



BALANCING NATIONAL SECURITY AND INDIVIDUAL RIGHTS IN COUNTER TERRORISM: A CALL FOR JUDICIAL REVIEW AND CONSTITUTIONAL SUPREMACY

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ABSTRACT

The escalation of terrorism in Nigeria had led the government to adopt extensive counter-terrorism measures aimed at protecting national security and maintaining public order. However, these measures had often generated concerns regarding violations of constitutionally guaranteed fundamental human rights, particularly the rights to liberty, fair hearing, privacy, and freedom of expression. This paper examined the balance between national security and individual rights in Nigeria's counter-terrorism framework, with emphasis on judicial review and constitutional supremacy. The paper adopted the doctrinal method of research, relying on primary sources such as the 1999 Constitution of the Federal Republic of Nigeria, as amended, as well as secondary sources including textbooks and journal articles. The paper found out that challenges such as prolonged detention without trial, abuse of emergency powers, weak judicial oversight, and broad discretionary powers of security agencies had undermined constitutional safeguards. It further revealed that inadequate enforcement of judicial review had weakened the protection of individual rights. The paper concluded that while national security remained essential, it should have operated within the limits of constitutional supremacy. The paper recommended amongst others stronger judicial oversight, strict adherence to constitutional provisions, periodic review of counter-terrorism laws, and enhanced compliance with international human rights standards in Nigeria.

KEYWORDS: Balance, National, Security, Right, Terrorism

1.0 INTRODUCTION

It is said that acts of terrorism thrive in the freedom of democracies. Individual rights and freedoms make it conducive for planning and execution of acts of violence and terror designed to destroy or destabilize the state. Thus, national security and counter terrorism is frequently invoked by governments to justify violation or curtailment of individual rights. Such abuse is the consequence of the difficult relationship and tension between national security and human right protection.¹ The crucial question is how governmental duty of national security and individual right protection can be resolved and balance maintained between the duo in the war against terrorism? In order to answer this question, this article is divided into seven parts; part one is the introduction, part two is the clarification of concepts while part three examines individual rights and constitutional

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¹ F B Okeshola and A K Adeta, 'The Nature, Causes and Consequences of Cyber Crime in Tertiary Institutions in Zaria-Kaduna State, Nigeria' [2013] (3)(9) *American International Journal of Contemporary Research*, 98-114.



derogation in Nigeria, part four deals with terrorism and national security concerns in Nigeria.² Part five discusses reconciliation of National security with individual rights in the fight against terrorism in Nigeria, part six deals with the legal response to terrorism and balance of national security and human rights in the USA and Britain while part seven is the conclusion

2.0 TERRORISM AND NATIONAL SECURITY CONCERNS IN NIGERIA

Terrorism has been described as a new kind of war. According to President Bush,

Today's enemies do not mass armies on the borders, or navies on high seas. They blend with the civilian population. They emerge to strike and then retreat into the shadows. And that is why there are thousands of our fellow citizens running down every single piece of intelligence we can find doing everything we can do to disrupt folks that might be here in America trying to hurt you.³

The foregoing captures appropriately the mood and dispositions of government of nations towards terrorism and the readiness to adopt extra-ordinary responses to tackle terrorist attacks and emergencies challenging National Security. Extraordinary enemies, they say, also needs extraordinary measures.⁴ To defeat the threats of this enemy, governments make use of every tool in its arsenal-military power, law enforcement, intelligence and vigorous efforts to cut off terrorist financing. Nigeria has one of the highest terrorism threat levels in the world. Nigeria recorded the 9th highest number of people who died in terror attacks worldwide after Afghanistan. Several militant groups are active in Nigeria leading to attacks on both civilians and military targets. But the deadliest terrorist groups mostly active in Northern Nigeria are the Boko Haram, Isis West Africa, Fulani Extremists, Herdsmen farmers-conflict and others. It is estimated that about 22,000 lives have been lost as a result of Boko Haram- Nigeria conflict While the economic impact of terrorism cost Nigeria 14.2 billion US dollars.⁵

The Nigeria strategy of deradicalization is shrouded in secrecy and little is known about it. It is therefore argued that unsuccessfully deradicalization and reintegrated individuals may return to the group, become more hardened to prove their loyalty. Moreover, such failed program, it is suggested diminishes the trust of the citizens in future non-military processes. From the foregoing the deradicalization programme came against the background of excessive use of force which contributed to killings, generated insecurity and contributed to the push -factors for radicalization in the conflict zone. There has been therefore a severe criticism of military counter terrorism operation on humanitarian grounds including indiscriminate arrests and detention without charge,

² O Maitanmi and others, 'Impact of Cyber Crimes on Nigerian Economy' [2013] (2)(4) *The International Journal of Engineering and Science (IJES)*, 45-51.

³ U Umeorokwu, 'Cybercrime and National Security in Nigeria' [2025] (2)(7) *British Journal of Interdisciplinary Research*, 182-196.

⁴ B Omodunbi and others, 'Cybercrimes in Nigeria: Analysis, Detection and Prevention' [2016] (1)(1) *FUOYE Journal of Engineering and Technology*, 37-42.

⁵ E E Adomi and S E Igun, 'Combating cybercrime in Nigeria' [2008] (26)(5) *Electronic Library*, 716-725.



rape, extra judicial killings and torture. It is reported that this situation negatively affected Nigeria-America relations during President Jonathan's led administration with result of arms embargo placed on Nigeria. Even until recently, the international society for civil liberties and the rule of law, reported that about 150 Igbo women arrested by Nigeria Security agencies are languishing on different detention facilities after they were falsely labeled as members of IPOB⁶ and Eastern Security Network (ESN) without being charged to court. However, considered, the prevalent Human Right condition in the face of terrorist emergencies in Nigeria is a litany of woes.

3.0 DEROGABLE AND NON-DEROGABLE INDIVIDUAL RIGHT AND CONSTITUTIONALITY OF THE TERRORISM (PREVENTION AND PROHIBITION) ACT, 2022.

Although individual right is protected by the constitution of the federal republic of Nigeria 1999 (as amended), section 45 of the same constitution restricts or permits derogation from section 37, 38, 39, 40 and 41 CFRN. Laws are permitted to derogate from these rights if such laws are reasonable justifiable in a democratic so lively in the interest of defense public safety, public order, public morality, public health or for the purpose of protecting the right or the freedom of other persons furthermore, acts of national assembly are permitted to derogate from rights to life and right to liberty during periods of emergency, and measures to be taken during such emergency must be reasonable justifiable to deal with the situation that exits its during period of the emergency. It is instructed to note that denegation is permitted from right to life in respect of death from acts of war.

On the contrary the right to fair hearing under section 36(8) CFRN which provides for principles of legality is non derogable. Other non- derogable right are right to dignity of human person, freedom from to true and slavery, right to fair wearing and the right to freedom from discrimination even in periods of emergency under section 45 (3) CFRN.⁷ However, the fault remains that clauses which permits derogations are those often used by the government to perpetuate one form of violation of human rights or the other which results in weakening the application of human rights law as well as its protection in Nigeria. Thus, jeopardizing both the derogable and non-derogable rights without any distinction during emergencies. With respect to terrorism, it is pertinent to observe that Nigerians quest to enhance its fight against terrorism and conform with international treaties on counter-terrorism led to enactment of terrorism (prevention and prohibition) act 2022 which commenced effectively on 12 may 2022, having repealed the terrorism prevention act 2011 (as amended) in 2013. A calm analysis or consideration of the provision shows that the act vests some roles on the attorney General, national security adviser, the president and security agencies with enormous latitude of discretionary powers to make decision on issues that inhibit individual rights with very dire legal consequences. Upon an analysis of section 48 (1) (a)(b)(c), 48(2), (3)

⁶ E E Adomi and S E Igun, 'Combating cybercrime in Nigeria' [2008] (26)(5) *Electronic Library*, 716-725.

⁷ Constitution of the Federal Republic of Nigeria, 1999 (as amended).



(a)(b)(c), 49 (1) (2), (3) & (4), 5. 49(6) and S.51 of the TPPA 2022, it is contended that the wide range of discretionary powers vested on the Attorney General, sanctions, committed, and the president to proscribe, designate persons, entities or group of persons as terrorist or terrorist financiers with due respect is unconstitutional.⁸

By the Act, the Attorney General can de-proscribe an entity after affording them opportunity of prove by evidence that such entity is not involved in terrorism. Why is the same opportunity of fair hearing not affords the entity at the time of ex-parte application to proscribe before the Court. It is therefore unconstitutional to obtain ex-parte order of proscription against an entity and then turn around to demand proves from same organization or person before the Attorney General and not the courts. The same argument goes for the powers to designate an entity as terrorist or terrorist financier. The triumvirate of the Attorney General, sanctions committee and the president arrogate to themselves the powers to designate entities terrorist or terrorist financiers without involving the court or giving opportunity of fair hearing to affected entities. This is a flagrant violation of individual right to fair hearing under section 36 of the constitution. As noted earlier the right to fair hearing is a non derogable right even in any period of emergency.

By section 75, the president may by a proclamation published in official gazette declare state of emergence in Nigeria or any part as part of such terrorism measures and by virtue of such emergency take such measures as he considers necessary and justifiable for dealing with the situation existing during the period of emergency. What is necessary and justifiable for purpose of dealing with the situation is a matter of conjecture solely to be determined by the president furthermore the use of exparte application of court under the TPPA 2022 is extensive and objectionable even in seizure of properties.⁹

From the foregoing, the provisions considered in the TPPA 2022 above, are a recipe for abuse and violation of the constitutional rights of individuals to personal liberty, private and family life, right to life, fair trial in criminal jurisprudence, fair hearing, right to non-discrimination, right to freedom from torture and all the individual rights both derogable and non derogable rights.

Again, the enforcement and security agencies are clothed with considerable powers of search and arrest without warrant in the process of investigation in the process of investigation and prosecution with discretionary powers that borders affront right of individual to personal liberty, private and family life, rights to life and non-discrimination.¹⁰ Therefore, the considered provisions of the .TPPA Act 2022 are a recipe for abuse and violation of constitutional rights of individuals both derogable and non-derogable rights. Thus, the need to maintain constitutional balance between

⁸ E E Adomi and S E Igun, 'Combating cybercrime in Nigeria' [2008] (26)(5) *Electronic Library*, 716-725.

⁹ Deloitte, 'Nigeria's Cybersecurity Outlook' <<https://www.deloitte.com/ng/en/services/consulting-risk/perspectives/Nigerias-cybersecurity-landscape-in-2025.html>> accessed 30 March 2026.

¹⁰ Deloitte, 'Nigeria's Cybersecurity Outlook' <<https://www.deloitte.com/ng/en/services/consulting-risk/perspectives/Nigerias-cybersecurity-landscape-in-2025.html>> accessed 30 March 2026.



National security and individual rights in the war against terrorism in Nigeria cannot be over-emphasized.¹¹

As a matter of fact, states engaged in wars against terrorism risk becoming grounds of permanent state of emergency, such that terrorism itself in turn poses a threat to the fundamental rights and freedoms that defines democracy and democratic societies. In the words of James Hamilton.¹² In other words, where a state allows itself to be induced by terrorist activities to sacrifice individual rights on the altar of national security or national interest; it is *ipso facto* an admission of defeat.

The first school of thought is that the Human Right (the rule of law) must be subject to the supremacy of the nation's security and national interest. This represents the policy position of the Federal Government of Nigeria¹³. This school of thought is anchored on the Supreme Court decision or opinion in the case of *Dokubo Asari v FRN*¹⁴. The appellant in this case was arraigned at Federal High Court Abuja on a five-count charge under the Criminal Code ranging from treasonable felony to remove the president of Nigeria from office otherwise than constitutional means, taking up arms to intimidate and overcame the president and government of Nigeria, formation of an unlawful Association and the like offences. He brought an application for bail which was refused. On appeal to the Court of Appeal, it was also refused.

Justice Rhodes-Vivour JCA¹⁵ as he then was at page 336 of the report, on the effect of threats to national security on S. 35 of the constitution said.

Section 35 of the constitution contains provisions to protect the personal liberty of the individual. A charge of treasonable felony is a serious offence. It is definitely prejudicial to national security... my Lords, where national security is threatened or there is the real likelihood of it being threatened, Human Rights or individual rights of those responsible take a second place. Human rights or individual rights must be suspended until the National security can be protected or well taken care of".

On appeal to the Supreme Court, whether threats to national security suspends the right to bail under S. 35 of the constitution, the supreme court dismissed the appeal and held per justice Mohammad. JSC¹⁶ affirming the opinion of Rhodes Vivour JCA at the court below, in his words

¹¹ E Onota, Globalization and Emergence of Cyber Crimes in Nigeria; the Yahoo Boys Syndrome' [2021] (9) *Journal of Political Sciences & Public Affairs*, 240.

¹² *Ibid.*

¹³ *Ibid.*

¹⁴ *Dokubo Asari V FRN* (2007) 12 NWLR (Pt.1048), 320. SC; *Dokubo Asari V FRN* (2006) 11 NWLR (Pt.991), 324, C.A

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¹⁶ BBC, 'Hushpuppi: Notorious Nigerian fraudster jailed for 11 years in US' <<https://www.bbc.com/news/world-africa-63542573>> accessed 30 March 2026.



The pronouncement by the court below that where national security is threatened or there is real likelihood of it being threatened, human right or individual rights of those responsible take a second place. Human rights or individual rights must be suspended until national security can be protected or well taken care of. This is not new.

He continued,

the corporate existence of Nigeria as a united, harmonious, indivisible and indissoluble nation is certainly greater than any citizen's liberty or right. Once the security of the nation is in jeopardy and it survives in pieces than in peace, the individual liberty or right may not exist.

In the more recent case of *Ogwuche v. FRN*¹⁷. Involving an application of transfer of applicant to prison custody from DSS custody, the Supreme Court again reiterated its opinion in Dokubo Asari, 'that where national security is threatened or there is a real likelihood of it being threatened, the court must be circumspect in handling issues of human rights of persons standing trial'.

From the foregoing it is little wonder that even cases where courts have in their wisdom made decisions in favor of individual freedoms to liberty (bail) or outright release from prosecution, Buhari's government still disobeys such orders supposedly on grounds of national interest or security. The cases of Sambo Dasuki, Ibrahim Elzhak Zaky and the case of Nnamdi Kanu of IPOB are obvious cases of human right violations on the pretext of national security.

The Second school¹⁸ of thought is that the rule of law (Human right) is 'the very anvil and foundation on which any society is anchored' and perforce favors the supremacy of the rule of law over national security or interest. This view point is based on the case of *Odumegwu Ojukwu v The Lagos State Government*¹⁹ where Obaseki JSC said

'The Nigeria constitution is founded on the rule of law, the primary meaning of which is that everything must be done according to law. Nigeria being one of the countries in the world that professes loudly to follow the rule of law gives no room for rule of self help by force to operate'.

Therefore, to sacrifice our liberties for national security is defeatist and turns fight against terrorist to an internecine fight against the very citizens who are the reason or purpose of national security. Thus, the citizen is in double jeopardy of attacks from the terrorists and the government that ought to protect them. Therefore, the complementary school of thought is preferred, such that issues of

¹⁷ (1986) 1 NWLR (pt.18) 621, SC

¹⁸ K A Abimbola, 'The Nature, Causes and Consequences of Cyber Crime in Tertiary Institutions in Zaria-Kaduna State, Nigeria' [2013] *American International Journal of Contemporary Research* 20-34.

¹⁹ *Ibid.*



human right and national security should be weighed on a balance of sustainable decision based on peculiar circumstance of each case. The writer submits, a sweeping and generalized statement of opinion affirming superiority of National Security over human right by the Nigerian Supreme Court is too simplistic, unsustainable, arbitrary and anti-people. It is in fact a recipe for anarchy and a vicious circle of governance with impunity. Bluntly put, should the judiciary defer to the executive on national security issues?.

Apparently, the first school of thought who believe that Human right is subject to national security hinges their argument on the political question doctrine.²⁰ This doctrine postulates that National Security Issues are of political character calling for an exercise of political and not judicial judgment. Proponents argue that National Security issues fall within discretionary area of judgment belonging to democratic organs of government of the state and not for courts to usurp authority belonging elsewhere. According to this school of thought judges should generally defer to the executive on national security issues and this deference²¹ increases in times of crises. This view point is traceable to the philosophy of John Lock. John Lock²² argued that in terms of constitutionalism, the judges should not apply the rule of law to executive decisions based on national security because the protection of society required executive to have “powers of doing public good without a rule”. Those measures should be subject to political accountability rather than judicial scrutiny. Consequently, fundamental common law principles as well as civil liberties became abstract ideals for the politicians because they would give priority to common sense (national security). Lord Denning²³ captured this philosophy in his own words thus,

Our history shows that when the state itself is endangered, our cherished freedoms may have to take second place. Even natural justice may suffer a setback. Time after, parliament has so enacted and the courts have loyally followed.’

But today however, individual rights are no longer mere abstract ideals. They are practical needs and functional realities necessary for individuals to live or thrive in a constitutional democracy in modern states and so must be deferred to in appropriate cases irrespective of national security. Therefore, when the judicial statement of Nigerian supreme court in the case of *Dokubo Asari V FRN*²⁴ is considered together with other cases where Nigerian courts rejected executive reliance on Defense of national security in favor of human right, it is arguable that the Nigerian supreme court would readily concede that the government has unilateral executive powers free from judicial review, to decide what qualifies as a national security issue or interest. Much as the courts may defer to the executive on national security, the power of review gives them the discretion to ensure that such executive decisions does not run contrary to the fundamental structure of our

²⁰ B Sule and others., ‘Cybersecurity and Cybercrime in Nigeria: The Implications on National Security and Digital Economy’ [2021] (4)(1) *Journal of Intelligence and Cyber Security*, 27.

²¹ *Ibid.*

²² *Ibid.*

²³ *Ibid.*

²⁴ (2007) 12 NWLR (Pt. 1048) 320.



constitutional democracy. Our government is one of checks and balances defined by an independent judiciary constitutionally established. Neither the executive nor the legislative arm of government may encroach on the field reserved for the judiciary by the constitution.

This is where the third school of thought on complementariness and balancing of Human right (rule of law) and National Security is premised. To suggest that the courts must defer to the executive on what they consider to be National Security or defense is to state that courts must believe the government as an act of faith and trust that government is always telling us the truth. But, in reality decisions on matters of security are matters of evidence but not faith. More often than not political decisions are actuated by motives that are far from the truth. The better view, I submit is that courts as vanguards of rule of law (human rights) and national security ought to review claims of defense of national security in each case to decide indeed whether they are national security issues and the measure applied merit the protection of courts.²⁵

For instance, the Indigenous People of Biafra (IPOB) was proscribed as terrorist organization. IPOB is still in court challenging such unilateral executive action under the pretext of national security. Thus, the question that should agitate the mind of the courts always is whether indeed the issues involve public emergency of national security importance and secondly whether the measures taken during the period of emergency are reasonably justifiable for the purposes of dealing with the situation that exist during the period of emergency under S. 45 (1) & (2) of the constitution of the Federal Republic of Nigeria 1999. It is submitted S. 45 (2) & (3) of the constitution gives courts the veritable powers to interfere in executive measures in emergency situations on issue of National Security. The Lord Chancellor of U.K Lord Falconer in 2006 observed,²⁶

Courts not conducting the fights against terrorism. Nor are they deciding measures to be used. The level of threats and extent to which exceptional measures are required, are for the executives or the legislature. The question the courts in U.K ask are: first do these measures infringe any individuals fundamental human right, second, if they do, is there a justification for the infringement; and third, is the infringement the minimum necessary to promote our democracy. Giving the court the power to ask these questions is essential to give effect to democratic values and to ensure the human rights compatibility of counter terrorism measures.

The writer submits therefore the president and the Attorney General do not have the sole authority to determine what constitutes, Nigeria's National Security or National interest.

²⁵ B O Folashade and K A Abimbola, 'The Nature Causes and Consequences of Cybercrime in Tertiary Institutions in Zaria-Kaduna State, Nigeria' [2013] (3)(9) *American International Journal of Contemporary Research*, 98-114.

²⁶ O D Apeloko and others, 'Impacts of Cyber Crimes on the Image of Nigeria in the International Community: A Case of the Perceptions of Ghanaians' [2024] (7)(4) *Journal of African Film & Diaspora Studies (JAFDIS)*, 12-16.



4.0 LEGAL RESPONSES TO TERRORISM AND BALANCING OF NATIONAL SECURITY AND INDIVIDUAL RIGHTS IN THE UNITED STATES OF AMERICA AND THE GREAT BRITAIN

United States of America

The USA Patriot Act is an anti-terrorism law enacted as aftermath of the historic 9/11/2001 terrorist attack on the U.S.A. The Patriot Act is an acronym for ‘United and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism.’²⁷The tools include the ability to conduct secret searches, increase powers to wire-trap. Communication devices, intercept communication to employ pen registers, trap and trace devices and to access previously confidential records.²⁸The Patriot Act was designed to remove the impediments that individual privacy rights pose to investigations. It permits interception and monitoring of communications and communication records and searches without notice or warrant.

According to a commentator the Patriot Act is the antithesis of government restraint. Judiciary is allowed no role as a check on executive branch and the powers granted extend far beyond international terrorism suspects that are the legitimate targets of concern²⁹. Thus, the Act displays extra-ordinary measures disrupting existing balance between national security and civil liberties. However, the American Supreme Court displays a willingness to examine critically the position adopted by the government on issues of national security and to assert judicial control over executive and legislative action in this area. In the case of *Rasul V Bush*³⁰ which involve the executive detention of two American citizens, twelve Kuwati citizens held in U.S naval base at Guantanamo Bay in Cuba without charge and without access to counsel; the majority of the U.S. supreme court held that the legality of the detention of aliens can be examined where it occurs in territory over which the U.S exercise full and exclusive jurisdiction but not ultimate sovereignty. The court found that Habeas statute avails for citizens and aliens and draw no distinction and therefore aliens like Americans in custody were entitled to invoke Federal Courts authority. Thus, despite the support of majority of Americans of holding of terrorism suspects in Guantanamo-bay in 2003, the courts were still willing to assert judicial control over executive legislative actions on issues of National Security.

The Great Britain

In England there is a more defined distinction between the competing approach` of the government and the judiciary to the reconciliation of right of citizen with preservation of the national security. In the case of *Belmarsh, A and others V Secretary of States for the Home Department*, the House

²⁷ O E Olawe, ‘Representation of Nigerian Internet Scamsters in Selected Nigerian and International News Reports’ [2023] (4)(2) *British Journal of Multidisciplinary and Advanced Studies*, 21-41.

²⁸ *Ibid.*

²⁹ *Ibid.*

³⁰ (2004) 542 US 466.



of Lords agreed that great weight should be given to the judgment of the government³¹ and parliament on the question of where they were called upon to exercise a preeminently political judgment and that the declaration of a public emergency threatening the life of the nation was valid. However, when it came to judge the actual measures adopted, the House of Lords adopted less deferential approach; that is to say the House of Lords refused to agree or respect superiority of government opinion on the measures adopted. Lord Bingham relied on the fact that,

...The parliament, the executive and the courts have different functions. But the function of independent judges charged to interpret and apply the law is universally recognized as a cardinal feature of modern democratic state, a cornerstone of the rule of law itself...

The House of Lords therefore held that the measures in that case unjustifiably discriminated against non-national suspects and such treatment was inconsistent with UK's international treaty obligations to afford equality before the law to protect Human rights of all individuals within its territory. The court relied on Human Right Act 1998 and the European convention on Human rights to which it gives effect. The statement of Baroness Hale of Richmond³² concerning the Belmarsh detainees is a fitting conclusion reflecting the sensibilities of the British courts on this issue. She said,

They are being detained on suspicion of being international terrorist... Neither the common law from which so much of the European convention is derived nor international Human Rights law allows indefinite detention at the behest of the executive, however well intentioned. It is not for the executive to decide who should be locked up for any length of time, let alone indefinitely. Only the courts can do that and except as preliminary step before trial, only after the grounds for detaining someone have been proved. Executive detention is the antithesis of right to liberty and security of persons.

She continued,

Protecting the life of the nation is one of the first tasks of a government in a world of nation states. That does not mean that courts could never intervene. Unwarranted declarations of emergency are a familiar tool of tyranny.

5.0 CONCLUSION

Some individual rights are constitutionally derogable, while some are non derogable even in emergency periods. Government relies on the derogation clauses to perpetrate violations of both derogable and non derogable individual rights and thus weakening its application and protection in Nigeria. Terrorism is a new kind of war eliciting extraordinary measures to tackle by means of

³¹ (2004) UKHL 56.

³² (2004) UKHL 56.



military power, law enforcement, intelligence and vigorous efforts to cut off terrorism financing by government. Nigeria reputed to be with one of the highest terrorist threat levels in the world uses mainly military approach in tackling terrorism. The Nigeria military approach escalates violence, contributed to killings, indiscriminate arrest and detentions without charge, rape, torture, extra judicial killings, general violations of individual rights and generated push- factors for radicalization in conflict zones. The terrorism (Prevention and Prohibition) Act, 2022 as government counter terrorism measure is anti-individual rights, replete with provisions largely unconstitutional and is an antithesis of government restraint.

6.0 RECOMMENDATIONS

- i. It is legitimate and constitutional for states to pass laws protecting national security as important public policy and governance mechanism; however, states should exercise the measures of implementation with caution devoid of abuse. The abuse of implementation of a render it ineffective and threatening the rule of law and the very foundation a democratic state.
- ii. The modern notion of national security should implicate or incorporate the broader notion of human security (non-military national security approach) which supplements national security by enhancing human right and strengthening human development (politically, socially, economically, militarily, environmentally and culturally). The essence is to ‘give people the building blocks of survival, livelihood and dignity’. Thus, the U.N concept of human security offers a paradigm shift from the traditional notion of national security. Therefore, a more holistic view of national security development and individual right is imperative in a democratic state as none can do without the other in peace.
- iii. National Security legislations must satisfy constitutional and human rights scrutiny under Nigeria laws and must be in consonance with Nigeria’s international human right laws and treaty obligations.

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