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Rupturing The Financing of Terrorism: Examination of The Adequacy of Nigerian Law

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ABSTRACT: *Global concern over terrorism and financing of terrorism became greatly heightened after September 11, 2001 bombing of the World Trade Centre with the concerted efforts put to bear across countries towards reassessment of policies, strategies and the readiness to forge international cooperation to ''choke" the financing of terrorist groups and Organisations in support of terrorism. The employment of intelligence against terror and the confirmation of reports and findings of the States' intelligence apparatuses also shed new knowledge which often dictates constant redefinition of terms and approaches in the fight against terrorism. Despite the elaborate legal framework in Combating Money Laundering and Financing of Terrorism in Nigeria, little can be said to have been achieved. It is suggested that all parties involved in the administration of criminal justice shall collaborate to ensure that criminal cases particularly Anti-Money Laundering and Combating of Financing of Terrorism are properly investigated, prosecuted and tried with minimum delay. Also, more serious efforts should be made to remove socio-economic injustices, imbalances and inequities in the society, alleviate the suffering of the people, provide increased job opportunities and the right atmosphere for genuine business and investment to thrive.*

KEYWORDS: Financing, terrorism, examination, adequacy of Nigerian law

INTRODUCTION

Global concern over terrorism and financing of terrorism became greatly heightened after September 11, 2001 bombing of the World Trade Centre with the concerted efforts put to bear across countries towards reassessment of policies, strategies and the readiness to forge international cooperation to ''*choke*" the financing of terrorist groups and Organisations in support of terrorism. The employment of intelligence against terror and the confirmation of reports and findings of the States' intelligence apparatuses also shed new knowledge which often dictates constant redefinition of terms and approaches in the fight against terrorism.

While it is glaring that multi-pronged approach must be employed in the fight against terrorism a certain debilitating blow is dealt to the activities, efficiency and effectiveness of a terrorist Organisations when their financing is ruptured, choked or cut-off. In taking this position we are aligned to another approach of monitoring the movement of funds across sources as to gain

or gather intelligence about the operations, personages, apparatuses, cells, inner working and plans of the terrorist group under the gaze of States' intelligence organs. [1]

Terrorist groups require financial resources to support their broad objectives and specific activities furthering same such as training of terrorist operatives, costs of execution of terrorist plots and attacks including logistics, media and propaganda, cost of initial inducement for new recruits, purchase of equipments, combat gears, arms and ammunitions, etc. Such huge financial expenditure outlays must be funded albeit by means not altogether criminal or illegal but from potpourri of sources such as proceeds of illegal sale of high yielding natural resources such as diamonds, gold, etc, proceeds from illicit trade in drugs and psychotropic drugs, funds derived from networks of criminal cartels or organised crimes, funds from compromised and unwitting individual donors and charities, ransom and proceeds from kidnapping, trafficking in human, as well as small innocuous donations ostensibly in support of worthy causes or charities that got diverted in funding terrorism and funds derived from lawful businesses in charade to disguise actual object which is mainly to finance terrorism.

The global minimum standard supports treatment of terrorism financing as a crime. However, beside that broad realisation, the specifics issues of due process, proper mode of investigation without violating rights of the otherwise innocent person caught in intricate web of concealment of terrorism financing without the requisite knowledge of the end receiver of the funds or dastard purposes the 'harmless donation' would be put or channelled.

The terms *Terrorism, financing of Terrorism,and money laundering* may need to be defined particularly to bring issues that engage this work into proper perspectives. Terrorism seems to defy a easily acceptable definition. Confusion about the term has to do with value judgement of groups with disparate interests much in line with the different value orientation of the person, groups and organisation viewing the concept. Emotional, ideological, religious, political and economic interests have tendencies to colour our approaches to issues. To the terrorists and their sympathizers, terrorism aims at causing change in the larger society through the employment of violence and force or threat of application of violence or force upon a segment of the same society. To Rosalyn Higgins in the Introduction to the book:

'Terrorism and International Law', ''Terrorism is a term without legal significance. It is merely a convenient way of alluding to activities, whether of States or of individuals, widely disapproved of and in which either the methods used are unlawful or the targets protected, or

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[1]John Roth ,et al *Monograph on Terrorist Financing* , National commission on Terrorist Attacks Upon the United States,www.9-11commission.org last visited on 18-4-2016. In the Introduction and executive summary is stated: *it has been presented as one of the keys to success in the fight against terrorism: if we choke off the terrorists 'money , we limit their ability to conduct mass casualty attacks. In reality, completely choking off the money to al Qaeda and affiliated terrorist groups has been essentially impossible. At the same time, tracking al Qaeda financing has proven a very effective way to locate terrorist operatives and supporters and to disrupt terrorist plots...Ultimately, making it harder for terrorists to get money is a necessary, but not sufficient, component of our overall strategy. Following the money to identify terrorist operatives and sympathizers provides a particularly powerful tool in the fight against terrorist groups. Use of this tool almost always remains invisible to the general public, but it is critical part of the overall campaign against al Qaeda.*

both.''[2] Walter Laqueur is reported as having identified over one hundred definitions of the term.[3]It is now agreed that terrorism involves violence and threat of violence. The United State Federal Bureau of Intelligence has defined ''*terrorism as the unlawful use of force or violence against persons or or property to intimidate or coerce a government, the civilian or any segment thereof, in furtherance of political or social objective*

The need for international articulation for proper conceptualisation of the term terrorism is imperative if the fight against terrorism may yield meaningful result. However, the United Nations is yet to formulate a globally acceptable definition with various member States proffering their own conceptualisations. The concern has also been expressed not to designate a particular religion has having connection with terrorism. Proper articulation of international definition of terrorism has positive implication for bilateral and multilateral cooperation among States towards combating terrorism as well as developing policies regarding treatment of terrorists, terrorist actions, policing and apprehension of terrorist operatives, tracking of funds in financing terrorism and methods and strategies considered acceptable within global ethos and standards. [4]
It is gratifying that in a document simply titled 'Terrorism' recommendations proceeded to the United Nations regarding global definition of the Terrorism to take into cognisance that

'' description of terrorism as any action, in addition to actions already specified by existing conventions on aspects of terrorism, Geneva Conventions and Security Council Resolution 1556 (2004), that is intended to cause death or serious bodily harm to civilian or non-combatants, when the purpose of such an act, by its nature or context, is to intimidate a population, or to compel a government or an international organization to do or to abstain from doing any act''.[5] *The said recommendation may well be said to be a definition of terrorism*

[2] Quoted in Christian Walter, *'Defining Terrorism in National and International Law'* http://edoc.mpil.de/conference-on-terrorism/index.cfm accessed on 25-4-2016

[3]See Eke Chijioke Chinwokwu , *Terrorism And the Dilemmas of Combating the Menace in Nigeria, International Journal of Humanities and Social Science, Vol. 3, No.4 [Special Issue Feb.2013], ref.* Laqueur W., *No End to War: Terrorism In the Twenty-first Century(2003)New York, Continuum*

[4] See '*Agreed Definition of Term 'Terrorism' Said to be Needed For Concensus On Completing Comphrensive Convention Against It*' www.un.org GA/L/3276 of October 7, 2005. Last accesed on 18-4-2016. Further see UN document, '*Terrorism'* accessed on 25-4-2016 from http:www.un.org/News/dh/infocus/terrorism, where the point was further stressed: *The United Nations ability to develop a comphrensive strategy has been constrained by the inability of member States to agree on an anti-terrorism convention including a definition of terrorism. This prevents the United Nations from exerting its moral authority and from sending an unequivocal message that terrorism is never an acceptable tactic, even for the most defensible of causes. The term Terrorism has been defined and is the focus of the following instruments: Convention For The Suppression of Unlawful Seizure of Aircraft(1970), Convention For the Suppression of Unlawful Acts against the safety of Civil Aviation(1971), Convention on The Prevention and Punishment Of Crimes against International Protected Persons, including Diplomatic Agents(1973), International Convention Against the taking Of Hostages(1979), Convention on the physical protection of Nuclear Material (1980), Protocol for the Suppression of Unlawful Acts of Violence at Airports Serving International Civil Aviation,supplementary to the Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation(1988), Convention for the Suppression of Unlawful Acts Against the Safety of Marine Navigation(1988), Convention for the Suppression of Unlawful Acts against the Safety of Fixed Platforms Located on the Continental Shelf(1988), and the International Convention for the Suppression of Terrorist Bombings(1997)*

[5] Ibid, *'Terrorism', http:www.un.org*

and though not having been officially endorsed is simple enough to capture the basic elements in the nature of terrorism.

The financing of Terrorism has been defined *''as the financial support, in any form, of terrorism or of those who encourage, plan, or engage in it.'' While* Money laundering ''*is the process by which proceeds from criminal activity are disguised to conceal their illicit origins. Basically, money laundering involves the proceeds of criminally derived property rather than the property itself.*[6] Article 2 of International Convention for the Suppression of the Financing of Terrorism 1999 provides that a '*'person commits an offence within the meaning of this convention if that person by any means, directly or indirectly, unlawfully and willingly, provides or collects funds with the intention that they should be used or in the knowledge that they are to be used, in full or in part, in order to carry out:*

(a) *An act which constitutes an offence within the scope of and as defined in one of the treaties listed in the annex; or*

(b) *Any other act intended to cause death or serious bodily injury to a civilian, or to any person not taking any active part in the hostilities in a situation of armed conflict, when the purpose of such act, by its nature or context, is to intimidate a population, or to compel a government or an international organization to do or to abstain from doing an act.''*

Terrorism financing and money laundry are Siamese twins as it has been observed: *''money laundering and financing terrorism often display similar features, mostly having to do with concealment. Money launderers send illicit funds through legal channels so as to conceal their criminal origins, while those who finance terrorism transfer funds that may be legal or illicit in origin in such a way as to conceal their source and ultimate use, which is the support of terrorism. But the result is the same – reward. When money is laundered, criminals are rewarded with disguised and apparently legitimate proceeds. Similarly those who finance terrorism are rewarded by providing the financial support to carry out terrorist strategies and attacks''.*[7] It is therefore important to expatiate on the nexus between Money laundering and financing of terrorism.

There has been notable connection between organised crimes and terrorism financing. However, funds have been traced to lawful businesses but such funds are channelled into financing terrorism wittingly or unwittingly by the donors which issue leads us to the consideration of various ways and means of terrorism financing. This paper intends to explore the sources of terrorism financing with the view to assess the efficacy or otherwise of the International legal instruments, the efficiency of institutional structures and successes or inadequacies of the various International Action Plans aimed at combating terrorism on the platform of its financing. Various international legal instruments have been designed to combat terrorism financing. This paper shall examined the notable ones

Some few years back terrorism gained an in-road into Nigerian federation through the Boko Haram terrorist operatives and their sympathizers. The motivations for the hard-line stance

[6] Paul Allan Schott, Money Laundering and Terrorist Financing, Definitions and Explanations, Referencing Guide To Anti-money Laundering And Combating the Financing Of Terrorism, 2nd ed and Supplement on Special Recommendation IX, pg 1.www.worldbank.org last visited on 18-4-2016

[7] Ibid, pg.2

taken by the Boko Haram terrorist Organisation which also posit as justifications for their actions belie the many lives lost, billions of Naira worth of government and individual property destroyed, thousands of Nigerians displaced and thousands of children orphaned and countless girls raped, minors abused and dehumanised as women into widow. Nigeria has tasted the bitter essence of terrorism. Terrorism actions has deepened poverty and created unemployment of teeming number of youths in the affected regions, trade and commerce are in limbo, a once buoyant economy of the North East geo- political zone of Nigeria is left prostrate.This paper is to evaluate the responses of the Nigerian State at combating terrorism financing in terms of measures adopted and the adequacy of the Nigerian law in that bid.

Legal Regimes for Combating Financing of Terrorism in Nigeria

Terrorist activities are financed with funds that represent the proceeds of illegal activities. Definitely Money laundering is one of the channels for financing terrorism.[8] The motivation for money laundering has been identified to be the need to ‘‘separate such fund from the crimes that generated them and thereby to avoid criminal prosecution; and second , to protect those funds from seizures and confiscation by the law enforcement authorities.’’[9] Perpetrators of these activities constantly seek ways to launder in order to use them without drawing the attention of the authorities to the source of the funds and the links.

Money laundering is also believed to be an offence at the root of many other heinous criminalities such as narcotics, terrorism, kidnapping, unbridled economic looting and other emerging crimes [10.]

The United Nations is the first International organization to initiate and coordinate global action against money laundering arising from the growing concern and increased drug trafficking which resulted in vast sums of dirty money into the banking systems [11].

The foci of international and National regulation of money laundering is not limited to simply stopping money laundering as such but ‘‘*a more primary objectives are to prevent or eradicate the predicate crimes themselves and to deny criminals the opportunity to enjoy the fruits of their crimes.’’*[12] The Nigerian government has demonstrated the will to fight and or combat the financing of terrorism by putting in place legislative and enforcement framework for the implementation of International Instruments for combating terrorist financing. This has resulted in the vesting of enforcement powers to the law enforcement power to the law enforcement and regulatory bodies. To this end various legislations have criminalized terrorism financing in Nigeria.[13]

8 Herbert V. Morias, The War Against Money Laundering, Terrorism, and The Financing Of Terrorism, (2002) Lawasia J., p.1

9 Ibid

10 Adesomoju Ade; AGF V. EFCC: Two sides of the anti Money Laundering Bill, Law Digest in Punch Pgs – 33 – 39.

11 Ibrahim Abdul Abubakar, An Appraisal of Legal and Administrative Framework for Combat Terrorist Financing and Money Laundering in Nigeria on the Internet on 17 – 3 – 2016.

12 Herbert V. Morias, op cit.pg.2

13 The Money Laundering (prohibition) Act, 2011 Amended in 2012;The prevention of Terrorism Act, 2011 Amended in 2013;The Central Bank of Nigeria (Anti-money Laundering and Combating the financing of Terrorism in Bank and other

The Money Laundering (Prohibiton) Act, 2011 Amended in 2012

This law makes adequate provisions prohibiting the laundering of the proceeds of crime or illegal act. It provides penalties and give powers to the Financial Institutions on Money Laundering activities among others. The Act regulates the procedure for making and accepting cash payments of a sum exceeding N5,000,000 or its equivalent in the case of an individual and N10,000,000 or its equivalent in the case of a corporate body [14]

It also imposes duty on any person or body corporate to report international transfer of funds exceeding us $10,000 or its equivalent to the Central Bank of Nigeria Securities and Exchange Commission in writing within 7 days from the date of the transaction [15].

The Act makes it mandatory for financial and designated non-financial institution to verify the identity and update all relevant information on the customer before opening an account or issuing a passbook, entering into financial transaction with renting a safe deposit box to or establishing any other business relation with the customer and during the course of relationship with the customer [16].

The Act made provision for reporting suspicious transactions involving a frequency which is unjustifiable; surrounded by unusual or unjustified complexity and which appears to have no economic justification or lawful objective to the Economic and Financial Crimes Commission. This is called suspicious Transaction on Reporting.
The Act equally prohibits the opening or maintaining of anonymous accounts by any person, financial institution or corporate body.[17]

The Act prohibits the transportation of cash or negotiable instruments in excess of us $10,000 or its equivalent by individuals in or out of the country. Such movement of cash shall be declared to the Nigerian customs service while the Nigerian custom service shall report any declaration made to the Central Bank of Nigeria and the Commission[18].

Financial Institutions in Nigeria) Regulation 2013; National Insurance Commission Compliance with Anti-Money Laundering/Combating Financing Terrorism Activities Laws (NICOM). National Drug Law Enforcement Agency (NDLEA) Act.; Central Bank of Nigeria Decree (1991);Banks and other Financial Institutions Act (BOFIA);Foreign Exchange (Monitoring and Miscellaneous Provisions) Decree No. 17 (1995); Economic and Financial Crimes Commission Establishment Act 2004 which houses the Nigeria Financial Intelligence Unit (NFIU). The NFIU was established in 2005 in line with articles 14 and 58 of the United Nations Convention against Corruption and recommendation 26 of the FATF 40+9 Special Recommendations. It draws its powers from the EFCC (Establishment) Act of 2004 and the Money Laundering (Prohibition) Act of 2004; Anti-Terrorism, Economic and Financial Crimes Act, 2011.

[14] Section 1 (a) (b)

[15] Section 2 (1)

[16] Section 2(2)

[17] Section 11

[18] Section 3

The Act also prohibits the operation of a shell bank in Nigeria and it also bars a Financial Institution from entering a correspondent banking relationship with shell banks [19].

The Act further provides for the mandatory disclosure by Financial Institutions to the Economic and Financial crimes Commission in writing within 7 days of any single transaction, Lodgment or transfer of funds in excess of #5,000,000 or its equivalent in the case of an individual or #10,000,000 or its equivalent in the case of a body corporate [20].

The Act also empowers the Commission, Agency, Central Bank of Nigeria or other regulatory authorities upon obtaining an order of a Federal High Court through an Exparte application, put a bank account under surveillance, obtain access to any suspected computer system, obtain Communication from any authentic instrument or private contract when such account, telephone line or computer system is used by any person suspected of taking part in a transaction involving the proceeds of a financial or other crimes. Whenever the Agency is exercising these powers Banking secrecy or preservation on of customer confidentiality shall not be involved as a ground for objecting the facts likely to constitute an offence under the Act [21]. The Act provides for a limitation to make or Accept cash payment. A person or a body corporate can only make or accept cash transaction exceeding #5,000,000 or its equivalent in the case of an individual or #10,000,000 or its equivalent in the case of a body corporate through a Financial Institution[22]. BVN is one of the security check put in place to control money laundering and IBAN number (10 digit) is another security put in place by banks to track international transaction.

The Money Laundering Act No. 1, 2012 amended the 2011 Act No. 11, with the following improvements:
A. Section 2 of Act No. 1, 2012, deleted the words *"not less than 25%"* from the provision of Section 2(5) of the 2011 Act on duty to report.
B. New Section 3 of the 2012 Act greatly improved upon Section 3 of the 2011 Act on identification of customers.
C. Section 4 of the 2012 Act further improves on Section 6 of the 2011 amended Act.
D. Section 5(a)-(c) of the 2012 Act equally improves on Section 9 of the 2011 amended Act relating to internal procedures, policies and controls
E. Section 7(a)-(b) of the 2012 Act made substantial addition to section 11 of the 2011 amended Act on prohibition of numbered, anonymous or fictitious and shell accounts.
F. Section 9 of the 2012 Act has greatly improved on the provisions of section 15 of the 2011 amended Act on the nature and scope of money laundering offences in Nigeria as follows:
G. Section 10 of the 2012 Act relating to other offences has greatly altered and improved on section 16(1)(f), (2) and (4).
H. Section 11 of the 2012 Act has equally made a significant and clearer improvement on section 20 of the 2011 amended Act relating to the jurisdiction of the Federal High Court to try offences and impose a penalty.

[19] Section 11(2)
[20] Section 10
[21] Section 13(1)(a)(b)(c),(4)
[22] Section1

I. Section 12 of the 2012 Act added new section 23 on the power of the Attorney-General of the Federation to make Regulations for the efficient implementation of the provisions of this Act.
J. Finally, Section 13 of the 2012 Act provides for the definitions of additional relevant key terms which were glaringly omitted in the 2011 amended Act and modified other existing definitions one of which is **"Terrorism Financing"** means financial support, in any form, of terrorism or of those who encourage, plan, or engage in terrorism.

Terrorism Prevention Act 2013
This Act amended the Terrorism (prevention) Act, 2011 and it strengthens terrorist financing law.The law provides for the extra territorial application of the Act and it prohibits all acts of terrorism and financing of terrorism in Nigeria[23].The Act defines terrorism and terrorist financing[24] to include when any person or entity directly or indirectly knowingly
(a) Deals directly or indirectly in terrorist funds;
(b) Acquires or possesses terrorist funds;
(c) Enters into or facilitate directly or indirectly any transaction in respect of a terrorist funds.
(d) Convert, conceals or disguises terrorist funds or property;
(e) Provides financial or other service in respect of terrorist fund.
However it is a defense for a person charged for terrorism under this Act that he did not know and had no knowledge or reasonable cause to suspect that the arrangement is related to a terrorist property.
The Act[25] also prohibits any person or body corporate who in or outside Nigeria to solicit, acquires, provides, collects, receives possesses or make available funds, property or other services whether legitimate or otherwise to terrorist organization or individual terrorist directly or indirectly, willingly with the unlawful intention or knowledge or having reasonable grounds to believe that such funds or property will be used in full or in part in order to commit or facilitate an offence.

Central Bank Of Nigeria (Anti Money Laundering And Combating The Financing Of Terrorism In Banks And Other Financial Institutions In Nigeria Regulations 2013.
The law here defines Terrorism financing offences to include any person or entity who solicits, acquires, provides, collects, receives, possess or makes available fund, property or other services by any means to terrorist or terrorists organizations, directly or indirectly with the intention or knowledge or having reasonable grounds to believe that such funds or property shall be used in full or in part to carry out a terrorist act by terrorist or terrorist organization.
The Regulation [26] further provides for territorial application. It states that terrorism financing offence shall apply regardless of whether the person or entity alleged to have committed the offence is in the same country or a different country from the one in which the terrorist or terrorist organization is located or the terrorist act occurred or will occur.

[23] Section2(a)and 10
[24] Section 14(1)
[25] Section13(1)
[26] Section 10(2)

Furthermore in compliance with the prohibition requirement of the relevant United Nations Security Council Resolutions on terrorism financing of proliferation of weapons of mass destruction and the terrorism prevention (freezing of International Terrorist Fund) the Regulation requires a financial institution to report to the Nigerian finance Intelligence Unit (NFIU) any assets frozen or actions taken in respect of any offender.

Economic and Financial Crimes Commission Act, 2004

The Act provides for the establishment of the commission charged with the responsibility of all economic and financial laws. It mandates the commission to collaborate with government bodies within and outside Nigeria.The Act criminalizes participation of financing terrorism by any mans whatsoever and provides punishment for life imprisonment.The Economic and Financial Crimes Commission Act empowers the commission to prosecute persons that finance terrorism and establishing the offence "intention" or "knowledge" must be proved by the prosecution. In the fight against terrorist financing and other financial crimes, the Act enables the commission to seize and confiscate any property that is the proceed of or used in and forfeiture there upon conviction[27].The Act further requires that the commission should ensure to transfer all forfeited assets to the Federal Government[28].

National Insurance Commission Compliance with Anti Money Laundering and Combating Financing Terrorism Activities Laws (NAICOM)

This law requires all insurance broking and loss adjusting firms to display visibly in all their operation centres nationwide the provisions of the Money Laundering (prohibition) Act 2004 regarding their duty to file cash Transaction Reports (CTR[s]) and suspicious Transaction Reports (STR[s]) with the Nigeria's Financial Intelligence Unit (NFIU) and forward copies to the National Insurance Commission[29].The Law also impose it on all insurance broking and loss adjusting firms to indentify their customer and their customer businesses before entering or establishing any business relationship with them (this is coded customer Identification)[30]. Lastly, all Insurance intermediaries have the obligation to file with the Nigerian Financial Intelligence Unit (NFIU) and copy the commission within 7 days any single cash transaction, Lodgments or transfer of funds in excess of N1,000,000 for an individual and N5,000,000 for a corporate body[31].The essence of this is to enable the commission have information on individual or corporate transactions for proper monitoring. All suspicious Transactions and the amount involved shall be filed with the NFU within 7 days of the transaction.

Dynamics of Financing Terrorism and Gaps in Existing Laws

Article 2.1 of the 1999 UN International Convention for the Suppression of the Financing of Terrorism defines the crime of terrorist financing as the offence committed by any person who by any means, directly or indirectly, unlawfully and willfully, provides or collects fund with

[27] Ibrahim Abdul Abubakar, An Appraisal of Legal And Adminstrative Framework for Combating Terrorists financing and Money Laundering In Nigeria supra
[28] Section 22
[29] Section 4(1)
[30] Section4(2)
[31] Section 4(3)

the intention that they should be used or in the knowledge that they are to be used, in full or in part, in order to carry out an offence within the scope of the Convention.[32]
Terrorist financing involves the solicitation, collection or provision of funds with the intention that they may be used to support terrorist acts or organizations.
The World Bank and the International Monetary Fund (IMF) also define terrorist financing as "the financial support, in any form, of terrorism or of those who encourage, plan or engage in it."[33]

Terrorist organizations derive income from a variety of sources, often combining both lawful and unlawful funding.

Terrorist groups rely on diverse and private sources of funding and exploit globalisation and technological advances in collecting, transferring, and utilizing funds for their activities.Terrorists derive their funding from community solicitation, begging or alms collection through the poor and the needy (the vulnerable), donations from corrupt politically exposed persons (PEPs), and misuse of trade accounts and use of Non-profit Organisations (NPOs) to finance the rebel movements through complex processes for international money transfers.

Financial support may come from states and large organizations. Although, State sponsorship has declined and this is as a result of international efforts to combat terrorist financing, through bilateral and multilateral economic sanctions against particular states suspected or known to be sponsors of terrorism.[34] Byman has also noted that states can facilitate terrorist financing unwittingly as well, in cases where state control is too weak to constrain the resourcing efforts of terrorist groups.[35] The lack of stable institutions and governance in fragile states allow terrorists access to safe havens where they can exploit gaps in the global counter-terror finance regime, scant border controls and entrenched criminal activity to obtain the resources they require. Terrorist organisations also involve in variety of criminal activities to generate proceeds such as kidnapping, human, drugs and arms trafficking, extortion, narcotics smuggling, smuggling of assets and currencies by cash couriers especially women cash couriers or Credit fraud,[36] robberies and activities in failed or corrupt states and other safe havens.

Furthermore, they derive income from legitimate economic activities such as diamond trading or real estate investment[37] or the abuse of charitable entities e.g. use of Non-profit Organisations (NPOs) to finance the rebel movements through complex processes for international money transfers or self-financing by the terrorists themselves and also through false invoicing of imports and exports[38] to fund their operations/activities.

[32]Article 2 (1) of the International Convention for the Suppression of the Financing of Terrorism, 1999. See also Anti-Money Laundering/Combating the Financing of Terrorism (AML/CFT), available at https://www.imf.org/external/np/leg/amlcft/eng/aml1.htm.
[33]World Bank and International Monetary Fund (2003).
[34]Clunan, Anne L. (2006).
[35]Byman, Daniel (2005).
[36]Terrorist Financing: Definition and Methods. Available at http://www.fidis.net/resources/fidis-deliverables/identity-of-identity/int-d2200/doc/26/ last accessed on 17 March, 2016.
[37]*Ibid.*
[38]Financial Action Task Force (FATF) [2006].

Real estate attempts to create fictitious companies. Importation of used vehicles; terrorist groups are exploiting legitimate trade transactions in their bid to collect and transfer funds to support their activities and to support the larger terrorist organisation.

Activities of the terrorist organisation include the provision for the personal upkeep of their members and their families, purchase weapons i.e. Improvised Explosive Devices (IED) materials for their operations and logistics, preservation of communication channels, e.g. supplying pre-registered Subscriber Identity Module (SIM) cards and mobile phones to the group and this informs the constant changing of SIM cards and mobile phones by terrrorists to evade detection and arrest by security operatives.
Terrorists use a wide variety of methods to move money within and between organisations, including the financial sector, the physical movement of cash by couriers, and the movement of goods through the trade system. Charities and alternative remittance systems have also been used to disguise terrorist movement of funds.[39]

Terrorist financiers use fraudulent trade-based practices to collect, transfer, and utilise funds and assets and they also rely on trade-based money laundering.[40]

According to Levitt and Jacobson,[41] the transfer and distribution of money, often across borders, by purchasing and transferring commodities under the guise of legitimate business or humanitarian support, and the eventual sale of them for cash, is an effective technique for terrorist financing.

International trade diversion is a sophisticated technique used to launder huge sums of money using well known and respected firms to accomplish the transfer.[42] Trade diversion, is versatile in that it can allow funds to remain in numerous countries (including the United States) without prompting serious inquiry by the authorities and it is not easy to detect.[43]

Thus terrorists and terrorist groups are exploiting existing political, socio-economic, and security challenges, such as poverty, corruption and bad governance, weak border surveillance and porous national borders.[44] The golden triangle countries of Myanmar, Thailand and Laos are identified as notorious centre for the trafficking of drugs, organized crimes, gambling , corruption, prostitution and trafficking in children. In the pacific islands Russians criminal groups and south American drug kingpins use these small countries to launder illicit funds through financial offshore centers, shell companies, trust and international business companies using local proxies and false account names. The pacific islands have turned tax havens and

[39]http://www.fatfgafi.org/media/fatf/documents/reports/FATF/Terrorist/Financing/Typologies/Report.pdf p. 4. Last accessed on 17 March, 2016.
[40]US Department of State (2003).
[41]Levitt and Jacobson (2008).
[42]Like other organised criminal groups, terrorist groups also use this technique to fund their operations.
[43]DeKieffer, Donald (2008)
[44]Terrorist Financing in West Africa, available at http://www.fatf-gafi.org/media/fatf/documents/reports/tf-in-west-africa.pdf p.32. Last accessed on 17 March, 2016 .

are notorious for engaging in harmful tax practices.[45] The failure of law enforcement efforts to track down, freeze and confiscate the proceeds of crime is that some of these funds are moved through informed financing channels or alternative remittance systems that pre-date the arrival of Western –style banking system. [46]

The ill-effects of money laundering have been identified. Money laundering erodes the integrity of financial institutions, weak and corrupt financial institutions seriously weaken the financial sector's role in a country's economic growth and development, money laundering diverts resources to less productive activity and facilitates domestic corruption and crime. As money laundering frequently involves transfer of funds to other jurisdictions, it facilitates capital flight.

International Legal Framework for Combating Terrorists Financing

Among notable international measures to fight money laundering and financing of Terrorism are initiatives and instruments such as the United Nations Convention Against Illicit Traffic in Narcotic Drugs and Psychotropic Substance (the Vienna Convention) (1988) .[47]

[45] Herbert V. Morias, op cit. pg 4

[46] One good example of this is the hawala system (meaning "in trust", in Hindi) used mainly in india, Pakistain and the Middle East for transferring money or value across borders without involving any physical movement of money or paper transaction. Such transactions thereby escape the attention or scruting of financial regulators and law enforcement authorities. Hawala brokers (hawaladars) usually work out of small storefront operations. The transaction takes one or two days, which is faster than most bank wire transfers. The whole transaction is consummated P.4 without leaving a paper trail.

This system is based on the use of "chits" or "tokens" and is therefore, often referred to as the "chit system". It has also spread to other parts of the world through immigration. A third alternative remittance system is the Black Market Peso Exchange used in the Hemisphere to support both legitimate trade and smuggling between North and South America.

[47] This is acclaimed as the first international treaty to call on states to criminalise money laundering. It has been signed by 165 states, ratified by 15716 and came into force on 11 November 1990.

In June1998, the United Nations General Assembly adopted a Political Declaration And ACTION Plan Against Money Laundering at its Twentieth Special Session devoted to " countering the world drug problems together," this United Nation Political Declaration was an important development because it was addressed to, and endorsed, the more universal membership of the United Nations, whereas the FATF's Forty Recommendations were primarily addressed to its 31 members.

The third important United Nation instrument is the United Nation Convention Against Transnational Organized crime which was adopted in Palermo, Italy in August 2000.

Other international and regional bodies, including particularly the following, have also been active in combating money laundering trough the adoption of conventions and the issuance of recommendations, directive, guidelines, best practices and model laws:

The Basel Committee on Banking Supervision (previously called the Basel Committee on Banking Regulation and Supervisory Practices), established by the central bank governors of the G-10 countries 32 in 1974,issued a Statement on Prevention of Criminal Use of the Banking System for the purpose of money Laundering in 1988.

The Council of Europe35 adopted Convention on Laundering, Search, from Crime in 1990 in Strasbourg.

At the international level, the United Nations has been in the forefront of efforts over many years to combat terrorism and the financing of terrorism. There is already a substantial body of international treaty law on the subject, consisting primarily of 12 separate multilateral conventions aimed at criminalizing and thereby suppressing different aspects of terrorist activity.[48]

The Council of the European Committee in 1991 issued Council Directive 91/308/EEC on "Prevention of the use of the Financial System for the Purpose of Money Laundering. This Directive is legally binding on member states.

1999 Model Regulations Concerning Laundering Offences

Connected to Illicit Drug Trafficking and Related Offence by the Inter-American Drug Abuse Control Commission (CICAD).

Laundering (APG) the Caribbean Financial Action Task Forces (CFATF), the financial Action Task Force for South America (GAFISUD) and the Eastern and Southern Africa Anti- Money Laundering Group (ESAAMLG).

The Egmont Group of Financial intelligence Units, established in 1995.

The Commonwealth Secretariats has prepared a Model Law on the Prohibition of money Laundering and also published A model of Best Practice for Combating Money Laundering in the Financial Sector.

The Bureau des Fonds provenant d'Activities Criminelles (FOPAC) ,a branch of the international Criminal Police Organization (INTERPOL) cooperates with national police departments and other agencies in gathering and sharing information on the movement and laundering of the proceeds of crime, and has also worked to develop model legislation to facilitates the obtaining of evidence needed in criminal investigations and proceedings arrived at confiscation of illegal goods.

In 1998, it issued the JOSCO Objectives and Principle, which outline key measures for securities supervisors to counter fraud and money laundering..

ANTI-Money Laundering Guidance Note for Insurance Supervisors and Insurance Entities.

At the private sector level, eleven major international private banks in cooperative with Transparency International (the Wolfberg Group) adopted or Private Banking (Wolfsberg the GlobalAnti- Money Laundering Guiderlines AML Principles) in October 2000, the Wolfsberg Group issued a Statement on the Suppression of the Financing of Terrorism, setting out a anumber of guideline for financial institutions to take to prevent the flow of terrorist funds through the financial system.

[48] Convention on the Prevention and Punishment of Crimes against Internationally Protected Persons, including Diplomatic Agents, New York, 14 December 1973 (U.N.T.S. 167)International Convention against the Taking of Hostages, New York, 17 December 1979(1316 U.N.T.S. 205);International Convention for the Suppression of Terrorist Bombings, New York, 15 December 1997(Adopted by U.N. General Assembly Resolution, Doc. A/RESS2/164, 15 December 1997);International Convention for the Suppression of the Financing of Terrorism, New York, 9 December 1999(39 ILM270 (2000).Convention on Offences and Certain Other Acts Committed on Board Aircraft, Tokyo, 14 September 1963 (704 U.N.T.S 219);Convention for the Suppression of Unlawful Seizure o Aircraft, the Hague, 16 December 1970 (860 U.N.T.S. 177);Convention for "the suppression of Unlawful Acts against the Safety of Civil Aviation, Montreal, 23 September 1971 (974 U.N.T.S.177);Convention on the physical protection of Nuclear Material, Vienna, March 1980 (TIAS No. 11080);Protocol on the Suppression of Unlawful Acts of Violence at Airports Serving International Civil Aviation, supplementary to the Convention for the Suppression of Unlawful Acts against the safety of Civil Aviation, Montreal, 24 February 1988 (974 U.N.T. 178);Convention for the Suppression of Unlawful Acts against the safety of Maritime Navigation, Rome, 10 March 1988 (27 I.L.M.672);Protocol for the Suppression of Unlawful Acts against the safety of fixed platforms located on the Continental Shelf Rome, 10 March 1988 (27 I.L.M.672, 685) ;Convention on the making of plastic Explosives for the purpose of Detection, Montreal, 1 March 1991 (Treaty Doc. No. 103. 8) It is interesting to note from the above list that , while there are four separate conventions dealing with unlawful acts committed on board aircraft, seizure of aircraft, safety of civil aviation, and lawful acts of violence at airports, and two deal with the taking of hostage and terrorist

In other jurisdictions, States such as United States,The United kingdom , the Australia, turkey Egypt, Georgia, Ireland have passed specific terrorism laws. The United kingdom for long has strong anti-terrorism laws to address the case of Northern Ireland. But most other states pointed to their general criminal law or penal codes.

The fight is not limited to State Actors as International bodies such as The world Bank and IMF have developed initiatives to counter terrorism. The World Bank for instance has substantially expanded its programmes in the areas of anti-corruption, governance and public financial management with financial sector reforms involving legal and supervisory regulation, supporting and strengthening legal and judicial reforms and institutions, corporate governance, accounting auditing and market transparency. The regional development banks such as Asian Development Bank, European Bank for Reconstruction and Development (EBRD), Inter-American Development Bank (IADB) have contributed significantly to international efforts to combat money laundering and the financing terrorism.

It has been posited that International legal framework to combat money laundering is now fairly well established, although a good part of it, apart from the relevant international conventions, still belongs to the realm of ‘‘soft’’ law. A large number of States have taken steps to implement the provisions of the relevant international conventions and FATF Forty Recommendations into their domestic laws.[49]
One formidable challenge in the way of full adherence by states with the United Nations and FATE Action Plans is the difficulty of achieving a political consensus on the strategy and means to end terrorism and terrorism financing. There are differences of opinion as to the methods that must be used to address the problem with several Islamic states and states with large Muslim populations view the action plans as targeting primarily Islamic states and Muslim citizens and Organisations.

Another challenge is defining the terrorist, a terrorist Organisation, and terrorist activity with states most likely to define these terms in different lights with the implication that there is lack of cohesive international front or strategy to combat terrorists, terrorism and terrorist financing.[50]

A serious challenge likely to militate against the anti-terrorism measures is the readiness to address the fears and concerns of those protesting that some of the measures seriously threaten civil liberties, including free speech, freedom of religion, right to privacy and due process. And wire tapping, electronic surveillance, arrest and detention without trial, seizure and confiscation

bomblings, none of them deals explicitly with the crime that was committed on September 11, namely the deadly use of aircraft as missiles in suicide bombing to damage property and kill civilians. This development, coupled with the new threat of bio-terrorism created by the distribution of anthrax by mail in the United Statesis likely to accelerate calls for a review of the existing conventions on terrorismor the preparationby the United Nations of a new general convention on terrorism which will capture all conceivable acts of terrorism including cyber terrorism.

[49] See Herbert V. Morias, op cit pg 26
[50] Ibid, pg 26

of assets are some of the measures portending grounds for serious concerns bordering on abridgement of private rights.[51]

It has been rightly submitted that higher responsiblility is cast upon the financial institutions to implement enhanced scrutiny and due diligence procedures to prevent, detect and report suspicious financial transactions to the law enforcement authorities.[52] Undoubtedly, new approaches must be fashioned out at equally fast pace to keep in league with the creativity and ever evolving formulas of the terrorist networks. Thus the United Kingdom recent rolled out Action Plan For Money Laundering and Counter-terrorist finance (April 2016)[53] sets up tree priorities: a need for a more robust law enforcement response to the threat of terrorism; to reform the supervisory regime and ensure that those few compaies who facilitate or enable money laundering are brought to task;to increase our international reach to tackle money laundering and terrorist financing threats by working with international groups. With the determination to *''protect the security and prosperity of our citizens,and the integrity of our world-leading financial system, and will vigorously pursue those who abuse it for illicit means.''*

Legal and Administrative Measures by Nigeria

Nigeria has implemented various international resolutions and laws to give effect to Anti/Counter Terrorism initiatives in the country. Some of these resolutions and International Commitments include:

i. United Nations Resolution 1267 (1999) and other relevant resolutions on Individuals and Entities Associated with Al-Qaeda and Taliban;
ii. The OAU convention on the prevention and combating of Terrorism in Algiers in July, 1999; (The Algerian Convention).
iii. International Convention for the Suppression of the Financing of Terrorism -Resolution 54/109-which was introduced in 9 Dec 1999 but came into effect April 10 2002. The convention required to among other things, take steps to prevent and counteract the financing of terrorists, hold those who finance terrorism criminally, civilly or administratively liable, provide for the justification, freezing and seizure of funds allocated for terrorist activities.
iv. The United Nations Security Council Resolutions 1373 (2001) on Terrorism Finance and Terrorist activities; which criminalized all activities falling within the ambit of terrorist financing and obliged states to freeze all funds or financial assets of persons and entities that are directly or indirectly used to commit terrorist acts.
v. The FATF is an inter-governmental body established by the G7 at its summit of July, 19, the mandate of FATF is to set standards and to promote effective implementation of legal, regulatory and operational measures for combating money laundering, terrorist financing and other related threats to the integrity of the international financial system.[54]

[51] Ibid pg 27
[52] Ibid, pg 28
[53] http://www.gov.uk/government/publications
[54]The G7 consists of Canada, France, Germany, Italy, Japan, United Kingdom and United States. It currently has 33 members, 31 countries and governments and two international organizations and more than 20 observers. 32012 OECD/FATF.

In 1990 FATF issued Forty Recommendations as an initiative to combat the misuse of the financial systems by persons laundering drug money. In 1996, the Recommendations were revised to broaden the scope beyond money laundering.[55]
In October, 2001, FATF expanded its mandate to include terrorist financing, which later became the additional 9 Recommendations. The 9 Recommendations are now integrated and merged into 40 Recommendations as the current international standard on money laundering, the financing of terrorist and proliferation of firearms.

vi. The adoption of the Dakar Declaration in Senegal in 2001;

vii. The adoption of the Plan of Action for the Prevention and Combating of Terrorism by the Inter Governmental High Level meeting of the Union in September, 2002 in Algiers, Algeria.

viii. Protocol to the OAU convention on the Prevention and Combating of Terrorism, July 2004

xi. The 2009 United Nations Security Council Resolution 1904

The United Nations, African Union resolutions and other International Standards have therefore provided the basis and context of most of the country's counter terrorism efforts.
In addition, at the regional level, the ECOWAS Authority of Heads of State in the year 2000 established the Inter-Governmental Action Group against Money Laundering (GIABA). This is one of the major responses of the ECOWAS to the fight against money laundering. GIABA is a specialized institution of ECOWAS responsible for the prevention and control of money laundering and terrorist financing in the region.[56]

[55]Ibrahim Abdu Abubakar , An Appraisal of Legal and Administrative Framework for Combating Terrorist Financing and Money Laundering in Nigeria (2013), Journal of Law, Policy and Globalization www.iiste.org ISSN 2224-3240 (Paper) ISSN 2224-3259 (Online) Vol.19, 2013 available at http://iiste.org/Journals/index.php/JLPG/article/viewFile/8924/9083 p. 34, last accessed on 21 March, 2016.

[56] The establishment of GIABA as a FATF style regional body (FSRB) is a demonstration of the strong political commitment of member states to combat money laundering and terrorist financing and to cooperate with concerned nations and international organizations to achieve this goal.
GIABA conducts Mutual Evaluation of member countries in accordance with FATF standards and also in conformity with the enabling statutes. The evaluations are based on FATF 40 Recommendations.
The GIABA 2011 evaluation report on Nigeria inter alia indicates that some of the regulatory agencies and the judiciary are yet to develop enough capacity to combat money laundering effectively; appropriate ICT infrastructure is also lacking; the Non-Conviction Based Asset Forfeiture Bill is still pending in the National Assembly, reflecting a serious gap in the country's AML/CFT regime.
It also observed that the *Money Laundering (Prohibition) Act 2011* did not include fraud among the list of predicate offences to money laundering.[56]
Specific actions and strategies that have been considered by member states include the formation of sub-regional anti-Money Laundering blocks. One of such initiatives the establishment of the Dar-es-Salam based Eastern and Southern African Anti-Money Laundering Group (ESAAMLG).[56]
The objective of the ESAAMLG as outlined in the Memorandum of Understanding (MOU) centres around combating money laundering and terrorist financing.
The strategic plan of ESAAMLG focuses on realising its vision of developing a strong dynamic institution that is committed to the eradication of money laundering and terrorist financing in the Eastern and Southern African sub Region.
To date ESAAMLG has made notable progress in the establishment of Anti-Money laundering regimes in the sub region.

Apart from the numerous legislations to combat financing of Terrorism and money laundering Nigeria has in place administrative regime which incorporates the creation of 24 various regulatory/law enforcement agencies in counterterrorism and these include amongst others.[57] In 2003, the financial transactions of two (2) extremist Islamic organizations were investigated and disrupted by the SSS. As a result, the operational activities of the Central Office of Al-Muntada Al – Islamiya Foundation in Kano was temporarily sealed, while its Bank Account

[57] The Nigeria Police, Nigeria Intelligence Agency, State Security Service, Defence Intelligence Agency, Economic and Financial Crimes Commission and especially the Nigeria Financial Intelligence Unit, The Nigeria Drug Law Enforcement Agency, Central Bank of Nigeria, Ministry of Finance, Federal Ministry of Commerce (FMC) which is the competent supervisory authority for Designated non-Financial Business and Professions (DNFBPs), which include casinos, dealers in jewelleries ,cars and luxury goods, chartered/ professional accountants, audit firms, tax consultants, clearing and settlement companies, legal practitioners, supermarkets, hotel and hospitality industries, estate surveyors and valuers, precious stones and metals, trust and company service providers, pool betting, lottery, non-government organizations and non-profit organizations, amongst others.
Nigeria has a financial intelligence unit (NFIU) within the ambit of the Economic and Financial Crimes Commission (EFCC). A ten member Task Force with membership from the Nigeria Police, Central Bank of Nigeria, National Deposit Insurance Corporation, and the EFCC was set up to put in place a comprehensive plan for the establishment of an FIU in Nigeria in October 2003. NFIU became operational in January 2005.
As an FIU, it is a member of the Egmont Group and it is the pivot of the fight against money laundering and terrorist financing with a mandate to generate intelligence packages from financial disclosure on suspicious transactions from agencies and other entities and persons for the consumption of other FIUs and law enforcement agencies.
The NFIU is to coordinate Nigeria's AML/CFT regime in line with international best practice- receive and analyse financial information as well as disseminate financial intelligence to competent authorities.
The EFCC was created in 2002 as a reaction to international pressure essentially from the FATF which had listed Nigeria as a Non Cooperative Country. One of the conditions of being taken off that list was compliance with FATFs recommendation which required the creation of a special intelligence unit. The statute creating the EFCC vested it with the mandate to investigate and prosecute economic and financial crimes, be the national coordinator for anti-money laundering, be the designated Nigerian Financial Intelligence Unit and implement the provisions of the Advance Fee Fraud Act, Failed Banks Decree, Money Laundering Prohibition Act (MLPA) and the Banks and other Financial Institutions Act (BOFIA). Other Nigerian agencies engaged in the fight against financing of terrorism include the Special Control Unit Against Money Laundering (SCUML) which is statutorily under the Ministry of Commerce and industry but is domiciled in the EFCC and is responsible for regulating, supervising and monitoring the Designated Non- financial Institutions (DNFIs)especially the Self Regulatory Organisations (SRO) such as hotel owners, car dealers, casino operators, lawyers, real estate operators, tax consultants, accountants amongst others.
The Central Bank of Nigeria (CBN) which is the apex regulatory body for banks in the country is equally involved in AMT/CFT and has directed all commercial banks in the country to report any transaction of a sum over half a million naira (US $5,000). The CBN then transmits this information to the National Economic Intelligence Committee (NEIC). This system is set up to monitor money sources and uses, track spending patterns and generally forestall terrorist activity. Anyone who cannot satisfactorily explain a transaction over a half million naira may be charged under the Foreign Exchange (Monitoring and Miscellaneous Provisions) Decree No. 17 (1995), which carries a minimum penalty of five years in prison for individuals, and a fine of N 100,000 (US $1000) for corporate enterprises. Legal persons can also be charged with money laundering under the National Drug Law Enforcement Agency (NDLEA) Act, which carries a penalty of ten years to life in prison, and forfeiture of assets. The National Drug Law Enforcement Agency Act, the Foreign Exchange (Monitoring and Miscellaneous Provisions) Decree and the Money Laundering Prohibition Act all authorize the freezing of assets. Freezing accounts may be administrative or judicial, coming from the Central Bank of Nigeria, or by an authorized court or tribunal. Assets can be frozen at the request of another government in cases where both governments share mutual legal treaties in cases of criminal or civil matters.
The State Security Service (SSS) on its part was set up to gather intelligence on the activities of nations, institutions, organizations, and individuals that are detrimental to the interest of Nigeria. This function is similar to that of the National Intelligence Agency (NIA) which was created to perform a similar function on the domestic front and the Defence Intelligence Agency (DIA) with the mandate of gathering defence security information both within and outside the national domain.
These organizations are involved in terrorist intelligence and are expected to work with the organizations dealing with financial intelligence in the fight against terrorism in Nigeria.
While Nigeria is still relatively a newcomer in the fight against terrorism especially using tools of financial intelligence, few success stories have been recorded. For instance, financial intelligence received from the NFIU to the SSS helped to foil the Oct 1, 2010 50th year celebration bomb incidence in Abuja.
In addition, NFIU has also investigated African cases bordering on Terrorism Financing which has led to the freezing of the assets of suspected terrorist sympathizers worth billions of naira.

was frozen, on account of suspected linkage with financing of local extremist groups by the Salafist Groups for Preaching and Combat (GSPC). The central office was only opened after a formal agreement by the Foundation to make available quarterly reports on its financial and general operational activities to the SSS. Similarly, in line with UN Resolution 1267 (1999), the operational activity of Al – Haramain Islamic Organization was stopped by the SSS. This was as a result of the UN Resolution banning all states from dealing with listed entities and organizations. Al – Haramain Organization was on the UN consolidated list. Pursuant to the Resolution too, the EFCC, froze the assets and properties of Ahmed Idris Nasreddin and his associated companies, NASCO Groups Nig. Ltd worth over a N100,000,000.00 ($787,402) through a Federal High Court order obtained in 2006.22 In spite of all these cases and many more however, there still remains a lacuna in Nigeria's counterterrorism efforts as cases of terrorism especially in the northeastern part of the country where the Boko Haram are mostly resident are on the increase.

The effects of these acts of terrorism are felt all over the country as the Boko Haram are responsible for the bombing of the Police Headquarters, the UN office in Abuja bombing, the incessant crisis of a religious nature in states like Bauchi , Borno and even Plateau.
Boko Haram continue to perpetrate their heinous activities, the Chibok girls were kidnapped since April 2014 and are still missing up till date, although News are abound that the Nigerian Army subduing them as well as Army attack on Sambisa forest but Boko Haram are still attacking public places like the Churches, Mosques, Markets and Motor Parks.

Challenges of Financial Intelligence and Counter-Terrorism In Nigeria

Lack of Interagency Cooperation
Intelligence gathering requires sharing and dissemination of information to the various agencies involved in the fight against terrorism. However, interagency rivalry and jealousy have hindered the effective gathering and distribution of information. As noted by Odiogor, "the level of collaboration in sharing of security information is abysmal and fraught with suspicion." In addition, Nigeria has about four different agencies doing the same thing but none taking responsibility for intelligence lapses.[58]

For instance, when the police headquarters was bombed on Thursday 16 June, 2001, the problem was analysed as a failure of intelligence yet the security forces were pointing fingers at one another.[59] The lack of interagency cooperation can also be attributed to the lack of a national security strategy in which all agencies working against terrorism have their roles clearly defined and the relationships with other agencies also spelt out.

Inadequate Resources
In order to carry out any task adequately, there must be enough resources including financial, manpower and material. Equipment and tools needed for intelligence and surveillance work are most times inadequate. Also there is a dearth of skilled manpower with the requisite training to use these equipment and gadgets effectively and efficiently.

[58]Odiogor H., Boko Haram; Security Forces Trade Blames, Sunday Vanguard June 26, 2011.
[59]*Ibid.*

FIUs are expected to assemble the financial evidence concerning suspicious transactions, and such information is usually spread among several financial institutions and jurisdictions. These tasks require adequate, timely and efficient funding. Unfortunately, funding has been largely through budgetary allocations to the ministries, departments and agencies (MDA) involved. Nigeria practices a system whereby budgets are not made based on adequate and comprehensive needs assessment but rather, based on a somewhat ad hoc system.

Non Compliance by Financial and Non Financial Institutions

The Nigerian banks are expected to report suspicious transaction report (STR) immediately and before seven days of the occurrence of the STR. Although financial institutions have rolled out training programmes on money laundering en masse, the sincerity and depth of such programmes is questionable. The training courses are in many instances given to staff so as to meet the requirements of the regulators and to enable the financial institutions forward their training reports listing the number of staff trained. The non- designated financial institutions, on their part, are by nature vulnerable to the antics of money launderers and are therefore expected to make reports on currency transactions and suspicious transactions to the SCUML. However, largely due to ignorance, the DNFI are usually guilty of non- compliance.

Loose Regulatory Environment

As advanced, developed countries have increased their financial surveillance and legal infrastructure to counter terrorism, they have caused terrorists and other criminal finances to flow to wherever the regulatory environment is loosest. Thus terrorists find it easier to operate in environments where the regulatory and legal framework is lax.[60] The intelligence and law enforcement agencies as well as the financial and non financial institution regulatory bodies such as CBN, SCUML, EFCC, etc thus have a larger task in their hands as cases of terrorism is likely to be on the increase. In addition, because Nigeria is cash based society, it is thus harder for financial institutions to report such transactions. In this regard, the CBN directive to reduce the amount of over the counter cash collected by individuals to N150, 000 is commendable. This has the objective of reducing the amount of cash in circulation therefore making it harder for terrorists to use cash for settlements. The judicial system is also very slow and uncooperative as so many PEPs, business men, etc that have been arraigned by the EFCC on charges of corruption, money laundering or terrorist financing have been released on bail and are walking around free.

The Anti Corruption policy of President Buhari is laudable as it exposes corrupt public officers/politicians e.g. the Arms deal scam and all efforts of the culprits to thwart the cause of justice has been resisted by the courts.

Setting Intelligence Out Priorities Clearly.

Unfortunately, the Nigerian security apparatus has been operating without a national security strategy which should set out the security, and by extension intelligence priorities. Given this vacuum, Nigeria has been operating in a reactionary manner to security threats, mainly at the instance and pressure of the international community. For instance, the EFCC was set up

[60]Paul J. Smith, The Terrorism Ahead; Confronting Transnational Violence in the Twenty First Century, Pentagon Press, New Delhi, 2008.

because Nigeria had been on the FATF non cooperative country list since it did not meet the requirement that each country should have a financial intelligence unit.

Nigeria still has a lot of catching up with the international community to do in terms of expertise and the use of sophisticated equipment and tools that will facilitate the gathering, analysing, and dissemination of information amongst the security agencies both locally, regionally and globally. In addition, the lack of interagency cooperation means that the various agencies end up with only partial information on certain cases and are therefore crippled in the aspect of intelligence.

In view of the above therefore, it is recommended that Nigeria as a matter of urgency develops a national counterterrorism strategy which will not only analyse the threats to Nigeria and set out the security priorities but will also clarify the roles expected of each security apparatus in counterterrorism. This is expected to minimise the inter agency rivalry and backbiting and enhance cooperation for the greater good and security of the nation first and the international community at large. The private sector must also be brought into the schema as the financial institutions are largely privately run and owned.

There is also the need for in-depth education and training of individuals working in the finance and non- finance institutions so as to ensure they understand the importance and security implications of rendering intelligent reports of suspicious transactions expeditiously as at when they arise.

The administrative framework in Nigeria is fraught with certain deficiencies. It has been observed that there is duplication of functions by various institutions charged with the responsibility of enforcing them, in the sense that law enforcement agencies do not confine themselves to enforcing only the laws establishing them. For instance, the EFCC enforce the Money Laundering Act, the Advance Fee Fraud and Other Offences Act, the Failed Banks and Other Financial Practices in Banks Act[61] etc

It is also clear that Nigeria has put in place legal and administrative framework to combat money laundering and terrorist financing. However, combating money laundering and terrorist financing cannot succeed where law enforcement agencies operate in isolation from one another. There is need for the agencies to operate in a coordinated fashion and communicate regularly with one another.

The Supreme Court of Nigeria in the case of *Attorney-General of Ondo State v. Attorney-General of the Federation*[62] had laid this issue to rest when it held that the responsibility of abolishing all corrupt practices and abuse of power by virtue of section 15(5) of the Constitution is on the State as a sovereign entity. Thus, the National Assembly has the power to enact the Independent Corrupt Practices and other Related Offences Commission Act and by necessary implications, the Economic and Financial Crimes Commission Act, Money Laundering (Prohibition) Act etc. Also worthy of mention is the fact that section 128 of the

[61]Section 3.
[62](2002) 9 NWLR (Prt 722) 222.

Constitution of the Federal Republic of Nigeria starts with the phrase "subject to the provision of this Constitution". Whenever, the phrase "subject to" is used in a statute, the intention, purpose and legal effect is to make the provisions of the section inferior, dependant on or limited to and restricted in application to the section to which they are made subject to.

In other words, the provision of the later section shall govern, control, and prevail over the provisions of the section made subject to it. Therefore, section 15(5) is the prevalent section bringing section 128 thereof under subjection.[63]

Another contention relates to the territorial jurisdiction of the court for the trial of economic and financial matters including money laundering cases. Like the case of *Peter Mba v. Federal Republic of Nigeria* (supra), this objection is becoming prevalent in almost all the cases of economic crimes involving politically exposed persons.

Section 19 of the Economic and Financial Crimes Commission Act deals with the jurisdiction and special powers of the court and in addition empowers the Chief Judge of the Court concerned to by order under his hand designate a court or judge or such number of courts or judges as he shall deem appropriate to hear and determine all cases under the Act or other related offences arising under the Act. Also the court or judge so designated shall give such matters priority over other matters pending before it. Neither the Economic and Financial Crimes Commission Act nor the Money Laundering (Prohibition) Act provide in unequivocal terms the venue of trial of cases so created by the Acts. The provision of section 45 of the Federal High court Act nonetheless prescribed generally the places where offences may be tried.

The provision of section 33 of the Act also provides that criminal proceedings before the Federal High court shall be conducted substantially in accordance with the Criminal Procedure Act. And that all criminal cases and matters before the Court shall be tried summarily. The above provisions have been subjected to judicial interpretations and in *Abiola v. Federal Republic of Nigeria.*[64]

The sum total of that decision is that the criminal jurisdiction is basically territorial wherein it depends largely on where the alleged offence at least the initial element, part or essential ingredients of the offence took place. However, in *Onwudiwe v. Federal Republic of Nigeria*[65], it was held that in criminal justice, the determination of jurisdiction will be taken in the light of the enabling law setting out the jurisdiction of the court vis-à-vis the charge preferred against the accused. Thus, the court must be satisfied that the offence or crime is directly denoted, conferred on the court in the enabling law. This is particularly so because if the offence or crime is outside the enabling law, the court cannot exercise jurisdiction because it lacks jurisdiction to do so.

[63]*Alamieyiesgha v. Federal Republic of Nigeria* (2006) 16 NWLR (Pt. 1004) page 1 at 91 – 92.
[64](1995) 3 NWLR (Prt 382) 203 Per Mohammed JCA at page 234 paragraphs B-D.
[65](2006) 10 NWLR (Prt 988) 382 at 428.

In that light, the other laws which prescribe the venue from trial and in this case the Federal High court Act and the Criminal Procedure Act cannot be separated from the enabling Economic and financial Crimes Commission Act and Money Laundering (Prohibition) Act even when determining the venue of trial.

In the exercise of the powers conferred on the Attorney-General of the Federation and Minister of Justice by Section 9(6) and 39 of the Terrorism (Prevention) Act 2011, as amended in 2013, **the Regulations**[66] **on the Freezing of International Terrorists Funds and other Related Measures, 2013 were made in August 2013** with the aim of prescribing the procedure for the freezing of funds, financial assets or other economic resources of any suspected terrorist, international terrorist or an international terrorist group, the conditions and procedure for utilization of frozen funds, or economic resources and constituted the Nigeria Sanctions Committee for the purpose of Proposing and designating persons and entities as terrorists within the framework of the Nigerian legal regime.[67]

In terms of scope of application, the regulations shall apply to any person or entity listed under Regulation 3(1) as follows:

a) *designated persons contained in the Consolidated List of the United Nations 1267 and 1988 Sanctions Committee ('the UN Consolidated List');*
b) designated persons approved by the Nigeria Sanctions Committee under the Nigeria; and
c) all law enforcement agencies to implement measures to prevent the entry into or the transit through the Nigerian borders or the direct or indirect supply, sale and transfer of arms and military equipment by any individual or entity associated with Al Qaida, Osama Bin Laden or the Taliban, including other international terrorists based on requests from other countries or other third parties.

The above Regulations are structured into ten parts. While Part 1 deals with preamble, purpose and scope; Part 2 covers the constitution of the Nigeria Sanctions Committee and the effective implementation of the relevant UN Security Council Resolutions; Part 3 provides for the freezing of funds procedure and reference to lists by financial, designated non-financialinstitutions, law enforcement and security agencies; Part 4 relates to funds held by designated persons; Part 5 prohibits making funds, financial services or economic resources available to designated persons and circumventing prohibitions; Part 6 lays down the conditions and procedure for utilisation of frozen funds; Part 7 places travel restrictions and arms embargo on designated persons60; Part 8 provides for information and reporting obligations; Part 9 on penalties and sanctions provides for a maximum of 5 years of imprisonment for any individual or corporate or institutional violator of the regulations; and Part 10 on miscellaneous matters covers revocation of the 2011 Regulations, guidelines for effective implementation, interpretation and citation.[68]

[66]Cited as Terrorism Prevention (Freezing of International Terrorists Funds and other Related Measures) Regulations, 2013.
[67]*Ibid.* Regulation 2.
[68]Ibid. Regulations 1 – 35.

CONCLUSION

Despite the elaborate legal framework in Combating Money Laundering and Financing of Terrorism in Nigeria, little can be said to have been achieved. Statistics has shown that very few politically exposed persons have so far been tried because such trials were stalled by mirage of preliminary objections which run up to the highest court of the land. In both the cases of *Okeke v. Federal Republic of Nigeria*[69] and *Alamieyesgha v. Federal Republic of Nigeria* (supra), the Court of Appeal emphasized the need for a quick dispensation of justice in the sense that it is the duty of all parties as well as the Court to ensure that the proceedings in a case and its determination are not unnecessarily delayed. This is in consonance with the provision of Section 40 of the Economic and Financial Crimes Commission Act where it provides:

Subject to the provisions of the Constitution of the Federal Republic of Nigeria 1999, an application for stay of proceedings in respect of any criminal matter brought by the Commission before the High Court shall not be entertained until judgement is delivered by the High Court.

It is also suggested that all parties involved in the administration of criminal justice shall collaborate to ensure that criminal cases particularly Anti-Money Laundering and Combating of Financing of Terrorism are properly investigated, prosecuted and tried with minimum delay. It is evident from the above analysis of the initial good efforts and the renewed approached in combating terrorism financing and money laundering activities that the issue of economic and financial crimes in Nigeria is so widespread and deep-rooted that it cannot be fought by legislation alone. The moral tone of the society must also be raised by all and sundry.

More serious efforts should be made to remove socio-economic injustices, imbalances and inequities in the society, alleviate the suffering of the people, provide increased job opportunities and the right atmosphere for genuine business and investment to thrive. A re-orientation in our sense of values is very necessary starting from the highest echelons of society downwards.
Thus, the national wide introduction of Bank Verification Number (BVN) for all bank depositors, and NUBAN accounts numbers assigned to each bank depositors/accounts are some financial regulatory measures taken by the Central Bank of Nigeria (C.B.N.) to superintend effective capturing of bank transactions and easy identification of account holders across the banking sector have yielded positive results at checking and controlling incidence of illegal payments to ghost workers. These measures represent useful instruments of financial intelligence monitoring of the activities supporting money laundering and financing of terrorism and they are commendable.

Undoubtedly, the promulgation of the new Money Laundering Act 2011 and the new Terrorism (Prevention) Act, 2011 as amended in 2013 and the EFCC Act 2004 and spirited

[69](2009) 9 NWLR (Prt 1145) 94.

implementation of their provisions will introduce a more effective and radical change in the fight against terrorism financing and money laundering activities in Nigeria.

In all, the 2011, Money Laundering and 2011-13 Terrorism (Prevention) Acts and their Regulations, are welcome and necessary improvements on the 2004 and 2011 legal mandates and powers of the institutional regimes in combating money laundering and terrorism financing in Nigeria and such development conduces to the healthy growth of the economy.[70]

[70]Prof. Muhammed Tawfiq Ladan Appraisal Of Legal, Regulatory and Institutional Frameworks in Combating Money Laundering and Terrorism Financing in Nigeria available at http://papers.ssrn.com/sol3/papers.cfm?abstract_id=2336025 Accessed on 21 March, 2016.