

**LEGISLATIVE DRAFTING, TERRORISM FINANCING, AND
THE ARCHITECTURE OF COUNTER-INSURGENCY: RE-
POSITIONING THE LEGISLATURE IN SECURITY
GOVERNANCE IN NIGERIA**

Nasiru Mukhtar*

Abstract

The prolonged struggle of Nigeria with insurgency and terrorism has exposed fundamental weaknesses in the legal and institutional architecture governing national security. While executive and military responses have dominated counter-insurgency efforts, legislative intervention remains the most enduring mechanism for structuring lawful security action, regulating institutional power, and ensuring accountability. This paper examines how legislative drafting quality shapes the effectiveness of the counter-insurgency and counter-terrorism framework in Nigeria, with particular emphasis on terrorism financing as a systemic enforcement challenge. The paper argues that the core problem of Nigeria is not the absence of counter-terrorism laws but the fragmentation, imprecision, and weak enforcement design of existing legislation. Through doctrinal and comparative analysis of the legal framework of Nigeria, alongside selected jurisdictions—the United Kingdom, Kenya, and the ECOWAS regional regime. The paper proposed a reform-oriented legislative model that repositions the National Assembly as a central architect of counter-terrorism governance through harmonised legislation, security-specific treatment of terrorism financing,

* PhD, Research Unit, Department of Legislative Support Services (DLSS) National Institute of Legislative and Democratic Studies (NILDS)

mandatory coordination mechanisms, and institutionalised legislative oversight.

Keywords: Legislative Drafting, National Assembly, Terrorism Financing, Counter-Insurgency, Nigeria.

1.0 INTRODUCTION

The experience of Nigeria with insurgency and terrorism has developed into one of the most complex internal security challenges in contemporary Africa. The Nigerian state has faced persistent threats to its sovereignty.¹ In fact, a deeper look at the means and methods of the Boko Haram insurgents reveals an alarming threat to Nigeria's constitutional order and socio-economic stability.² The conflict has resulted in catastrophic human losses, with a 2021 joint study by the United Nations Development Programme (UNDP) and the Nigerian government estimating over 350,000 deaths attributable to Boko Haram and related conflicts between 2009 and 2020,³ and displaced over three million residents across the affected states, resulting in

¹ The Boko Haram insurgency, which started in 2009, has devastating consequences, not only on Borno the main theater of the conflict, the North-East geo-political zone and the entire Nigerian landscape, but it also has a serious impact on the entire Chad-Basin region. When it started as a mere defiance of the internal security operatives, the Boko Haram insurgency became a phenomenon See S. B. Kullima, A. Garba & A. Y. Babagana. *(5) The Boko Haram Regime in Borno: An Assessment of its Socio-Political Effects, 2009-2017 Sokoto Journal of History*, Vo. 8, 2019

² See International Crisis Group, *Facing the Challenge of the Islamic State in West Africa Province* (Africa Report No. 273, 2019).

³ The United Nations Development Programme (UNDP) and the Nigerian government's report, "Assessing the Impact of the Conflict and Insurgency in Nigeria's North East" (2021) See also Paul Carsten and Felix Onuah, "Northeast Nigeria Insurgency Has Killed Almost 350,000 – UN", in Tony Osasomi ' "The Question of Definition: Armed Banditry in Nigeria's North- West in the Context of Nigeria's Humanitarian Law" IRRC No.923, June 2023n Reuters, 24 June 2021, available at: <https://www.reuters.com/world/africa/northeast-nigeria-insurgency-has-killed-almost-350000-un-2021-06-24/>.

Nigerian refugees in Chad, Cameroun and Niger.⁴ The operational capabilities of Boko Haram are supported by a network of logistics,⁵ which includes funding through extortion, looting, and, in some cases, foreign support.⁶ A particularly worrisome phenomenon is that these threats have become structurally embedded within the national security environment of Nigeria, rather than remaining episodic or occasional.

Similarly, the problem of banditry in North-Western Nigeria seems to have become even more destructive than the Boko Haram crisis. In 2019, it was reported that more than half of the violent deaths recorded in Nigeria resulted from banditry⁷. In fact, the assertion that bandit activities account for more deaths and destruction than Boko Haram is easily verifiable in Nigeria's North-West region.⁸ There are instances of intergroup collaboration, for instance, when there are opportunities for pillage and protection of their operational bases in rural communities and forest reserves from attack.

⁴ United Nations High Commissioner for Refugees (UNHCR), "Nigerian Refugees in Chad, Cameroon and Niger", 28 February 2022, available at: https://data2.unhcr.org/en/situations/nigeriasituation#_ga=2.155809531.1973709748.1571844796-1590759838.1571844796. accessed on 20th February, 2025

⁵ 2022 National Inherent Risk Assessment on Terrorist Financing <https://www.nfiu.gov.ng/NiraReports?file>

⁶ Charlene Charmwakat Makai "Terrorism in Nigeria: Exploring the Causes and the Rise of Boko Haram in Nigeria" *International Journal of Science and Research Archive (IJSRA)* 2024 <https://ijsra.net/content/terrorism-nigeria-exploring-causes-and-rise-boko-haram> accessed on the 13th February, 2025

⁷ Daily Trust, "Bandits Kill More Nigerians Than Boko Haram, Robbers, Kidnappers, Cultists, Others", 22 September 2019, available at: <https://dailytrust.com/bandits-kill-more-nigerians-than-boko-haram-robbers-kidnappers-cultists-others>. accessed on the 27th February, 2025

⁸ *Ibid*, n2

State responses to these challenges have largely been kinetic and usually driven by executive idiosyncrasies, justified by the urgency of restoring territorial control and public order.⁹ While such responses may yield short-term tactical gains, they have simultaneously exposed deeper structural weaknesses within the security governance architecture of Nigeria. In particular, limited attention has been paid to the quality, coherence, and adaptability of the legislative framework governing counter-insurgency and counter-terrorism operations.

In constitutional democracies, legislation serves as the backbone of lawful security intervention. It defines the scope of coercive state power, allocates institutional mandates, regulates inter-agency coordination, safeguards fundamental rights, and establishes oversight and accountability mechanisms.¹⁰ Where legislative design is weak, fragmented, or poorly enforced, security institutions operate within an environment of ambiguity and overlap, often leading to inconsistent enforcement and institutional rivalry. In such circumstances, enforcement failures are more accurately understood as manifestations of legislative design deficiencies, rather than solely as operational or capacity-based shortcomings.

2.0 CONCEPTUAL AND THEORETICAL FRAMEWORK

2.1 Conceptual Framework: Linking Drafting, Enforcement, and Financing

This paper advances a conceptual framework in which legislative drafting quality operates as the central independent variable

⁹ Freedom Onuoha, 'Nigeria's Counter-Terrorism Strategy: A Critical Assessment' (2014) 3 *Journal of Terrorism Research* 33.

¹⁰ David Dyzenhaus, *The Constitution of Law: Legality in a Time of Emergency* (Cambridge University Press 2006).

influencing enforcement effectiveness, institutional coordination, and oversight outcomes.

Within this framework, sound legislative drafting enhances definitional clarity, institutional coherence, and enforceability while poor drafting produces ambiguity, overlap, and enforcement gaps; terrorism financing control is treated as a system-wide outcome dependent on legislative design, rather than solely on institutional capacity. The framework situates the National Assembly as a structural actor whose drafting choices and oversight mechanisms condition the effectiveness of Nigeria's counter-insurgency and counter-terrorism response.

2.2 Theoretical Framework

This paper is anchored on a hybrid theoretical framework that integrates legislative drafting theory, security governance theory, and regulatory institutionalism. This combined framework provides the analytical tools required to interrogate how legislative design shapes enforcement outcomes, institutional coordination, and accountability within the counter-insurgency and counter-terrorism architecture of Nigeria.

2.2.1 Legislative Drafting as Regulatory Architecture

Legislative drafting theory conceptualises legislation not merely as a textual expression of political intent, but as a regulatory architecture that structures behaviour, allocates power, and conditions enforcement outcomes.¹¹ From this perspective, the effectiveness of a law depends not only on its objectives but on the precision of its definitions, the clarity of its institutional mandates, and the coherence of its enforcement mechanisms. The functional approach to legislative

¹¹ Helen Xanthaki, *Drafting Legislation: Art and Technology of Rules for Regulation* (Hart Publishing 2014).

drafting by Helen Xanthaki emphasises that poorly drafted laws generate uncertainty, encourage discretionary abuse, and weaken compliance and enforcement.¹² Consequently, this paper will apply this functional lens to conduct a close textual analysis of Nigeria's key counter-terrorism statutes. It will assess whether critical provisions such as the mandate for 'coordination' in Section 5 of the TPPA 2022 or the definition of 'terrorist property' in Section 37 are drafted with the precision necessary to guide enforcement agencies and courts, or if their ambiguity creates vacuums of discretionary power that undermine security outcomes. Legislative drafting failure therefore translates directly into security governance failure.

This paper adopts legislative drafting as an analytical lens to assess whether the counter-terrorism statutes of Nigeria are structured to enable enforcement, rather than merely criminalise conduct in abstract terms.

2.2.2 Security Governance and Democratic Accountability

Security governance theory rejects the notion that security is the exclusive domain of the executive and security agencies. Instead, it situates security within a broader governance framework involving multiple institutions, norms, and accountability mechanisms.¹³ In democratic systems, legislatures play a central role in authorising, regulating, and overseeing the exercise of coercive state power.

Within this framework, legislative oversight is not an intrusion into operational security but a constitutional safeguard against arbitrary power, institutional capture, and rights erosion.¹⁴ Where legislatures

¹² Ibid, n 11

¹³ Mark Bevir, *Governance: A Very Short Introduction* (Oxford University Press 2012).

¹⁴ See Dyzenhaus (n 3).

are marginalised, security policy tends to drift toward executive dominance, secrecy, and militarisation, often at the expense of legality and public trust.¹⁵

Applying security governance theory, this paper evaluates the extent to which Nigeria's National Assembly has been institutionally empowered or structurally constrained by existing legislative frameworks to perform its constitutional oversight functions in counter-terrorism and counter-insurgency contexts. In other words, the analysis in this paper will evaluate how Nigeria's counter-terrorism legislation either facilitates or hinders this constitutional role. The near-total absence of mandatory reporting clauses or sunset provisions in security statutes will be examined not as an oversight, but as a legislative choice that marginalizes the National Assembly and skews governance towards executive dominance.

2.2.3 Regulatory Institutionalism and Inter-Agency Coordination

Regulatory institutionalism focuses on how legal rules shape the behaviour and interaction of institutions within complex regulatory environments.¹⁶ It emphasises that effective regulation requires not only clear rules but also institutional alignment, coordination mechanisms, and accountability pathways.

Counter-terrorism and counter-terrorism financing regimes are inherently multi-institutional, involving security agencies, financial intelligence units, regulators, prosecutors, and regional partners. This

¹⁵ *Dokubo-Asari v. FRN* (2007) 12 NWLR (Pt.1048) 320 (SC)

¹⁶ Julia Black, 'Critical Reflections on Regulation' (2002) 27 *Australian Journal of Legal Philosophy* 1.

position is reinforced by the preposition of McLean & McMillan in their book that institutional fragmentation is a governance failure.¹⁷

Therefore, this paper employs this perspective to diagnose the root of inter-agency fragmentation. It argues that the creation of the National Counter Terrorism Centre (NCTC) by the TPPA 2022, without corresponding amendments to the founding statutes of the EFCC or NFIU to clarify hierarchy and mandate, is a classic case of legislative design that creates institutional rivalry rather than coherent regulatory action.

2.2.4 Justification of Theoretical Choice

The adoption of a hybrid framework is justified by the complexity of Nigeria's security challenges. Single-theory approaches are insufficient to capture the interaction between law, institutions, and enforcement dynamics in counter-terrorism contexts. The integration of legislative drafting theory, security governance, and regulatory institutionalism ensures that this paper provides a robust analytical foundation for assessing legislative reform options that are both constitutionally grounded and operationally relevant.

3.0 COUNTER-TERRORISM LEGISLATIVE ARCHITECTURE OF NIGERIA

The counter-terrorism and counter-insurgency framework of Nigeria is anchored in a constellation of statutes, regulations, and institutional mandates that collectively define the legal basis for security operations, terrorism financing control, and inter-agency coordination. While this architecture reflects Nigeria's increasing engagement with

¹⁷ McLean, I & McMillan, A 'State of the Union: Unionism and the Alternatives in United Kingdom Since 1707' Oxford University Press (2005) I was able to access the online edition cited as McLean, Iain, and Alistair McMillan, *State of the Union* (Oxford University Press, 2005; online edition, Oxford Academic, 1 Feb. 2006), <https://doi.org/10.1093/0199258201.001.0001>, accessed 23 January, 2026.

global counter-terrorism norms, it is characterised by fragmentation, overlapping mandates, and uneven enforcement design.

3.1 Constitutional Foundation of Counter-Terrorism Powers

The 1999 Constitution of Nigeria provides a robust legal framework that provides a solid foundation for countering terrorism and insurgency in the country.¹⁸ This is primarily because the Constitution outlines the powers and functions of the three arms of government, including the legislature, executive, and judiciary, which are essential in combating terrorism and insurgency.¹⁹ The argument is that the Constitution being the grundnorm, has provided the basis for all the arms of government to be actively involved in maintaining the security of lives and properties of all citizens. It is the Constitution that provides for the establishment of a National Assembly, which has the power to make laws for the peace, order, and good government of the country, including laws related to national security and counter-terrorism.

The Constitution also promotes federalism, which is critical in addressing the root causes of terrorism and insurgency, such as poverty, inequality, and marginalization. By providing a framework for the sharing of revenue resources and promoting good governance, the Constitution helps to reduce the risk of divided societies and promotes national unity. In other words, the 1999 Constitution of Nigeria (as amended) provides the legal basis for national security. Section 14(2)(b) states that "the security and welfare of the people shall be the primary purpose of government."²⁰ Some of the key provisions of the

¹⁸ *Lakanmi v. AG (Western Region)* (1971) 1 UILR 201

¹⁹ Section 4, 5 and 6 of the 1999 Constitution of the Federal Republic of Nigeria (as amended). Isiaka Abiola Olagunju, 'The 1999 Constitution, Restructuring and True Federalism: The Way Forward' delivered at the Ikorodu Branch of the NBA June 10th, 2023. <https://loyalnigerianlawyer.com> accessed on the 13th February, 2025.

²⁰ s 14(2)(b) Constitution of the Federal Republic of Nigeria, 1999

1999 Constitution that are relevant to countering terrorism and insurgency include Section 14, as stated above, and Section 15²¹, section 217²² and section 218²³ respectively.

Overall, the 1999 Constitution is a major legal framework for countering terrorism and insurgency in Nigeria, and its provisions provide a solid foundation for promoting national security, good governance, and human rights. However, the division of security responsibilities between federal and state governments has posed challenges in responding to security threats effectively.

In relation to this paper specifically, the constitutional basis for Nigeria's counter-terrorism response derives principally from the aforementioned legislative and oversight powers of the National Assembly and the executive authority over national security.²⁴ Additionally, sections 88 and 89 of the Constitution vest the National Assembly with oversight and investigative powers over the conduct of public authorities and the administration of laws.²⁵ These provisions provide the constitutional foundation for legislative intervention in counter-terrorism, not only through law-making but also through systematic oversight of security and financial intelligence institutions.

Despite this constitutional mandate, counter-terrorism governance in practice has been dominated by executive action, with legislative involvement often limited to reactive amendments and budgetary

²¹ s 15 provided for the protection of citizens' rights and freedoms

²² s 217 provides for the establishment of the armed forces and their role in maintaining national security

²³ Section 218 provides for the establishment of the police and their role in maintaining law and order

²⁴ Constitution of the Federal Republic of Nigeria 1999 (as amended).

²⁵ Ibid, S. 88 and 89

approvals. This imbalance has implications for accountability and institutional coherence.

3.2 The Terrorism (Prevention & Prohibition) Act 2022

The Terrorism (Prevention) Act 2022 constitutes the central statutory instrument governing terrorism offences in Nigeria. The Act criminalizes acts of terrorism, proscribes terrorist organizations, and provides for the investigation, prosecution, and punishment of terrorism-related offences.²⁶

The Act also incorporates provisions addressing terrorism financing, including the prohibition of fundraising, provision, or collection of funds for terrorist purposes.²⁷ These provisions reflect Nigeria's attempt to align domestic law with international counter-terrorism financing obligations under the Financial Action Task Force (FATF) framework.

The enactment of the Terrorism (Prevention and Prohibition) Act 2022 represents a significant legislative response to many of the deficiencies identified under the 2011 framework. Notably, the Act establishes the National Counter Terrorism Centre (NCTC) with a statutory mandate to coordinate counter-terrorism efforts across relevant security, intelligence, and financial institutions. This reform directly addresses earlier criticisms regarding the absence of a central coordinating structure within Nigeria's counter-terrorism architecture. However, while the creation of the NCTC marks an important institutional development, the effectiveness of coordination remains largely dependent on the precision and enforceability of the Act's drafting provisions. The 2022 Act declares coordination as an objective but provides limited guidance on institutional hierarchy, binding

²⁶ See generally Sections 2 of the Terrorism (Prevention and Prohibition) Act, 2022

²⁷ *Ibid*, Section 21, 22 and 24 of the

compliance obligations, or legal consequences for non-cooperation, particularly in the context of terrorism financing investigations and prosecutions.

In other words, although a coordinating authority now exists under the TPPA 2022, legislative drafting weaknesses continue to limit the effectiveness of coordination, particularly in terrorism financing.

3.3 Financial Crimes and Terrorism Financing Legislations

Beyond the Terrorism (Prevention) Act, Nigeria relies on a range of financial crimes statutes to combat terrorism financing. These include the Economic and Financial Crimes Commission (Establishment) Act 2004, the Money Laundering (Prevention and Prohibition) Act 2022, and regulations issued by the Central Bank of Nigeria and other financial regulators.²⁸

These instruments impose obligations on financial institutions (FIs) and designated non-financial businesses (DNFIBs) to conduct customer due diligence, report suspicious transactions, and cooperate with financial intelligence authorities. The Nigerian Financial Intelligence Unit (NFIU) serves as the central agency for receiving and analysing financial intelligence related to money laundering and terrorism financing.²⁹

While this framework demonstrates formal compliance with international standards, its legislative design suffers from institutional dispersion. Responsibilities relating to terrorism financing are spread across multiple statutes without a clearly articulated hierarchy or

²⁸ Economic and Financial Crimes Commission (Establishment) Act 2004; Money Laundering (Prevention and Prohibition) Act 2022.

²⁹ Nigerian Financial Intelligence Unit Act 2018.

coordination protocol. This diffusion weakens enforcement coherence and complicates legislative oversight.³⁰

3.4 Institutional Mandates and Inter-Agency Fragmentation

The counter-terrorism architecture of Nigeria involves multiple institutions, including the Armed Forces, intelligence agencies, the Nigeria Police Force, the EFCC, the NFIU, and prosecutorial authorities.³¹

The absence of clear statutory coordination mechanisms has resulted in jurisdictional overlap, rivalry, and information silos. From a legislative drafting perspective, this reflects a failure to design counter-terrorism law as an integrated regulatory system, rather than a collection of offence-creating statutes.

3.5 Legislative Oversight within the Existing Architecture

Although the National Assembly possesses constitutional oversight powers, existing counter-terrorism legislation does not sufficiently institutionalise reporting obligations, periodic review mechanisms, or secure oversight channels in respect of security and financial intelligence agencies.³² Oversight, therefore, remains ad hoc, politically contingent, and heavily dependent on executive cooperation. This legislative omission weakens democratic accountability and limits the ability of Parliament to assess whether

³⁰ Other relevant legislations that suffers same fate include the Cybercrimes (Prohibition, Prevention etc) (Amendment) Act 2024 which principally is concern which cyber threats and cybersecurity issues.

³¹ Armed Forces Act; Police Act 2020; EFCC Act 2004, Office of the National Security Adviser etc

³² National Assembly Standing Orders; Constitution of the Federal Republic of Nigeria, 1999 (as amended), ss 88–89.

counter-terrorism laws, particularly those addressing terrorism financing, are functioning as intended.

Our preliminary assessment from the foregoing analysis reveals that Nigeria's counter-terrorism legislative architecture is extensive but structurally weak. While offences are clearly criminalised, legislative drafting has not adequately prioritised institutional coherence, enforcement facilitation, and oversight design. These structural weaknesses provide the foundation for the enforcement gaps examined in subsequent sections of this paper.

4.0 LEGISLATIVE DRAFTING FAILURES AND ENFORCEMENT GAPS

Despite the existence of multiple counter-terrorism statutes, Nigeria's enforcement outcomes remain weak, inconsistent, and institutionally fragmented. This section argues that these deficiencies are not primarily operational, but structural, arising from identifiable failures in legislative drafting. These failures manifest in many ways some of which we are going to discuss below.

4.1 Fragmented Institutional Mandates

The counter-terrorism framework of Nigeria distributes responsibilities across numerous institutions without sufficiently precise legislative coordination clauses.⁴ Statutes establishing security, intelligence, financial investigation, and prosecutorial bodies operate largely in isolation, resulting in overlapping mandates and jurisdictional uncertainty.

This fragmentation has concrete enforcement consequences.³³ Intelligence relevant to terrorism financing may be generated by one

³³ Attorney-General of the Federation v. Abacha (2002) 6 NWLR (Pt. 763) 264

institution, analysed by another, and required by a third for prosecution, without a clear statutory pathway for timely information sharing. Legislative silence on coordination effectively entrenches institutional silos, undermining collective enforcement capacity.³⁴ Even after the TPPA 2022, There exist parallel financial intelligence mandates. For example, NFIU continuous to derive its powers from the NFIU Act, 2018. Similarly, the EFCC retains investigative and prosecutorial powers under its own establishment Act and the Central Bank of Nigeria (CBN) enforces AML/CFT obligations through its regulations and not through the TPPA 2022. Operational reviews confirm this challenge, noting that while initiatives like the NFIU's Central Records and Information Management System (CRIMS) aim to facilitate data sharing among 36 agencies, the underlying legal framework lacks binding mechanisms to compel such cooperation (NFIU, 2024).

So the drafting issue here is that in spite of the institutional reform attempted by the TPPA 2022, the Act does not expressly harmonise these mandates nor does it clarify whether the National Counter Terrorism Centre (NCTC) directives override agency-specific statutory discretions. What we are saying here is verifiable because both the FATF and GIABA post 2022 evaluations of Nigeria indicated the problems of weak intelligence – prosecution conversion and fragmented financial investigation.

4.2 Weak Enforcement-Design Provisions

A recurring drafting failure is the tendency to criminalise conduct without embedding enforcement-enabling mechanisms. The counter-terrorism statutes of Nigeria often specify offences and penalties but

³⁴ EFCC Act 2004; NFIU Act 2018; Police Act 2020.

provide limited guidance on investigative thresholds, evidentiary standards, or inter-agency operational cooperation.³⁵

In the context of terrorism financing, this results in reliance on general financial crimes frameworks that were not specifically designed for the complexity of terrorist funding networks. The absence of tailored enforcement provisions weakens detection and prosecution, despite formal compliance with international standards.³⁶ For instance, while the TPPA 2022 strengthened provisions on asset recovery, the Act fails to bridge the gap between financial intelligence and admissible evidence. It does not provide clear statutory thresholds for acting on intelligence or recognise streamlined administrative freezing mechanisms that could preserve evidence during complex criminal investigations.³⁷ as well as sanctions compliance in that regard, the practice in asset freezing and forfeiture is often done administratively while criminal prosecutions for terrorism lag significantly.

This essentially because there drafting lacunas. For instance, the Act does not clearly connect financial intelligence thresholds and does not also recognize administrative freezing. Consequently, there are no solid evidentiary standards for criminal prosecutions. This is a design gap and not an operational discretion or excuse. This deficiency is exploited by terrorist networks, which actively utilize Nigeria's large informal economy, characterized by practices like *hawala*, *esusu*, and cash-based commodity trading to move funds undetected. Laws that merely prohibit "financing" without providing investigators and prosecutors with the specific legal tools and presumptions to trace,

³⁵ GIABA, *Terrorist Financing in West Africa* (n 6).

³⁶ Xanthaki (n 1).

³⁷ Ss 79 and 80 of the Terrorism (Prevention and Prohibition) Act 2022 provided for forfeiture and freezing of criminal assets.

freeze, and prove the illicit nature of flows through these informal channels are functionally inert.

4.3 Absence of Institutionalised Legislative Oversight

Existing counter-terrorism legislation does not adequately institutionalise parliamentary oversight mechanisms. Reporting obligations by security and financial intelligence agencies to the National Assembly are minimal, irregular, or absent.³⁸

This legislative omission has two consequences. First, it limits the ability of the National Assembly to assess whether counter-terrorism laws are effective or rights-compliant. Second, it removes an important feedback loop through which legislative deficiencies could be identified and corrected. Oversight, when not embedded in statute, becomes discretionary rather than systemic.³⁹

4.4 Enforcement Outcomes as Symptoms of Drafting Failure

The cumulative effect of these drafting deficiencies is an enforcement environment characterised by low prosecution rates, weak inter-agency cooperation, and limited disruption of terrorism financing networks.⁴⁰ These outcomes should not be interpreted solely as failures of political will or institutional capacity. Rather, they are symptomatic of legislative design that prioritises offence creation over enforcement architecture.

From a regulatory perspective, enforcement cannot outperform the statutory framework that structures it. Effective counter-terrorism enforcement therefore, requires legislative reform that addresses

³⁸ FATF, *Risk-Based Approach* (n 6).

³⁹ AG Federation v. Abubakar (2007) 10 NWLR (Pt.1041) 1

⁴⁰ Terrorism (Prevention and Prohibition) Act 2022; Money Laundering (Prevention and Prohibition) Act 2022.

drafting quality, institutional coherence, and oversight design as foundational elements.

5.0 FINDINGS: TERRORISM FINANCING AS A DRAFTING AND INSTITUTIONAL PROBLEM

Terrorism financing in Nigeria is often discussed as an enforcement or capacity problem, attributed to weak institutions, corruption, or the sophistication of terrorist networks. While these factors are not insignificant, this study argues that they obscure a more fundamental issue: the legislative design governing terrorism financing is structurally ill-suited to the operational realities of Nigeria's security environment. The persistence of terrorism financing is therefore as much a product of drafting and institutional failure as it is of criminal ingenuity.

5.1 Legislative Treatment of Terrorism Financing in Nigeria

Nigeria's principal terrorism financing provisions are embedded within the Terrorism (Prevention & Prohibition) Act 2022 and supplemented by the Money Laundering (Prevention and Prohibition) Act 2022, the EFCC (Establishment) Act, and regulatory instruments issued by financial sector regulators.⁴¹ These instruments criminalise the provision, collection, or use of funds for terrorist purposes and impose reporting obligations on financial institutions.

However, the legislative approach treats terrorism financing largely as an extension of general financial crime, rather than a distinct security problem. This results in statutory provisions that are formally compliant with international standards but insufficiently tailored to the

⁴¹ Ibid

decentralised, informal, and cross-border financing patterns characteristic of insurgent groups in Nigeria.⁴²

5.2 Definitional and Evidentiary Constraints

A critical drafting weakness lies in the definition of terrorism financing and related mental elements. Nigerian legislation does not sufficiently clarify the evidentiary thresholds required to establish intent, knowledge, or recklessness in terrorism financing prosecutions.⁴³ This ambiguity complicates investigations and prosecutions, particularly where funds move through informal value transfer systems or community-based networks.⁴⁴

From a drafting perspective, the failure to specify evidentiary standards and indicators upon which presumptions can be made undermines the effectiveness of prosecution and has likely contributed to low conviction rates.⁴⁵ It also increases reliance on executive discretion, which in turn raises constitutional and human rights concerns.

⁴² Most of the criminal group's funding sources are irregular and underground and hence are difficult to trace in the modern financial system. After all, CBN 2016 report showed that there are still over 40 percent of Nigerian adults as not captured in the financial system.

⁴³ FATF, *Risk-Based Approach to Combating Money Laundering and Terrorist Financing* (2014).

⁴⁴ The 2023 [Nigerian Terrorist Financing Typology Report](#) highlights how informal indigenous money saving systems like *Esusu*, *Adashe*, and *Ajo* could support extremist groups. Additionally, barter transactions in the agricultural sector complicate tracking, as terrorists frequently use commodities such as livestock and grains, leaving no digital trace. See [Disrupting Terrorist Financing Networks in Nigeria: The Importance of Financial Intelligence in Addressing Non-Traditional Threats](#) | Wilson Center accessed on the 25th of January, 2026 See Nigerian Financial Intelligence Unit (NFIU). (2024). *Terrorist Financing in Nigeria: Methods, Challenges, and Institutional Response*

⁴⁵ Ezech, C., Olanrewaju, F. O., & Osaloni, O. P. (2023). *Counter-terrorism legislation and operations in Nigeria: A critical appraisal*.

5.3 Institutional Dispersion and Coordination Failure

Terrorism financing control in Nigeria involves multiple institutions, including the NFIU, EFCC, Central Bank of Nigeria, security agencies, and prosecutorial authorities. Each operates under separate legislative mandates, often enacted without adequate cross-referencing or coordination clauses.⁴⁶ Although the TPPA 2022 mandates coordination between these agencies, it does not specify sanctions where agencies fail to share information promptly, it also does not provide statutory timelines for intelligence transmission. These gaps affect the practical usefulness of coordination provisions. In terms of oversight, the Act does not mandate that the National Assembly receive performance reports from the NCTC on terrorism financing outcomes.⁴⁷

The absence of a clear statutory coordination framework weakens information sharing, delays investigations, and fragments accountability. In practical terms, financial intelligence may not translate into prosecutable cases due to legislative silence on inter-agency obligations. This institutional dispersion is not accidental; it is the predictable outcome of legislation drafted without systemic integration in mind.⁴⁸ And the fact is, coordination under the TPPA 2022 is legally encouraged but not legally compelled.

5.4 Oversight Deficits in Terrorism Financing Regulation

Parliamentary oversight of terrorism financing institutions remains weakly institutionalised. Existing statutes do not impose robust reporting obligations on financial intelligence and enforcement

⁴⁶ NFIU Act 2018; EFCC Act 2004; Central Bank of Nigeria (Anti-Money Laundering and Combating the Financing of Terrorism) Regulations.

⁴⁷ Section 6 of the Terrorism (Prevention and Prohibition) 2022

⁴⁸ Julia Black (n 5).

agencies to the National Assembly, nor do they mandate periodic legislative review of terrorism financing controls.⁴⁹

This oversight gap limits the ability of the legislature to assess compliance with international standards, identify enforcement bottlenecks, or adapt the legal framework to emerging financing methods.⁵⁰ Oversight failure, in this sense, is not a political accident but a legislative design omission.

5.5 Regional Dimensions and Cross-Border Financing

Nigeria's counter-terrorism financing challenge is exacerbated by porous borders and regional financial flows across West Africa.⁵¹ While Nigeria is a party to ECOWAS counter-terrorism instruments, domestic legislation does not sufficiently operationalize regional cooperation obligations.⁵²

Lack of clear statutory mechanisms for cross-border financial intelligence sharing and joint enforcement further undermines terrorism financing control. Legislative drafting that fails to internalise regional commitments leaves the counter-terrorism financing regime of Nigeria structurally incomplete.⁵³

5.6 Reframing Terrorism Financing as a Legislative Design Problem

⁴⁹ Constitution 1999 (as amended), ss 88–89.

⁵⁰ K.D. Maza 'Challenges of Combating Terrorist Financing in the Lake Chad Region: A Case of Boko Haram, (2020) SAGE Publications

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⁵² ECOWAS, *Political Declaration and Regional Action Plan against Terrorism* (2013).

⁵³ S.C. Onyeka 'Critical Analysis of the Regime of Anti-Money Laundering and Combating the Financing of Terrorism in Nigeria' (Ph.D. Dissertations, School of Postgraduate Studies, Imo State University 2017) 89

This analysis demonstrates that terrorism financing in Nigeria cannot be effectively addressed through enforcement alone. Without legislative reform that prioritises drafting quality, institutional coherence, and oversight design, enforcement efforts will remain reactive and fragmented.

Reframing terrorism financing as a legislative design problem shifts responsibility from individual agencies to the broader statutory architecture crafted by Parliament. This reframing is essential to repositioning the National Assembly as a central actor in Nigeria's counter-terrorism governance framework.

6.0 COMPARATIVE LEGISLATIVE LESSONS: UK, KENYA, AND ECOWAS

Comparative analysis in counter-terrorism law is valuable only to the extent that it illuminates design choices, institutional arrangements, and oversight mechanisms that can be realistically adapted to domestic contexts. This section therefore, avoids broad descriptive comparison and instead distills targeted legislative lessons from the United Kingdom, Kenya, and the ECOWAS regional framework, with particular emphasis on terrorism financing and legislative architecture.

6.1 United Kingdom: Drafting Precision and Institutional Integration

The counter-terrorism framework of the United Kingdom is characterized by high drafting specificity, layered statutory architecture, and strong parliamentary oversight. The Terrorism Act 2000, complemented by subsequent legislation, provides detailed definitions of terrorist acts and financing offences, reducing interpretive ambiguity.⁵⁴ Crucially, UK legislation integrates terrorism

⁵⁴ Terrorism Act 2000 (UK).

financing controls within a broader regulatory ecosystem through the Proceeds of Crime Act 2002 and the Terrorism Act 2000, ensuring alignment between criminal, financial, and intelligence regimes.⁵⁵ The statutory framework clearly allocates responsibilities among enforcement agencies and embeds coordination obligations, reducing institutional fragmentation.

From a legislative drafting perspective, the UK model demonstrates the value of precision, cross-referencing, and institutional alignment. It also institutionalises parliamentary oversight through mandatory reporting, sunset clauses, and periodic legislative review, ensuring adaptability without sacrificing accountability.⁵⁶

6.2 Kenya: Legislative Adaptation in a Comparable Security Context

Kenya offers a particularly relevant comparator due to its experience with terrorism and its constitutional and institutional similarities to Nigeria. The Prevention of Terrorism Act 2012 establishes a consolidated statutory framework that integrates offence creation, institutional mandates, and oversight mechanisms.⁵⁷

Notably, Kenyan legislation provides clearer statutory pathways for inter-agency coordination, particularly between security agencies and financial intelligence bodies. Terrorism financing provisions are more explicitly tailored to local financing patterns, including informal networks and cross-border flows.⁵⁸

⁵⁵ Proceeds of Crime Act 2002 (UK).

⁵⁶ UK Parliament, *Independent Review of Terrorism Legislation* reports.

⁵⁷ Prevention of Terrorism Act 2012 (Kenya).

⁵⁸ FATF, *Mutual Evaluation of Kenya* (2017).

While Kenya has faced criticism regarding civil liberties, its legislative framework illustrates how context-sensitive drafting can enhance enforcement coherence without excessive statutory fragmentation. For Nigeria, the Kenyan experience underscores the importance of consolidating terrorism-related provisions and embedding coordination mechanisms within primary legislation.

6.3 ECOWAS: Regional Norms and Legislative Harmonisation

At the regional level, ECOWAS has developed a comprehensive counter-terrorism framework, including the Political Declaration and Regional Action Plan against Terrorism and related instruments addressing terrorism financing.⁵⁹ These instruments emphasise harmonisation of domestic legislation, cross-border cooperation, and financial intelligence sharing.

However, ECOWAS instruments rely heavily on domestic legislative incorporation for effectiveness. Where national laws fail to operationalise regional obligations, regional norms remain aspirational. The current legislative framework of Nigeria does not sufficiently internalise ECOWAS coordination and cooperation mechanisms, particularly in relation to terrorism financing. The ECOWAS experience highlights the importance of legislative domestication and the incorporation of regional cooperation clauses into national counter-terrorism statutes. Legislative drafting that ignores regional integration leaves national frameworks structurally incomplete.

For Nigeria, these lessons support a shift from reactive amendments toward systemic legislative reform, positioning the National Assembly as the architect of a coherent counter-terrorism and counter-insurgency framework.

⁵⁹ ECOWAS, *Political Declaration and Regional Action Plan against Terrorism* (2013).

6.4 International Models: The OAS Legislative Assistance Program as a Blueprint for NILDS

Beyond national laws, the architecture of legislative *support* itself requires examination. The Organization of American States (OAS)⁶⁰ Legislative Assistance and Counter Terrorism Financing Program provides a direct, operational blueprint for the technical role the National Institute for Legislative and Democratic Studies (NILDS) could fulfill. This program provides member states with "legislative technical assistance missions" to draft and approve laws compliant with FATF standards and UN conventions. It has delivered tangible results, aiding in developing nine national laws and conducting 29 technical missions. For Nigeria, this model demonstrates that effective parliamentary leadership in security governance depends not just on political will, but on access to sustained, expert drafting support, a function NILDS is uniquely positioned to provide if strategically mandated and resourced.

7.0 ADVANCING A LEGISLATIVE REFORM MODEL FOR NIGERIA: KEY RECOMMENDATIONS

This part of the paper advances a legislative reform model aimed at restructuring the counter-insurgency and counter-terrorism framework of Nigeria through improved legislative drafting, institutional coherence, and oversight design. The recommendations are premised on the argument that effective security governance is a function of how laws are designed, not merely how forcefully they are enforced.

7.1 Harmonisation and Consolidation of Counter-Terrorism Legislation

⁶⁰ See their website for full technical details and program structure [Legislative Assistance and Financing of Terrorism](#) access on 26th of January, 2026

A central reform imperative is the harmonisation of terrorism-related statutes. Nigeria's current framework disperses counter-terrorism provisions across multiple laws, creating overlap and enforcement uncertainty. Legislative reform should prioritise either a consolidated Counter-Terrorism Code, or a further substantial amendment of the Terrorism (Prevention & Prohibition) Act 2022 to explicitly integrates terrorism financing, institutional coordination, and oversight provisions.⁶¹ Harmonisation would reduce duplication, clarify enforcement pathways, and strengthen prosecutorial coherence.

7.2 Drafting Terrorism Financing as a Security-Specific Regime

Terrorism financing should be legislatively treated as a security-specific regulatory regime, not merely a subset of general financial crime. This requires a clearer statutory definitions of terrorism financing mental elements and will entail express recognition of informal value transfer systems, tailored investigative and evidentiary provisions; and explicit coordination mandates between financial intelligence and security agencies.⁶² Such drafting would align Nigerian law more closely with FATF standards while addressing local operational realities.⁶³ If focus is placed on terrorism financing as a specific framework, the fuel that fires terrorists will be extinguished.

7.3 Statutory Institutional Coordination Mechanisms

Legislative reform must embed mandatory inter-agency coordination mechanisms within primary legislation. This includes specific statutory information-sharing obligations and not just a general direction. Additionally, joint operational frameworks for intelligence-

⁶¹ Terrorism (Prevention and Prohibition) Act 2022

⁶² FATF, *International Standards on Combating Money Laundering and the Financing of Terrorism and Proliferation* (2012, updated).

⁶³ Nigeria has been in and out of FATF grey list over the years due the nature of institutional coordination and level of our enforcement of international obligations.

to-prosecution pipelines.⁶⁴ should be a deliberate design to ensure no gaps are allowed between intelligence gathering and prosecution. Coordination should therefore be a legal obligation, not an administrative courtesy.

7.4 Institutionalizing Parliamentary Oversight and Review

Effective counter-terrorism governance requires robust legislative oversight. Reform legislation should therefore provide for mandatory periodic reporting by security and financial intelligence agencies to designated National Assembly committees. This would enable NASS to supervise and follow the operational efficiency of the counter terrorism and counter-insurgency legislations. Secondly, the reform legislation must provide for procedures for classified briefings as well as statutory periodic review of counter –terrorism laws.⁶⁵ This way, adaptability would be ensured because like a sculptor, the National Assembly can chisel legislations periodically to bring them achieve the purpose for which they are promulgated. The review will also engender accountability on the part of institutions that are expected to discharge the various obligations within the financial intelligence and security frameworks. Lastly, the whole review and accountability process would strengthen democratic legitimacy in Nigeria.⁶⁶

7.5 Regional Integration and ECOWAS Operationalisation

Legislative reform must also internalise ECOWAS counter-terrorism commitments of Nigeria. Domestic legislation should explicitly operationalize cross-border financial intelligence sharing and joint investigations. Considering the international nature of terrorism and terror financing, joint investigations becomes imperative. Regional cohesion is encouraged by FATF recommendations and states are

⁶⁴ Xanthaki (n 1); GIABA (n 6).

⁶⁵ UK Parliament, *Independent Review of Terrorism Legislation*.

⁶⁶ *Op cit.* AG Federation v. Abubakar (2007) 10 NWLR (Pt.1041) 1

expected to respect regional obligations that have been passed as resolutions of such regional blocs. Additionally, mutual legal assistance in terrorism financing cases⁶⁷ is particularly declared as a viable action plan to control terrorism and terrorism financing across borders. This would transform regional obligations from aspirational norms into enforceable domestic law.

7.6 Human Rights Safeguards and Constitutional Compliance

Finally, legislative reform must embed rights-protective safeguards to maintain public trust and constitutional legitimacy. Clear drafting, proportional enforcement powers, and oversight mechanisms reduce the risk of abuse⁶⁸ while strengthening the credibility of counter-terrorism operations.⁶⁹ Security legislation that lacks legitimacy ultimately undermines the very objectives it seeks to achieve.⁷⁰

7.7 The Pivotal Role of NILDS in strengthening security governance

The National Institute for Legislative and Democratic Studies (NILDS) stands as the critical, statutory institution capable of providing the National Assembly with the sustained technical scaffolding required to execute this complex legislative reform agenda. After all, NILDS is the institution established by an Act of Parliament to provide technical assistance to the National Assembly through core functions of bill-drafting, bill scrutiny, motion drafting, and research.⁷¹ This institutional mandate uniquely positions NILDS to move beyond

⁶⁷ ECOWAS, *Political Declaration and Regional Action Plan against Terrorism* (2013).

⁶⁸ FRN v. Ifegwu (2003) 15 NWLR (Pt.842) 113

⁶⁹ Dyzenhaus (n 3).

⁷⁰ Constitution of the Federal Republic of Nigeria 1999 (as amended), SS. 4, 14, 88–89.

⁷¹ See National Institute for Legislative and Democratic Studies (Establishment) Act, 2011.

advisory roles and become the operational engine for drafting the proposed harmonized Counter-Terrorism legislation, security-specific financing regulations, and the precise statutory clauses needed to mandate inter-agency coordination. By leveraging this existing, under-utilized capacity within the legislative branch, Nigeria can develop an indigenous, sustainable model for high-quality security legislation, reducing reliance on ad hoc executive drafts and foreign technical assistance that is usually provided by civil society and consultants.

To fulfil this important role, NILDS may need to establish a dedicated Specialist Security Legislation Drafting Committee in the DLSS department of the institute. This committee would comprise of experts in legislative drafting, counter-terrorism financing (CTF) regulations, financial intelligence, and security sector governance.⁷² The committee's work would be directly aligned with the reform model, tasked with preparing detailed drafting instructions, annotated bills, and regulatory impact assessments for parliamentary committees. Such a focused technical unit would operationalize a model of legislative support demonstrated by successful international programs,⁷³ and will directly address a systemic gap that the Director General of NILDS recently identified across Africa, which is - a critical "dearth of drafters" with the specific skills to translate complex security and financial regulations into enforceable law.⁷⁴

⁷² There is already a clearly emerging focus on capacity building, evidenced by partnerships like the **2025 UNITAR-NFIU agreement** on AML/CFT training, highlights a recognized need that must be expanded to include legislative drafters (UNITAR, 2025).

⁷³ See Organization of American States (OAS). (2023). *Legislative Assistance and Counter Terrorism Financing Program: Activity Report*

⁷⁴ Sulaiman, A. (2024, October 8). *Empowering Africa's Parliaments: The Critical Role of Legislative Drafting and NILDS's Capacity-Building Mission* (Interview) [Military Overwhelmed By Terrorists. Nigeria Must Seek Foreign Assistance – THISDAYLIVE](#) accessed on 25th January, 2026

Ultimately, empowering NILDS in this manner is essential for repositioning the National Assembly as a proactive architect rather than a passive reviewer of security policy. A strengthened NILDS provides the institutional memory, technical consistency, and scholarly weight needed for the rigorous, evidence-based lawmaking that effective counter-terrorism demands. As the paper has argued, enforcement cannot outperform the statutory framework that structures it. Therefore, investing in the legislature's own drafting capacity through NILDS is not an ancillary concern but a foundational prerequisite for building the coherent, adaptable, and legally sound security architecture Nigeria requires. This approach ensures that legislative oversight is informed by technical expertise and that the country develops the sovereign capability to continuously refine its laws in response to evolving threats.

8.0 CONCLUSION

The prolonged struggle with insurgency and terrorism in Nigeria has revealed a persistent mismatch between the scale of security threats confronting the state and the legislative architecture designed to respond to them. While executive and military interventions have dominated the counter-insurgency landscape, this study has demonstrated that the durability, legitimacy, and effectiveness of Nigeria's security response ultimately depend on legislative design.

This paper has argued that Nigeria's core challenge is not the absence of counter-terrorism laws, but the inadequacy of legislative drafting, coherence, and enforcement-enabling design. Fragmented statutes, vague definitions, weak institutional coordination, and underdeveloped oversight mechanisms have collectively constrained enforcement effectiveness and undermined accountability.⁷⁵ These deficiencies are

⁷⁵ See Section 46 of the EFCC Act and consider SS. 316 and 319 of the Criminal Code and SS. 221 and 224 of the Penal Code Act – Cap C38 Laws of the Federation

particularly evident in the regulation of terrorism financing, where legislative design has failed to reflect the decentralised, informal, and transnational nature of insurgent funding networks.

The reframing of terrorism financing as a legislative and institutional design problem, rather than a purely operational failure, has ensured that the study shifts analytical attention toward the role of Parliament in structuring security governance. Drawing on legislative drafting theory, security governance theory, and regulatory institutionalism, the analysis has demonstrated that enforcement outcomes are conditioned by how laws allocate power, define mandates, and embed coordination and oversight mechanisms.

Comparative insights from the United Kingdom, Kenya, and the ECOWAS regional framework reinforce this conclusion. Jurisdictions that prioritise drafting precision, institutional integration, and periodic legislative review are better positioned to adapt to evolving security threats while safeguarding democratic accountability. Nigeria's current framework falls short not because such models are unavailable, but because legislative reform has remained reactive and piecemeal.

Accordingly, this paper has advanced a legislative reform model that repositions the National Assembly as a central architect of the counter-insurgency and counter-terrorism framework of Nigeria. Through harmonised legislation, security-specific treatment of terrorism financing, mandatory inter-agency coordination, institutionalised parliamentary oversight, and regional operationalisation, legislative drafting can function as a strategic tool for strengthening national security governance.

LFN 2024 and Cap 89, Laws of the Northern Nigeria now Act in the Federal Capital Territory, Abuja Cap 53 LFN, 1990.

In confronting insurgency and terrorism, the decisive question for Nigeria is not how forcefully the state responds, but how lawfully, coherently, and intelligently it structures that response. The National Assembly therefore, bears a constitutional and institutional responsibility to move from the margins to the centre of counter-terrorism governance and in doing that, Parliament can leverage on the technical expertise provided by NILDS. Without legislative reform grounded in sound drafting and oversight, enforcement efforts will remain reactive, fragmented, and ultimately unsustainable.