, and millions of people have been forced to flee their homes as a result of the extensive havoc these groups have wreaked. The intricacy and tenacity of these extremist groups have brought to light serious shortcomings in Nigeria's legal and judicial systems, especially with regard to the prosecution of terrorism-related offenses, in spite of continuous military operations and counterterrorism programs. The creation of a dedicated anti-terrorism court would provide a more concentrated, effective, and safe legal procedure for resolving cases involving terrorism, taking into account the scope and complexity of offenses connected to insurgencies. An anti-terrorism court would improve Nigeria's capacity to fight terrorism, prosecute offenders, and offer a more thorough legal framework for averting such assaults by expediting the judicial process.

1.1 Aim and Objective

This essay will examine Nigeria's need for an anti-terrorism court, especially in light of the region's continuous security concerns, as well as the potential benefits of having such a court for the nation's counterterrorism initiatives.

1.2 Methodology

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This paper deploys doctrinal methodology. Doctrinal research is a study methodology that focuses on evaluating and interpreting legal documents, including legislation, case law, regulations, and treaties.

1.3 Security Challenges in Nigeria

Nigeria's northeast region suffers from serious security issues, mostly caused by the Boko Haram insurgency and its offshoot, the Islamic State West Africa Province (ISWAP). Since 2009, these gangs have tormented the area, resulting in thousands of fatalities, widespread displacement, and infrastructure destruction. Section 14(2) (b) of the Nigerian Constitution requires the government to protect the safety and well-being of its citizens. Despite this, security forces have been overrun by rebel activity, resulting in widespread instability. The legal foundation for terrorist prosecutions is provided by the Terrorism (Prevention) Act of 2011, as revised in 2013. However, the volume of cases in current courts frequently overwhelms them, and delays impede the administration of justice. The rule of law is hampered by the difficulty of quickly punishing rebels or collaborators, which feeds a cycle of impunity. Counterterrorism measures are further complicated by security services' struggles with poor intelligence sharing and cooperation with judicial agencies. As a legal remedy, establishing a dedicated anti-terrorism court would improve the effectiveness of terrorism-related case prosecutions, guarantee accountability, and support regional security initiatives.

1.4 Existing judicial methods and their drawbacks

The Terrorism (Prevention) Act of 2011, revised in 2013, forms the basis of Nigeria's current judicial approaches to counterterrorism. It offers the legal foundation for prosecuting offenses related to terrorism. These methods do, however, have important drawbacks.

1. **Overwhelmed Courts:** A large number of cases, particularly those involving terrorism, are piled up in Nigeria's ordinary courts. Slow trials frequently lead to extended pretrial detention, which violates the rights of the accused under Section 35 of the Nigerian Constitution (right to a fair trial and prompt proceedings).
2. **Shortage of expertise:** Judges in regular courts may not possess a specific understanding of handling terrorism charges. Specialized legal knowledge is needed for complex matters including sensitive intelligence, international law, and counterterrorism tactics, which may not be available in normal courts.
3. **Problems related to evidence and witness protection:** It can be challenging to compile reliable evidence against terrorists, and witnesses are sometimes at risk of intimidation or reprisal. Although witness protection is guaranteed by the 2015 Administration of Criminal Justice Act (ACJA), its application in terrorism cases is still patchy, which reduces the efficacy of prosecutions.

1.5 Justification for Establishing an Anti-Terrorism Court

Extremist organizations, particularly Boko Haram and the Islamic State West Africa Province (ISWAP), have been the driving forces behind a lengthy struggle in the North-East area of Nigeria. These organizations have brought about great pain, which has resulted in fatalities, community uprooting, and pervasive insecurity. The Nigerian government has responded with both military operations and legislative changes, but the legal of counter terrorism has been much slower. To improve the efficacy of the legal response to terrorism, ensure that justice is done, and bring stability back to the area, an anti-terrorism court must be established in the North-East.

1. **Specialized Judicial Focus:** The need for a specialized court that only considers terrorism cases is one of the main arguments in favor of creating an anti-terrorist court. The backlog of civil and criminal cases in Nigeria's current court system frequently causes delays in the prosecution of terrorist suspects. These hold-ups cause the public to lose faith in the legal system and let suspects remain in custody without being given the opportunity to face prosecution for their charges.

For example, reports suggest that a large number of people, especially those associated with Boko Haram, have been detained for years without being given the opportunity to face prosecution for terrorism related to charges. In Kenya, the implementation of Anti-Terrorism Courts after the 2013 Westgate Mall attack enabled the prompt prosecution of terrorism suspects, proving the efficacy of specialized courts in handling such cases. The creation of a dedicated court would give priority to these cases, guaranteeing prompt adjudication.

2. **Expertise in Counter-Terrorism Law.** Terrorism cases often mention complicated legal issues, such as using intelligence evidence, applying anti-terrorism laws, and finding a balance between national security and human rights. Regular courts might lack the specialized knowledge needed to handle these complexities well. An anti-terrorism court in the North-East would have judges and legal staff specifically trained in counter-terrorism law. This expertise is vital for ensuring that cases are judged fairly and in accordance with Nigerian law and international standards. Countries like France have set up specialized courts for terrorism cases, leading to more informed and effective legal processes.

3. **Enhanced cooperation with Security Agencies.** Prosecuting terrorism cases often necessitates strong cooperation between the judiciary and security bodies, including the Nigerian military and the Department of State Services (DSS). These organizations collect essential intelligence and evidence during counter-terrorism efforts that must be presented in court. An anti-terrorism court would enhance communication and collaboration between the judiciary and security agencies, ensuring that important evidence is effectively utilized in prosecutions. For instance, the United States has specialized courts for terrorism cases that allow for the secure management of classified information, which has been crucial in prosecuting high-profile terrorism suspects. Implementing a similar system in Nigeria would improve the effectiveness of prosecutions and ensure justice is achieved.

4. **Protection for Witnesses and Victims.** The prosecution of terrorism cases frequently faces hurdles due to witness intimidation. Those who might testify against terrorists often encounter threats and violence from extremist groups, which can discourage them from coming forward. The current judicial framework offers limited protections for witnesses, leaving them at risk of retaliation. A dedicated anti-terrorism court would establish strong witness protection programs to ensure the safety of individuals willing to testify.

1.6 Structure of an Anti-Terrorism Court

The North-East region of Nigeria has faced significant challenges due to terrorism, especially from the violent actions of Boko Haram and ISWAP. To effectively tackle the complexities involved in prosecuting terrorism-related offenses, it is crucial to establish a specialized anti-terrorism court. This court would not only streamline the prosecution process but also ensure that cases are overseen by professionals skilled in counter-terrorism law. This section details the proposed design and functioning of such a court, emphasizing how it can be adapted to address the specific needs of the North-East.

1. Court Structure. The Anti-Terrorism Court in the North-East would operate as a distinct division of the Nigerian judiciary, having exclusive authority over terrorism-related crimes. Its design should accommodate the unique challenges that arise in terrorism cases, including the necessity for expertise in counter-terrorism law, safeguarding witnesses and victims, and securely managing classified intelligence.

a. **Composition of the Court.** The court should be composed of judges, prosecutors, and defence attorneys who possess specialized knowledge in terrorism law and national security. This would necessitate developing a new group of legal professionals trained to navigate the complexities of terrorism cases, which often involve interpreting intelligence

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reports, addressing cross-border legal issues, and understanding human rights law. For instance, India has established special courts under the National Investigation Agency (NIA) to handle terrorism cases, staffed by judges experienced in national security matters, which aids in delivering informed rulings.

2. Geographical Location and Accessibility.

Since the northeast is the region most affected by terrorism, the anti-terrorism court needs to be situated within this area. This would make it easier for victims, witnesses, and security agencies to access the court, minimizing logistical issues related to transporting suspects and evidence over long distances, and allowing for quicker responses to new developments in ongoing cases.

3. Court Operation

The functioning of the Anti-Terrorism Court would be based on principles of efficiency, transparency, and fairness. It must strike a balance between the need for prompt justice and the obligation to uphold the rights of suspects, victims, and witnesses. Important operational aspects would include specialized trial procedures, secure handling of evidence, witness protection programs, and close collaboration with security agencies.

a. Specialized Trial Procedures

The Anti-Terrorism Court would follow an expedited procedure to resolve cases quickly while ensuring fairness. This would involve prioritizing terrorism-related cases by minimizing procedural delays that typically affect regular courts. For instance, strict deadlines for evidence submission and witness examination could be set to prevent unnecessary delays. In countries like Pakistan, Anti-Terrorism Courts (ATCs) were created to resolve cases within a specified timeframe, helping to alleviate the backlogs that regular courts often experience. Nigeria's anti-terrorism court could implement similar time-sensitive trial procedures to ensure that cases do not linger indefinitely.

b. Handling Classified Evidence

Terrorism trials often involve classified materials, including intelligence reports, surveillance information, and intercepted communications. The Anti-Terrorism Court must implement secure procedures for managing this type of evidence, ensuring that sensitive information does not jeopardize ongoing security efforts. For example, the United Kingdom's Special Immigration Appeals Commission (SIAC) handles sensitive evidence in national security cases by allowing "closed material proceedings," where evidence is shown to the judge without being revealed to the defendant for security reasons. Nigeria could establish similar protocols by incorporating safeguards to respect the rights of the accused while also protecting national security interests.

4. Precedents and International Examples

Various countries confronting terrorism have established specialized courts to manage terrorism-related offenses effectively and with the requisite expertise. These international examples offer valuable insights into how Nigeria might structure and operate its anti-terrorism court.

a. Egypt. In Egypt, special terrorism courts were created to address the escalating threat of terrorism, particularly in the wake of the unrest that began in 2011. These courts possess jurisdiction over terrorism cases and are designed to expedite legal proceedings while navigating the complexities of national security law. Their expedited processes have been credited with minimizing case backlogs and ensuring that terrorism suspects are brought to justice promptly.

b. Pakistan. Pakistan established its Anti-Terrorism Courts (ATCs) in response to the rising incidents of terrorism throughout the nation. These courts have facilitated the prompt administration of justice in terrorism-related cases, featuring specialized judges and expedited procedures. The creation of the ATCs has notably enhanced Pakistan's capacity to address terrorism cases, providing a model that could be relevant for Nigeria.

1.5 Case Studies of Specialized Courts for Terrorism

1. Special Anti-Terrorism Courts in Egypt. In the wake of the Arab Spring and subsequent terrorist attacks, Egypt established Special Anti-Terrorism Courts in 2015. These courts were created to expedite the prosecution of terrorism-related offenses, which had intensified.

Function; The Egyptian judiciary set up these courts with a mandate to handle cases involving organized terrorist groups, particularly those linked to the Muslim Brotherhood and ISIS. The courts operate under the authority of the Emergency Law, allowing for accelerated procedures and limited appeals.

Impact; The establishment of these courts has resulted in quicker trials, with many cases being resolved within months. However, the courts have faced criticism for lacking transparency and for the potential violation of defendants' rights. Human rights organizations have raised concerns about the fairness of trials, often citing reports of coerced confessions and inadequate legal representation. While the Special Anti-Terrorism Courts in Egypt have increased the efficiency of the judicial process regarding terrorism, they also highlight the delicate balance between security and civil liberties.

2. Counter-Terrorism Court in Pakistan. In response to rising terrorism, Pakistan established the Counter-Terrorism Court (CTC) in 2013 as part of a broader strategy to enhance the legal framework for combating terrorism.

Function; The CTCs are set up in each province, specifically tasked with adjudicating terrorism cases under the Anti-Terrorism Act. These courts operate with special procedures that allow for expedited hearings and trials.

Impact; The CTC has had a significant impact on the prosecution of terrorism cases in Pakistan. Reports indicate that the court has improved conviction rates, with a higher number of terrorists being sentenced compared to previous years. However, concerns about judicial independence and the potential for misuse of power remain prevalent. Human rights advocates argue that the rapid trial process may overlook essential due process rights.

The Counter-Terrorism Court in Pakistan demonstrates the potential benefits of specialized courts in dealing with terrorism while also emphasizing the need for safeguards to protect civil rights.

3. Special Courts in Iraq. After the rise of ISIS, Iraq faced a critical need for specialized judicial mechanisms to manage the overwhelming number of terrorism cases. In 2016, the Iraqi government established Special Courts to handle these cases effectively.

Function; The Special Courts operate under the Iraqi Counter-Terrorism Law, dealing with cases involving individuals accused of joining or supporting ISIS. These courts are designed to expedite the trial process and focus on national security concerns.

Impact; The establishment of Special Courts has been vital in managing the backlog of terrorism cases. However, they have faced significant criticism regarding due process and the treatment of defendants. Reports indicate that many trials are conducted in a manner that may not meet international standards for fair trials, with allegations of torture and coerced confessions. While the Special Courts in Iraq serve a crucial function in addressing terrorism, they underscore the challenges of maintaining fair judicial processes in high-stakes situations.

4. Anti-Terrorism Courts in Nigeria. In Nigeria, the ongoing conflict with Boko Haram and other terrorist groups has prompted discussions on establishing specialized Anti-Terrorism Courts. Although formal courts have yet to be fully implemented, existing structures under the Terrorism (Prevention) Act 2011 show the need for specialized mechanisms.

Function; Proposed Anti-Terrorism Courts would focus on expediting trials for terrorism offenses, ensuring that judges are trained in terrorism law, and providing a victim-centric approach to justice.

Impact; Implementing such courts could significantly enhance Nigeria's ability to address terrorism efficiently and justly. However, challenges such as corruption, inadequate legal infrastructure, and human rights concerns must be addressed to ensure their effectiveness.

The potential establishment of Anti-Terrorism Courts in Nigeria represents a proactive step toward combatting terrorism, but careful consideration of judicial integrity and human rights is essential for success.

1.6 Obstacles and Criticism

The establishment of Anti-Terrorism Courts in Northeast Nigeria is a critical step toward addressing the pervasive security challenges posed by terrorism. However, several challenges and criticisms must be taken into account to ensure these courts function effectively and justly. This section explores these issues, supported by relevant cases and legal principles.

1. Due Process Concerns

One of the most significant challenges facing Anti-Terrorism Courts is the potential violation of due process rights. The quickening pace of terrorism trials may lead to rushed proceedings where defendants do not receive adequate legal representation. For example, in the case of *Mohammed v. State (2018)*, the Nigerian Supreme Court highlighted the importance of due process in legal proceedings, emphasizing that every accused person must be afforded the right to a fair trial. Failure to adhere to these principles risks wrongful convictions and undermines the legitimacy of the courts.

2. Human Rights Violations

The fight against terrorism can lead to human rights abuses, particularly in regions with heightened security concerns. Reports from organizations like Amnesty International have documented instances of torture and extrajudicial killings by security forces in Nigeria. If Anti-Terrorism Courts do not implement strict safeguards, they may inadvertently facilitate such abuses. The African Charter on Human and Peoples' Rights (Article 5) prohibits torture and inhumane treatment, underscoring the necessity of protecting human rights within the judicial framework.

3. Resource Constraints

Establishing requires substantial resources, including trained personnel and infrastructure. In Northeast Nigeria, ongoing conflict has strained governmental resources, making it challenging to allocate sufficient funding for specialized courts. The Nigerian Constitution (*Section 6(6)(b)*) grants courts the power to determine their own jurisdiction, but without adequate resources, these courts may struggle to function effectively.

1.7 Recommendations

To effectively combat the security challenges posed by terrorism in Northeast Nigeria through the establishment of Anti-Terrorism Courts, the following recommendations are proposed:

Establish Clear Legal Frameworks. Comprehensive and precise legal frameworks that define terrorism and related offenses should be developed. These include establishing clear guidelines on what constitutes terrorist activities to prevent overreach and ensure that individuals are prosecuted appropriately. These frameworks should be aligned with international standards to uphold human rights.

Implement Strong Safeguards for Due Process. Anti-terrorism courts must prioritize due process rights to protect individuals from wrongful accusations and convictions. This includes ensuring access to competent legal representation, allowing for adequate time to prepare defenses, and conducting fair and transparent trials. Implementing these safeguards will help build public confidence in the judicial process.

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Monitor and Evaluate Court Operations. Establishing mechanisms for regular monitoring and evaluation of Anti-Terrorism Courts is essential to assess their effectiveness and identify areas for improvement. This includes analyzing case outcomes, the adherence to due process, and the overall impact on community security. Feedback from stakeholders, including legal experts and community members, should be incorporated into evaluations.

1.8 Conclusion

The establishment of Anti-Terrorism Courts in Northeast Nigeria represents a critical step toward enhancing the judicial response to the region's severe security challenges. By addressing the unique complexities of terrorism-related offenses, these specialized courts can improve the efficiency of the legal process, uphold victims' rights, and foster public trust in the justice system. Ultimately, while Anti-Terrorism Courts can play a significant role in combating terrorism, they must operate within a broader strategy that includes preventive measures, rehabilitation, and community engagement. By adopting a holistic approach, Nigeria can make meaningful strides toward restoring peace and security in the Northeast, ensuring justice is served without compromising human rights.

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