

The Terrorism (Prevention and Prohibition) Act 2022 and the Problem of State Actor Accountability in Nigeria

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Abstract : Nigeria's Terrorism (Prevention and Prohibition) Act 2022 establishes an extensive legal framework for preventing, investigating, prosecuting, and punishing terrorism and related financing offenses. It also gives law-enforcement and security agencies substantial powers of arrest, search, detention, seizure, and, in urgent circumstances, action without a prior warrant. The Act develops public-official accountability for exercising those powers less directly. This article examines whether, and to what extent, Nigerian law provides an adequate framework for holding state actors accountable when counter-terrorism powers result in unlawful killing, excessive force, torture, arbitrary detention, or other violations of protected rights. The study applies doctrinal legal analysis to the Terrorism (Prevention and Prohibition) Act 2022, the Constitution of the Federal Republic of Nigeria 1999 (as amended), the Anti-Torture Act 2017, relevant judicial decisions, and the legislative materials that preceded the 2022 Act. The analysis makes two distinctions. First, unlawful conduct by a state official is not necessarily an "act of terrorism" under section 2 of the 2022 Act. The statutory definition requires elements, including a specified intent, that cannot be presumed merely because the use of official force was unlawful. Secondly, the absence of a comprehensive state-actor accountability regime within the Terrorism Act does not mean that public officials enjoy general immunity. Constitutional rights, ordinary criminal and civil liability, the Anti-Torture Act, and judicial review remain applicable. Section 64(4) of the Terrorism Act itself protects an authorized officer only where the force used is necessary, proportionate, reasonable, and for a purpose in accordance with the Act. The principal difficulty is

therefore one of legal asymmetry and fragmentation. The Act defines counter-terrorism powers in considerable detail, but responsibility for misuse of those powers must largely be reconstructed from legal regimes outside the Act. Judicial decisions such as *Fawehinmi v Inspector-General of Police*, *Inspector-General of Police v All Nigeria Peoples Party*, *Federal Republic of Nigeria v Nnamdi Kanu*, and the ECOWAS Court's decision in *Abdullahi v Government of the Federal Republic of Nigeria* demonstrate both the availability and the limits of those external accountability mechanisms. The article argues for a clearer statutory framework that links counter-terrorism powers to independent investigation, constitutional standards governing force and detention, the preservation of evidence, individual responsibility, and effective remedies.

Keywords: Terrorism; Terrorism (Prevention and Prohibition) Act 2022; state actors; accountability; counter-terrorism; constitutional rights; use of force; Nigeria.

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1.0 Introduction

Terrorism remains a major national and transnational security challenge requiring States to protect their populations while simultaneously ensuring that counter-terrorism measures remain subject to law. In Nigeria, prolonged terrorist and insurgent violence has generated an extensive legal and institutional response involving the legislature, security and intelligence agencies, law-enforcement institutions,

courts and other public bodies. The Terrorism (Prevention and Prohibition) Act 2022 represents a significant development in this framework. The Act repealed the Terrorism (Prevention) Act 2011 and established a consolidated statutory regime for the prevention, prohibition, investigation, prosecution and punishment of terrorism, terrorism financing and related conduct. It also provides mechanisms concerning terrorist designation, asset restriction, investigation, arrest, search, seizure, detention, confiscation and compensation. The Act therefore operates at the intersection of national security, criminal justice, human rights and institutional accountability (Federal Republic of Nigeria, 2022).

The expansion of counter-terrorism powers creates a corresponding legal requirement to ensure that those powers are exercised within clearly defined limits. Counter-terrorism operations may involve surveillance, intelligence gathering, arrest, detention, interrogation, search, seizure and the use of force. The exercise of these powers may also involve increasingly sophisticated scientific and technological processes, including digital surveillance, telecommunications data, biometric identification, forensic examination, digital forensics, geospatial intelligence, medical examination and the preservation and analysis of physical and electronic evidence. Such technologies can strengthen terrorism investigations and improve the evidential basis for prosecution; however, their use also creates questions concerning legality, reliability, proportionality, privacy, chain of custody, independent verification and accountability. Where an operation results in death, injury, alleged torture, destruction of property or disputed evidence, scientific and forensic methods may become essential to determining what occurred and who bears responsibility.

The legal framework consequently has a dual character. On one side, the State has a legitimate responsibility to prevent terrorism and protect life and public safety. On the

other, officials exercising coercive powers remain subject to constitutional, statutory and judicial constraints. The Constitution of the Federal Republic of Nigeria 1999 (as amended) protects, among other rights, life, dignity, personal liberty and fair hearing. Section 33 protects the right to life while recognizing narrowly defined circumstances in which death resulting from reasonably necessary force does not constitute a violation. Section 34 protects human dignity and prohibits torture and inhuman or degrading treatment. These provisions are particularly significant where counter-terrorism operations involve lethal force, detention or interrogation (Federal Republic of Nigeria, 1999).

The Terrorism (Prevention and Prohibition) Act 2022 grants substantial powers to relevant agencies. Among its important provisions, section 64 addresses situations of verifiable urgency, threats to life and circumstances in which obtaining a warrant may cause prejudicial delay. In such circumstances, an authorized officer may enter and search premises, places or conveyances, search persons or conveyances, seize relevant materials and arrest or detain persons while a warrant is being sought. Section 64(4) further provides protection from criminal and civil liability where an authorized officer uses force that is necessary, proportionate and reasonable for a purpose authorized by the Act. Section 64(5) imposes a reporting requirement concerning the circumstances of the urgent action. These provisions demonstrate the statutory attempt to reconcile operational necessity with legal restraint. They also raise a fundamental accountability question: when an official claims that force was necessary, proportionate and reasonable, what independent legal, institutional, medical, forensic or scientific processes are available to determine whether that claim is correct? (Federal Republic of Nigeria, 2022).

The question is especially important because unlawful conduct by a state official does not automatically constitute an act of terrorism.



Section 2 of the 2022 Act contains specific statutory elements for terrorism offences, including conduct and intentionality requirements. The unlawful assault of a detainee, arbitrary detention, excessive use of force or torture by a security officer may therefore constitute a constitutional violation, a criminal offence, an offence under the Anti-Torture Act 2017 or grounds for civil and public-law remedies without necessarily satisfying the statutory definition of terrorism. The Anti-Torture Act expressly criminalizes torture and other cruel, inhuman and degrading treatment and establishes duties concerning the protection of persons in custody, complaints, examination and liability. The Act also provides that evidence obtained through torture is inadmissible and preserves other criminal and civil remedies available to victims (Federal Republic of Nigeria, 2017). Thus, the legal characterization of official misconduct requires careful analysis rather than the automatic application of the label "terrorism."

Existing scholarship has examined different dimensions of Nigeria's counter-terrorism and national-security framework. Antai et al. (2025), for example, examine the tension between national security and human rights within Nigerian anti-terrorism law. Their doctrinal analysis identifies concerns relating to arbitrary detention, disappearance, militarized counter-terrorism responses and inadequate judicial oversight and accountability mechanisms. Their analysis emphasizes the need to reconcile effective counter-terrorism measures with constitutional and international human-rights standards.

Jideobi (2025) similarly examines Nigeria's counter-terrorism responses against African international human-rights frameworks. The study emphasizes that the State has responsibilities not only to combat terrorism but also to hold state actors and non-state actors accountable for human-rights violations. It further identifies judicial accountability, effective remedies and

investigation of alleged abuses as important components of the rule of law. Jideobi's analysis is particularly relevant to the present study because it demonstrates that the counter-terrorism responsibility of the State cannot be separated from its responsibility to protect individuals against abuses committed during counter-terrorism operations.

Tabiowo (2025) approaches the problem from the perspective of legislative adequacy and national security. The study argues that deficiencies in Nigeria's legislative and institutional frameworks can create vulnerabilities in responding to evolving security threats and identifies continuing challenges involving terrorism, insurgency, cyber threats, border security and internal stability. The study therefore reinforces the importance of continuously examining whether legislative frameworks remain capable of responding to changing security environments.

The existing literature thus establishes three important propositions. First, counter-terrorism legislation is necessary for the protection of national security. Second, the exercise of counter-terrorism powers must remain compatible with constitutional and international human-rights standards. Third, weaknesses in institutional oversight and accountability can undermine the legitimacy and effectiveness of counter-terrorism measures. However, these strands of scholarship have generally examined national security, human-rights compliance, legislative adequacy and judicial accountability as relatively broad questions. Less attention has been directed specifically to the accountability architecture created by the Terrorism (Prevention and Prohibition) Act 2022 itself and to the relationship between its operational powers and the external legal regimes governing official misconduct.

A specific doctrinal gap therefore remains. Existing analyses have considered Nigeria's counter-terrorism legislation in relation to human rights, national security and legislative effectiveness, but insufficient



attention has been given to the precise relationship between the statutory authorization of counter-terrorism powers and mechanisms for holding state actors individually accountable when those powers are allegedly abused. In particular, the interaction between section 64 of the 2022 Act, constitutional rights, the Anti-Torture Act 2017, ordinary criminal and civil liability, judicial review and regional human-rights mechanisms requires more systematic examination.

The gap is also interdisciplinary. Counter-terrorism operations increasingly depend on scientific and technological capabilities, while allegations of official misconduct may require scientific evidence to establish facts that cannot be satisfactorily determined through legal argument alone. Deaths during security operations may require independent autopsy and forensic examination; allegations of torture may require medical documentation; shootings may require ballistic analysis; disputed events may depend on digital communications, surveillance recordings, geospatial information or other electronically stored evidence. The evidential value of these technologies depends on reliable collection, preservation, authentication, chain of custody and independent assessment. Yet the accountability implications of such scientific and technological evidence have received limited attention in analyses of Nigeria's 2022 terrorism legislation.

This study therefore moves beyond the general question of whether Nigeria possesses laws protecting human rights. It examines whether the legal architecture surrounding counter-terrorism powers provides sufficiently clear and effective mechanisms for determining responsibility when those powers produce unlawful consequences, and whether scientific and technological evidence can support transparent and independent accountability.

The central problem is one of legal asymmetry. The Terrorism (Prevention and Prohibition) Act 2022 provides extensive

statutory powers for detecting, preventing, investigating and prosecuting terrorism, but it does not establish an equally comprehensive and independent accountability framework specifically for officials who misuse those powers. Instead, accountability is dispersed across several legal regimes, including the Constitution, the Anti-Torture Act 2017, ordinary criminal and civil law, fundamental-rights proceedings, judicial review, administrative and disciplinary mechanisms, and applicable regional human-rights procedures.

This fragmentation can create practical and doctrinal difficulties. A victim of excessive force may need to rely on constitutional remedies rather than the Terrorism Act. A person alleging torture may invoke the Anti-Torture Act. A death arising during an operation may raise questions of criminal responsibility, constitutional protection of life, official authorization, forensic evidence and the proportionality of force. A disputed digital communication or surveillance record may require technical authentication. Consequently, determining responsibility may require the interaction of several legal and evidentiary systems rather than the application of a single coherent accountability mechanism.

The problem is not that public officials are generally immune from liability. Rather, the difficulty lies in determining whether the existing framework provides sufficiently clear, independent and effective procedures for investigating alleged abuse, preserving evidence, identifying individual responsibility and providing appropriate remedies. This distinction is important because a statutory authorization to exercise force does not necessarily amount to a blanket authorization to cause injury or death. The legality of the resulting conduct may depend upon whether the statutory and constitutional conditions governing the exercise of the power were satisfied.

Section 64 of the Terrorism Act illustrates this difficulty. Where an officer acts without first obtaining a warrant because of an alleged



emergency, the law provides an operational justification for urgent action and subsequently requires reporting to the Attorney-General. Yet questions remain concerning the independence and adequacy of post-operation scrutiny. Where the same institutional structures responsible for an operation are also involved in documenting its circumstances, the reliability and independence of the resulting account may become an important issue. Scientific and forensic evidence can be particularly relevant in such circumstances because independent medical examinations, autopsies, ballistic analysis, digital evidence, surveillance records and other objective forms of evidence may assist in testing competing accounts of an incident.

The aim of this study is to examine the adequacy of Nigeria's legal framework for holding state actors accountable for unlawful conduct arising from the exercise of counter-terrorism powers under the Terrorism (Prevention and Prohibition) Act 2022.

Specifically, the study seeks to:

- (i) examine the scope of counter-terrorism powers conferred on state actors under the Terrorism (Prevention and Prohibition) Act 2022;
- (ii) distinguish terrorism offences from unlawful conduct committed by public officials in the course of counter-terrorism operations;
- (iii) examine the relationship between the 2022 Act, the Constitution of the Federal Republic of Nigeria 1999 (as amended), the Anti-Torture Act 2017 and other relevant accountability mechanisms;
- (iv) assess the adequacy of existing mechanisms for investigating and determining responsibility for unlawful killing, excessive force, torture, arbitrary detention and related violations;
- (v) examine the role of scientific and technological evidence—including forensic, medical, ballistic and digital evidence—in establishing facts and responsibility arising from counter-terrorism operations; and

(vi) identify areas in which Nigeria's statutory and institutional framework could be clarified or strengthened to promote effective accountability while preserving legitimate counter-terrorism capabilities.

The study is significant because the effectiveness of counter-terrorism law depends not only on the capacity of the State to prevent terrorist violence but also on the legality, transparency and accountability of the powers used in doing so. A counter-terrorism system that provides extensive coercive powers without sufficiently clear mechanisms for investigating alleged abuse may create uncertainty concerning responsibility and remedies.

For legislators and policymakers, the study identifies areas in which the relationship between operational powers and accountability could be clarified. For courts and legal practitioners, it provides a doctrinal analysis of the interaction between the Terrorism Act, constitutional rights, anti-torture legislation and other legal remedies. For security and intelligence agencies, it highlights the importance of lawful operational procedures, evidence preservation and independent scrutiny. For victims and human-rights institutions, it clarifies the range of legal mechanisms potentially available where counter-terrorism powers result in alleged violations.

The study is also significant from a scientific and technological perspective. Modern counter-terrorism increasingly depends on information systems, digital evidence, surveillance technologies, forensic examination, biometrics and other scientific tools. These technologies can support both the investigation of terrorism and the investigation of alleged misconduct by state officials. Their evidentiary value, however, depends upon lawful acquisition, reliable preservation, authentication, chain of custody and independent interpretation. Integrating these considerations into the accountability framework can strengthen the capacity of courts and investigative institutions to



distinguish between legitimate counter-terrorism operations and unlawful conduct. The study therefore contributes to the literature by treating state-actor accountability not merely as a general human-rights issue but as an integral component of counter-terrorism governance. It also connects legal accountability with the scientific and technological processes through which evidence concerning counter-terrorism operations is generated, preserved and evaluated.

1.1 Conceptual Distinction Between Terrorism and State Misconduct

A central premise of this study is that terrorism and unlawful state conduct must not be conflated. The Terrorism (Prevention and Prohibition) Act 2022 establishes specific elements for terrorism offences. The fact that an official uses unlawful force does not, without more, establish that the official has committed an act of terrorism. Conversely, the fact that an official acts in the course of a counter-terrorism operation does not automatically immunize the conduct from constitutional, criminal, civil or statutory scrutiny.

This distinction is essential for analytical precision. The relevant question is not whether every violation committed by a security officer should be classified as terrorism, but whether the Nigerian legal system provides effective mechanisms for determining whether the officer's conduct was lawful, whether the statutory conditions for the exercise of force or other powers were satisfied, and what consequences should follow where those conditions were not met.

1.7 Scientific and Technological Dimensions of Counter-Terrorism Accountability

The scientific dimension of counter-terrorism accountability arises principally from the evidentiary processes used to reconstruct disputed events. Counter-terrorism investigations may involve digital devices, telecommunications records, surveillance systems, biometric information, geospatial

data, weapons, explosives, biological material, fingerprints, photographs and video recordings. Where allegations concern the conduct of security officials, these sources can provide independent or corroborative evidence concerning the circumstances of an arrest, detention, shooting, death, search or seizure.

Forensic science may also be relevant where a counter-terrorism operation results in death or serious injury. Medical examination and autopsy findings may assist in determining the nature, timing and possible mechanism of injury. Ballistic analysis may assist in establishing the relationship between recovered ammunition, firearms and injuries. Digital forensic examination may assist in establishing communication, location or event sequences. Audio-visual and surveillance evidence may assist in reconstructing events, provided that its authenticity and integrity can be established. These scientific methods do not replace legal judgment; rather, they provide evidentiary information upon which legal responsibility can be assessed.

The accountability framework should therefore address not only who is legally authorized to exercise counter-terrorism powers, but also how evidence concerning the exercise of those powers is independently generated, preserved, verified and presented. This is particularly important where official accounts of an operation are disputed by victims, witnesses or independent investigators.

The study adopts a doctrinal legal research methodology. It examines the Terrorism (Prevention and Prohibition) Act 2022, the Constitution of the Federal Republic of Nigeria 1999 (as amended), the Anti-Torture Act 2017, relevant judicial decisions, applicable regional human-rights jurisprudence and relevant legislative materials. It also engages recent scholarly literature on Nigerian counter-terrorism law, national security, human rights and legislative adequacy.



The analysis is principally concerned with the legal framework governing state-actor accountability rather than with estimating the prevalence of abuses during counter-terrorism operations. It does not make an empirical claim that every allegation of official misconduct is established or that counter-terrorism operations as a whole are unlawful. Rather, it examines the legal standards applicable when such allegations arise and considers whether the existing framework provides sufficiently clear routes to investigation, evidence preservation, determination of individual responsibility and effective remedy.

The study consequently focuses on the relationship between **counter-terrorism authority and accountability**. It asks whether the legal system gives state institutions sufficient authority to respond to terrorism while simultaneously ensuring that officials exercising those powers remain answerable to constitutional standards, statutory restrictions, judicial oversight and reliable evidentiary processes. The central argument is that the principal weakness of the existing framework is not the complete absence of accountability but its fragmentation: extensive operational powers are concentrated within the Terrorism Act, while accountability for misuse of those powers is distributed across several legal and institutional regimes. A clearer framework linking authorization, oversight, independent investigation, scientific evidence, individual responsibility and remedies would provide a more coherent basis for lawful and accountable counter-terrorism in Nigeria..

2.0 Materials and Methods

2.1 Doctrinal legal method

The study adopts a doctrinal legal research design to examine the relationship between counter-terrorism powers and state-actor accountability under Nigerian law. Doctrinal research is appropriate because the principal objective is to identify, interpret and critically evaluate the applicable legal rules, their interaction, and the remedies available where

public officials allegedly misuse counter-terrorism powers. The analysis is therefore based primarily on authoritative legal materials, including legislation, constitutional provisions, judicial decisions and relevant legislative materials, supplemented by scholarly literature on counter-terrorism, human rights and state accountability.

The principal primary source is the Terrorism (Prevention and Prohibition) Act 2022. The Act is examined according to its text, structure, purpose and relationship with other applicable legal regimes. Particular attention is given to section 2, which defines terrorism and related prohibited conduct; sections 3–5, which establish or assign institutional responsibilities; provisions dealing with investigation, search, arrest, detention and the use of force, particularly section 64; section 74, concerning the institution and conduct of criminal proceedings; and other provisions relevant to enforcement, accountability and remedies. The provisions are interpreted in their statutory context rather than treated as isolated rules because the legality of counter-terrorism action depends on the relationship between powers, conditions, safeguards and remedies.

The Constitution of the Federal Republic of Nigeria 1999 (as amended) provides the principal constitutional framework for assessing the exercise of state power. The study considers section 1 concerning constitutional supremacy and the provisions of Chapter IV on fundamental rights. Particular attention is given to section 33 on the right to life, section 34 on the dignity of the human person and the prohibition of torture and inhuman or degrading treatment, section 35 on personal liberty and safeguards applicable to arrest and detention, section 36 on fair hearing, and section 46 on judicial enforcement of fundamental rights. Where relevant, section 308 concerning the immunity of specified public officers is also considered in assessing the relationship between public office, investigation and accountability.



The Anti-Torture Act 2017 is examined as an important complementary statutory framework. This is necessary because conduct arising during counter-terrorism operations may constitute torture or cruel, inhuman or degrading treatment without necessarily satisfying the statutory definition of terrorism. The Act therefore provides an important basis for distinguishing terrorism offences from independent offences and rights violations committed by state officials. The study also examines reported judicial decisions for the specific legal propositions for which they provide authority. The cases are not treated as interchangeable statements concerning human rights. Rather, each decision is examined in relation to its facts, legal issue, holding and relevance to the present inquiry. *Fawehinmi v. Inspector-General of Police* is considered in relation to constitutional protection, official conduct and the investigation of alleged criminality. *Inspector-General of Police v. All Nigeria Peoples Party* is considered in relation to peaceful assembly and limits on executive control of civic activity. *Dokubo-Asari v. Federal Republic of Nigeria* is relevant to the manner in which national-security considerations may affect judicial assessment of bail and liberty. *Federal Republic of Nigeria v. Nnamdi Kanu* is considered in relation to the legal consequences of alleged unlawful state conduct in securing the presence of an accused person before the court. The ECOWAS Court decision in *Abdullahi v. Government of the Federal Republic of Nigeria* is examined for its treatment of state responsibility and alleged violations arising from conduct of state agents during a security operation.

Scholarly literature is used to contextualize and critically evaluate the primary legal materials. Recent studies by Jideobi (2025), Antai et al. (2025) and Tabiowo (2025) are particularly relevant because they address the relationship between counter-terrorism, human rights, legislative adequacy and state accountability in Nigeria. The study does not, however, treat scholarly assertions

concerning alleged abuses as established facts. Where authors make contested claims concerning state conduct or security operations, such claims are considered as scholarly interpretations and, where necessary, distinguished from findings established by primary legal or official sources.

2.2 Legislative and Documentary Materials

Legislative materials are used as supplementary interpretive sources. They are examined to identify the policy concerns, institutional considerations and regulatory problems that informed the development of the 2022 counter-terrorism framework. Particular attention is given to materials concerning terrorism financing, international counter-terrorism obligations, inter-agency cooperation, asset freezing and related enforcement mechanisms.

The study adopts a cautious approach to legislative history. Parliamentary and committee materials are not treated as substitutes for the enacted legislation. Their principal function is to provide contextual information concerning legislative objectives and the problems that lawmakers sought to address. Where a conflict exists between legislative materials and the enacted statutory text, the enacted text remains authoritative.

2.3 Case-Law Analysis

The judicial authorities are analyzed using a case-specific approach. For each relevant decision, attention is given to the factual context, legal issue, applicable legal provisions, judicial reasoning, holding and relevance to state-actor accountability. This approach is intended to avoid extending judicial statements beyond the factual and legal circumstances in which they were made. The case-law analysis also distinguishes between domestic constitutional accountability and regional human-rights accountability. Domestic proceedings may concern constitutional rights, criminal responsibility, civil liability or judicial review, while proceedings before regional institutions may engage the international



responsibility of the State. These mechanisms may overlap in subject matter but differ in jurisdiction, procedure, defendants and available remedies.

The study further recognizes that judicial decisions concerning national security may involve competing considerations. Courts may accord significant weight to legitimate national-security interests while simultaneously recognizing constitutional and human-rights constraints. Accordingly, the analysis does not assume that the protection of national security and the protection of human rights are inherently incompatible. Instead, it examines the legal standards through which the two interests are reconciled.

2.4 Scientific and Technological Evidence in the Accountability Framework

Although the study is principally doctrinal, its analysis incorporates a scientific and technological evidentiary dimension because contemporary counter-terrorism operations increasingly depend on scientific and digital technologies. The study therefore considers, at the level of legal relevance, how forensic and technological evidence may contribute to establishing responsibility when counter-terrorism operations produce disputed or harmful outcomes.

The analysis considers categories of evidence including medical and autopsy findings, ballistic evidence, digital records, surveillance footage, telecommunications data, biometric information, geospatial information, photographs, video recordings and other electronically stored information. These forms of evidence are not empirically tested in the present study. Rather, their relevance is examined from the perspective of legal accountability, particularly the requirements of lawful acquisition, preservation, authentication, reliability, chain of custody and independent evaluation.

This approach is important where the legality of state conduct depends upon disputed factual circumstances. For example, where an individual dies during a security operation, an

independent medical or forensic examination may assist in determining the cause and mechanism of death. Where firearms are involved, ballistic evidence may assist in reconstructing the circumstances of the shooting. Where an official account of an operation is disputed, digital communications, surveillance records or geospatial information may provide evidence capable of corroborating or challenging competing accounts.

The inclusion of this dimension does not transform the research into an empirical forensic study. Rather, it recognizes that scientific and technological evidence can form part of the evidentiary infrastructure through which legal accountability is established.

2.5 Selection and Analysis of Legal Materials

The materials were selected on the basis of their direct relevance to one or more of the following issues:

- (i) the definition and prosecution of terrorism;
- (ii) the statutory powers available to counter-terrorism and security agencies;
- (iii) arrest, search, detention and use of force;
- (iv) constitutional rights to life, dignity, liberty and fair hearing;
- (v) torture and other prohibited treatment;
- (vi) criminal, civil and constitutional responsibility of public officials;
- (vii) judicial review and fundamental-rights enforcement;
- (viii) state responsibility under regional human-rights law;
- (ix) preservation and evaluation of evidence relevant to alleged misconduct; and
- (x) institutional mechanisms for investigation, oversight and remedy.

The analysis proceeds by comparing the powers granted by the Terrorism Act with the legal standards governing their exercise. It



then examines the accountability mechanisms available when those standards are allegedly violated. Particular attention is given to whether the relevant mechanisms provide for independent investigation, identification of individual responsibility, preservation of evidence, judicial oversight and effective remedies.

2.6 Conceptualization of State-Actor Accountability

For purposes of this study, state-actor accountability refers to the legal and institutional processes through which public officials and public institutions exercising counter-terrorism powers may be required to justify their conduct, submit to investigation and oversight, bear legal responsibility where the applicable elements of liability are established, and provide or facilitate appropriate remedies for unlawful interference with protected rights.

Three related but analytically distinct forms of accountability are recognized.

First, individual criminal accountability concerns the personal liability of an officer or other public official for conduct satisfying the elements of an applicable criminal offence. Depending on the circumstances, the relevant offence may include terrorism, torture, homicide, assault or another offence. Official status does not automatically convert ordinary criminal conduct into terrorism, nor does it automatically immunize the official from criminal responsibility.

Second, constitutional and civil accountability concerns the legality of state conduct and the availability of remedies for violations of protected rights. A person may establish that state action violated the rights to life, dignity, liberty or fair hearing even where the evidence does not establish the criminal liability of a particular officer. Constitutional proceedings and civil claims therefore perform a different function from criminal prosecution.

Third, institutional and administrative accountability concerns the obligations of public agencies to supervise officers,

document the exercise of exceptional powers, investigate allegations of misconduct, preserve operational records and evidence, discipline officials where appropriate, comply with judicial orders and reform unlawful practices. Institutional accountability is important even where individual criminal conviction is not obtained.

These forms of accountability may operate simultaneously. For example, an alleged incident of torture may generate a criminal investigation against an individual officer, a constitutional claim by the victim, an administrative investigation within the relevant institution and, where applicable, proceedings before a regional human-rights body. The existence or outcome of one mechanism does not necessarily determine the outcome of another.

2.7 Analytical Framework

The study employs an accountability framework consisting of five interconnected questions:

Power: What counter-terrorism power has been conferred on the state actor?

Legal limitation: What statutory, constitutional or human-rights conditions regulate the exercise of that power?

Evidence: What mechanisms exist for documenting, preserving and independently evaluating evidence concerning the exercise of the power?

Responsibility: What legal mechanism determines whether an individual official or institution bears responsibility for unlawful conduct?

Remedy: What judicial, criminal, civil, administrative or regional remedy is available to the affected person?

This framework allows the study to move beyond the simple question of whether a statutory power exists. It examines whether the exercise of that power is accompanied by adequate safeguards capable of establishing accountability when abuse is alleged.

2.8 Limitations of the Method



The study is doctrinal and does not purport to measure empirically the frequency of unlawful conduct during Nigerian counter-terrorism operations. Nor does it determine, on the basis of legal materials alone, whether particular allegations of misconduct are factually true. Conclusions concerning specific incidents are therefore limited to findings established by the relevant judicial, official or other authoritative record.

A further limitation concerns the developing judicial interpretation of the Terrorism (Prevention and Prohibition) Act 2022. In particular, no reported appellate judgment specifically interpreting the scope of section 64(4) was identified in the legal materials reviewed for this study. This should be understood as a limitation of the materials located rather than proof that no unreported, unpublished or database-restricted decision exists. Before final publication, the case-law search should therefore be updated against available Nigerian law-reporting databases and relevant electronic legal repositories.

The methodological approach nevertheless permits a systematic assessment of the existing legal architecture by examining the relationship between statutory counter-terrorism powers, constitutional protections, accountability mechanisms and the evidentiary processes through which alleged violations may be established.

3.0 Results and Discussion

3.1 Statutory Architecture of the Terrorism (Prevention and Prohibition) Act 2022

The doctrinal analysis indicates that the Terrorism (Prevention and Prohibition) Act 2022 (TPPA 2022) is principally structured as an offence-control, prevention, investigation, prosecution and asset-control statute. Its statutory objectives encompass the detection, prevention, prohibition, prosecution and punishment of terrorism and terrorism financing, implementation of relevant international instruments, control of terrorist property and provision for victims. The Act consequently places substantial emphasis on defining prohibited conduct,

identifying responsible institutions and providing enforcement powers (Federal Republic of Nigeria, 2022). The Act was enacted on 12 May 2022 and replaced the earlier Terrorism (Prevention) Act framework.

The statutory architecture is understandable in the context of the operational characteristics of terrorism. Counter-terrorism investigations may require intelligence collection, rapid intervention, financial tracing, inter-agency cooperation, search and seizure, arrest and detention. The Act therefore assigns significant responsibilities to public institutions, including the Attorney-General of the Federation, the National Security Adviser and relevant law-enforcement, intelligence and security agencies. The definition of a "relevant agency" itself encompasses a broad range of security, intelligence, law-enforcement and military institutions (Federal Republic of Nigeria, 2022).

The accountability problem, however, does not arise simply because the State possesses extensive security powers. It arises from the relationship between power and independent review. A legal system may legitimately confer exceptional powers on security agencies while simultaneously requiring that the exercise of those powers remain reviewable. The important distinction is therefore between operational authority to respond to terrorism and legal authority to determine conclusively whether the resulting exercise of power was lawful.

The Act contains safeguards. Judicial warrants remain an important component of the investigative framework, while exceptional warrantless powers are connected to specified circumstances of urgency. Section 64 provides a particularly important example because it permits specified actions without a prior warrant where statutory conditions relating to urgency, threat to life or prevention of an offence are satisfied. Section 64(4) also makes the statutory protection of an authorised officer conditional upon the use of



necessary, proportionate and reasonable force for a purpose authorised by the Act. Section 64(5) requires reporting following the exercise of the exceptional power (Federal Republic of Nigeria, 2022).

The existence of these safeguards means that it would be inaccurate to characterize the TPPA 2022 as a statute containing no protection against official abuse. The more precise finding is that the Act provides safeguards around the exercise of counter-terrorism powers without establishing a comprehensive, independent accountability mechanism specifically for grave misconduct by officials exercising those powers.

This distinction is consistent with recent scholarship. Antai et al. (2025) identify concerns relating to judicial oversight, arbitrary detention and accountability mechanisms within Nigeria's counter-terrorism framework, while Jideobi (2025) argues that the effectiveness of counter-terrorism measures must be assessed alongside the State's obligation to hold both non-state and state actors accountable for human-rights violations. Tabiowo (2025), from a broader legislative perspective, similarly identifies weaknesses associated with legislative adequacy and implementation in Nigeria's evolving national-security environment.

The present study develops this literature further by examining the problem specifically as one of legal asymmetry: the TPPA 2022 specifies the powers necessary to confront terrorism in considerable detail, whereas responsibility for serious misuse of those powers is distributed among constitutional law, criminal law, the Anti-Torture Act, civil remedies, judicial review and regional human-rights mechanisms.

Table 1 demonstrates that the TPPA 2022 should not be characterized as devoid of safeguards. Rather, its safeguards primarily regulate the exercise of counter-terrorism powers, while procedures for determining responsibility after alleged abuse largely lie outside the Act.

3.2 State Actors and Liability under the Terrorism Act

A central issue is whether a state official can, as a matter of law, commit an offence under the TPPA 2022. Section 2 applies to a "person or body corporate" who knowingly engages in conduct falling within the statutory definition of terrorism or terrorism financing. The wording does not establish a general exemption for public officials (Federal Republic of Nigeria, 2022).

Nevertheless, it does not follow that every unlawful act committed by a security officer constitutes terrorism. Criminal liability depends upon satisfaction of the statutory elements of the particular offence. The legal characterization of conduct must therefore be separated from the seriousness of the conduct.

An officer who unlawfully assaults a detainee, for example, may have committed assault or another offence. If the conduct involves torture, the Anti-Torture Act 2017 may provide the more directly applicable criminal framework. If the conduct involves unlawful deprivation of life, the relevant constitutional and criminal-law provisions become central. The conduct should not automatically be classified as terrorism merely because it occurred during a counter-terrorism operation.

This distinction is reinforced by the constitutional principle of legality. Section 36(12) of the Constitution provides that a person cannot be convicted of a criminal offence unless the offence and its penalty are prescribed in written law. Consequently, a court must establish the elements of the terrorism offence rather than substitute a broad political or moral conception of "state terrorism" for the statutory definition.

The result is therefore a two-part conclusion. Table 1 demonstrates that the TPPA 2022 should not be characterized as devoid of safeguards. Rather, its safeguards primarily regulate the exercise of counter-terrorism powers, while procedures for determining



responsibility after alleged abuse largely lie outside the Act.

The applicable offence must be established according to its own legal elements.

This distinction is important to the accountability debate because it prevents the TPPA 2022 from being used as the sole legal framework for all forms of state misconduct. The more appropriate approach is a network of complementary legal regimes.

3.3 Concentration of Investigation and Prosecution

The TPPA 2022 places important investigative and prosecutorial responsibilities within the existing federal

security and justice structure. Section 74 assigns responsibility to the Attorney-General of the Federation for instituting and undertaking criminal proceedings in respect of offences under the Act and other counter-terrorism laws (Federal Republic of Nigeria, 2022).

This provision operates alongside section 174 of the Constitution, which gives the Attorney-General of the Federation powers to institute, take over and discontinue criminal proceedings for federal offences, subject to the constitutional considerations specified in that section (Federal Republic of Nigeria, 1999).

Table 1. Statutory Powers and Accountability Safeguards under the TPPA 2022

Counter-terrorism function	Principal statutory mechanism	Accountability safeguard	Identified limitation
Definition and prohibition of terrorism	Section 2	Statutory elements must be proved before criminal liability arises	Does not establish a dedicated regime for unlawful official conduct
Institutional coordination	Sections 3–5 and related provisions	Allocation of responsibilities among public institutions	Significant responsibilities remain concentrated within executive institutions
Search, seizure and arrest	Investigative and enforcement provisions, including section 64	Warrant requirements and judicial involvement, subject to statutory exceptions	Exceptional circumstances permit action without prior warrant
Use of force	Section 64(4)	Necessity, proportionality and reasonableness requirements	The Act does not establish an independent investigation automatically triggered by death or serious injury
Post-operation reporting	Section 64(5)	Report to the Attorney-General following specified urgent action	Reporting to a governmental authority is not necessarily equivalent to independent investigation
Prosecution	Section 74	Federal prosecutorial authority and judicial process	No dedicated prosecutorial mechanism is created for allegations against counter-terrorism officials



Detention	Relevant detention provisions	Judicial orders and constitutional safeguards	Extended security detention raises continuing questions concerning liberty and judicial oversight
Enforcement of judgments	Section 94	Judicial judgment remains available	Execution against a relevant agency is subject to statutory notice requirements

Source: Author's synthesis from the Terrorism (Prevention and Prohibition) Act 2022 and the Constitution of the Federal Republic of Nigeria 1999 (as amended)

The concentration of prosecutorial authority is not, by itself, evidence of unlawful institutional design. Specialized prosecution may be necessary for technically complex terrorism cases. The accountability concern emerges where the alleged wrongdoing is committed by officials operating within the broader security structure responsible for counter-terrorism.

The doctrinal question is therefore whether an adequate degree of institutional separation exists between the authority exercising counter-terrorism powers and the authority determining whether grave misuse of those powers should be investigated or prosecuted. The present analysis does not establish empirically that prosecutors or security agencies will fail to investigate allegations against their personnel. Such a conclusion would require empirical evidence. The narrower legal finding is that the TPPA 2022 does not establish a separate investigative or prosecutorial pathway specifically triggered when counter-terrorism personnel are accused of serious misconduct.

This finding is consistent with the broader concern identified by Antai et al. (2025) concerning the need for stronger judicial oversight and accountability mechanisms, although the present study focuses more narrowly on the statutory architecture of state-actor responsibility.

3.4 Section 64(4): Conditional Protection Rather Than Blanket Immunity

Section 64 is central to the accountability analysis because it regulates exceptional action undertaken without first obtaining a

warrant. The provision recognizes specified urgent circumstances in which immediate action may be necessary and provides statutory authority for entry, search, seizure, arrest and detention subject to its conditions (Federal Republic of Nigeria, 2022).

Section 64(4) should not be interpreted as providing blanket immunity to officers. Its protection is conditional upon compliance with statutory requirements concerning necessity, proportionality, reasonableness and the purpose for which the force is employed.

Three consequences follow.

First, necessity must be demonstrated in context. The mere existence of a terrorism investigation does not establish that every use of force was necessary.

Second, proportionality remains relevant. The intensity of force must be assessed in relation to the threat and circumstances confronting the officer.

Third, reasonableness is an evidential question. Where the legality of force is disputed, the circumstances surrounding the operation become material. These may include the nature of the perceived threat, available alternatives, warnings, weapons employed, injuries sustained, medical findings, operational records, communications and other contemporaneous evidence.

The evidentiary dimension is particularly significant. A statutory protection based on necessity and proportionality cannot operate effectively if the factual circumstances necessary to evaluate those conditions are not independently documented and preserved.



Section 64(5) is consequently significant because it creates a reporting requirement. Yet a report serves primarily as a recording mechanism. Recording an operation and independently investigating possible wrongdoing are conceptually different functions.

The statutory issue may therefore be represented as:

Exceptional power → statutory conditions → operational evidence → independent assessment → legal responsibility.

The TPPA 2022 expressly addresses the first two stages and provides a reporting requirement for the third, but it does not create an equally detailed independent mechanism covering all subsequent stages.

3.5 Constitutional Limits on Counter-Terrorism Force and Detention

The Constitution provides the overarching legal framework within which the TPPA 2022 must operate. Section 1 establishes constitutional supremacy, meaning that legislation inconsistent with the Constitution is void to the extent of the inconsistency (Federal Republic of Nigeria, 1999).

Section 33 protects the right to life while recognizing specified circumstances in which death resulting from reasonably necessary force may fall outside the constitutional prohibition. This creates an important relationship with section 64(4) of the TPPA 2022. Both provisions employ concepts of necessity and reasonable force, although they operate within different statutory and constitutional contexts.

The existence of a counter-terrorism operation therefore does not itself establish that lethal force was lawful. The relevant legal conditions must still be assessed.

Section 34 provides a stronger prohibition against torture and inhuman or degrading treatment. Unlike certain restrictions on liberty, torture is not rendered permissible simply because the underlying investigation concerns terrorism. This constitutional protection is reinforced by the Anti-Torture Act 2017, which expressly regulates torture

involving public officials and persons acting in official capacities (Federal Republic of Nigeria, 2017).

Section 35 protects personal liberty, while section 36 establishes fair-hearing guarantees. Section 46 provides a mechanism through which persons alleging violations of Chapter IV rights may approach the High Court for appropriate relief (Federal Republic of Nigeria, 1999).

These provisions mean that accountability for counter-terrorism operations does not depend exclusively on the TPPA 2022. Constitutional remedies remain available where the exercise of statutory power allegedly infringes protected rights.

This is simultaneously a strength and a structural weakness. It is a strength because the Constitution provides a superior legal framework against which executive action can be tested. It is a weakness in institutional terms because a victim may need to navigate several separate legal regimes to obtain a complete remedy.

3.6 Torture and the Accountability Function of the Anti-Torture Act 2017

The Anti-Torture Act 2017 provides one of the clearest examples of Nigerian legislation specifically addressing serious misconduct associated with public authority.

Section 2 defines torture in terms of intentional infliction of physical or mental pain or suffering for specified purposes where the conduct occurs by or with the involvement, consent or acquiescence of a public official or person acting in an official capacity. Section 3 expressly rejects exceptional circumstances as a justification for torture. The Act also prohibits secret detention arrangements in which torture may be conducted (Federal Republic of Nigeria, 2017).

The accountability provisions are significant. Section 5 gives a person who alleges torture a right to complain and have the complaint promptly and impartially examined by a competent authority. Section 7 provides a right to independent physical and



psychological examination, and requires medical documentation to be attached to the custodial investigation report. Section 8 addresses liability of direct perpetrators, superior officers who order torture and commanding officers whose acts, omissions or negligence contribute to torture. Section 9 establishes penalties, while section 10 assigns implementation oversight to a designated office or unit (Federal Republic of Nigeria, 2017).

These provisions are particularly important to the present study because they demonstrate that Nigerian law already recognizes the importance of independent medical and evidentiary documentation in establishing accountability. Scientific evidence is therefore not peripheral to the legal framework.

Medical examination, injury documentation, psychological assessment, photographic records and related forensic material may assist in determining whether allegations of torture are consistent with the physical and psychological evidence. The Act's requirement that medical findings be attached to custodial investigation records illustrates how scientific evidence can become an integral component of legal accountability.

The Anti-Torture Act consequently provides an important corrective to the assertion that Nigerian law contains no framework for state-actor accountability. More accurately, the accountability framework is distributed across several statutes rather than consolidated within the TPPA 2022.

3.7 Scientific Evidence and Counter-Terrorism Accountability

The doctrinal analysis further reveals an important connection between terrorism law and scientific or technological evidence. Modern counter-terrorism investigations may depend on forensic medicine, ballistics, digital forensics, telecommunications records, biometric information, geospatial evidence, surveillance recordings and other forms of technologically generated evidence. This connection operates in both directions.

First, scientific and technological evidence may assist the State in establishing terrorism-related offences. Digital records, financial transaction data, communications evidence, forensic examination and other technical materials may contribute to identifying suspects, reconstructing events and establishing links among individuals or organizations.

Second, and equally important for this study, scientific evidence may assist in holding state actors accountable. Where an official operation results in death or serious injury, independent medical examination may assist in determining cause and mechanism of death; ballistic examination may assist in reconstructing the use of firearms; digital records may establish the sequence and location of events; and video or geospatial evidence may assist in testing competing accounts.

The scientific evidence does not itself determine criminal or constitutional responsibility. Rather, it contributes to the evidentiary foundation upon which legal responsibility can be assessed.

This produces an important methodological connection between terrorism studies and the natural and technological sciences:

Counter-terrorism operation → incident or alleged abuse → scientific/technical evidence → factual reconstruction → legal assessment → accountability/remedy.

The relevance of science is therefore not that terrorism is itself a "scientific" offence. Rather, scientific and technological methods can provide evidentiary tools for detecting, investigating, reconstructing and independently evaluating terrorism-related events and alleged abuses of counter-terrorism authority.

Fig. 1 makes explicit the scientific connection that is sometimes overlooked in doctrinal discussions of terrorism. Scientific evidence is not being presented as a separate experimental component of the present research; it is identified as an evidentiary bridge between disputed operational events and legal accountability.



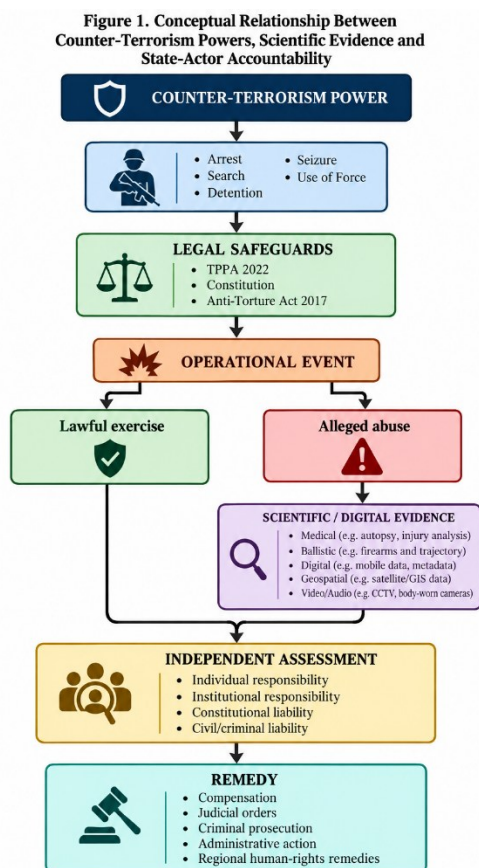


Fig. 1. Conceptual Relationship Between Counter-Terrorism Powers, Scientific Evidence and State-Actor Accountability

Source: Author's conceptualization based on the TPPA 2022, the Constitution of the Federal Republic of Nigeria 1999 (as amended), the Anti-Torture Act 2017 and the judicial authorities reviewed.

3.8 Executive Power, Judicial Control and the Rule of Law

The principle that government is subject to law remains central to the accountability analysis. In *Military Governor of Lagos State v. Ojukwu*, the Supreme Court emphasized the rule-of-law requirement that executive authorities cannot rely on self-help where legal processes govern the dispute.

The case did not concern terrorism and should not be treated as an interpretation of the TPPA 2022. Its relevance is constitutional and institutional. The existence of emergency

or security powers does not place executive action outside judicial review.

At the same time, *Ojukwu* should not be read as prohibiting lawful emergency action. Section 64 of the TPPA 2022 expressly recognizes circumstances in which delay in obtaining a warrant could prejudice the prevention of an offence or protection of life. The legal question is therefore not whether security officials may ever act urgently, but whether the statutory conditions governing urgent action were satisfied.

Where necessity, proportionality or reasonableness is a condition of lawful action, an agency's operational characterization of an event cannot necessarily be the final legal determination. The judiciary retains the function of determining whether the statutory conditions have been met.

3.9 Constitutional Immunity and Investigation: *Fawehinmi v. Inspector-General of Police*

State-actor accountability becomes more complex where the alleged official is a serving officeholder protected by section 308 of the Constitution.

Section 308 provides specified procedural immunities to the President, Vice-President, Governor and Deputy Governor during their tenure. However, *Fawehinmi v. Inspector-General of Police* demonstrates that this protection does not amount to a general prohibition on investigation.

The Supreme Court considered allegations concerning a serving Governor and rejected the proposition that section 308 prevented the police from investigating criminal allegations against the Governor. The decision is therefore significant because it distinguishes investigation from the coercive processes and proceedings protected by the constitutional immunity (*Fawehinmi v. Inspector-General of Police*, 2002).

The implication for counter-terrorism accountability is important. Where a serving protected officeholder is alleged to have authorized or participated in unlawful



conduct, the existence of section 308 does not necessarily require investigative inactivity. Evidence can still be collected and preserved, subject to the limits imposed by the Constitution.

This distinction also has evidentiary importance. Investigations delayed until the expiry of an officeholder's tenure may face difficulties arising from lost records, unavailable witnesses or deterioration of physical and digital evidence. The approach in *Fawehinmi* therefore permits the preservation of the investigative function without eliminating the constitutional immunity expressly granted by section 308.

3.10 Political Protest, Dissent and the Boundary of Terrorism

Counter-terrorism legislation must also be distinguished from general regulation of political dissent. Section 2 of the TPPA 2022 contains limitations intended to prevent certain forms of protest, demonstration or stoppage from being treated as terrorism merely because they disrupt services, where the statutory harmful consequences are not intended (Federal Republic of Nigeria, 2022). This statutory distinction operates alongside sections 39 and 40 of the Constitution, which protect freedom of expression and peaceful assembly and association, subject to constitutionally permitted limitations (Federal Republic of Nigeria, 1999).

Inspector-General of Police v. All Nigeria Peoples Party is relevant in this context because the Court of Appeal considered the constitutional status of public rallies and the extent to which executive control could restrict peaceful assembly. The case predates the 2022 Act and should not be presented as an interpretation of the TPPA 2022. Its importance is instead constitutional: security and public-order considerations must operate within the limits established by law.

The distinction between terrorism and peaceful political dissent is therefore important to state-actor accountability. Misclassification of lawful political activity as terrorism could itself constitute an abuse of

counter-terrorism authority. Conversely, the constitutional protection of expression and assembly does not immunize conduct that independently satisfies the elements of a criminal offence.

3.11 National Security and Judicial Assessment: *Dokubo-Asari v. Federal Republic of Nigeria*

Dokubo-Asari v. Federal Republic of Nigeria demonstrates the weight that Nigerian courts may attach to national-security considerations when determining questions such as bail. The Supreme Court considered the nature and seriousness of the allegations, the evidence supporting the charge, potential punishment, risk of interference with witnesses and other relevant considerations in assessing whether bail should be granted.

The case should nevertheless be used narrowly. It does not establish that the invocation of "national security" automatically suspends constitutional rights. Rather, it demonstrates that national-security considerations can form part of a judicial assessment where the applicable legal framework permits such considerations.

For state-actor accountability, the distinction is significant. Courts may recognize genuine operational risks while still requiring government to establish the factual and legal basis for the particular restriction or action. National security is therefore a legally relevant consideration, but it should not become a substitute for proving the statutory conditions governing the exercise of power.

3.12 Federal Republic of Nigeria v. Nnamdi Kanu: State Illegality and the Substantive Prosecution

The Supreme Court's decision in *Federal Republic of Nigeria v. Nnamdi Kanu* further demonstrates the distinction between alleged illegality by state authorities and the prosecution of substantive criminal charges.

The case concerned, among other matters, the circumstances in which Kanu was brought before the Nigerian courts. The Supreme Court held that the manner in which an



accused person was brought before the court did not deprive the trial court of jurisdiction to try offences established under valid Nigerian law.

The significance for the present study is not that unlawful state conduct becomes legally irrelevant. Rather, the decision demonstrates that the legality of official conduct and the jurisdiction to determine substantive criminal charges can constitute separate legal questions.

This distinction has direct implications for accountability. If counter-terrorism officials violate a suspect's rights, the legal system may not necessarily terminate a substantively valid prosecution. It follows that an accountability framework should provide an independent route for examining and remedying alleged official wrongdoing rather than assuming that such wrongdoing will always be resolved through the criminal prosecution itself.

3.13 *The Apo Killings and Institutional State Responsibility*

The ECOWAS Court's decision in *Abdullahi and Others v. Government of the Federal Republic of Nigeria and Others* provides a particularly relevant example of institutional responsibility arising from a Nigerian security operation.

The case concerned the September 2013 Apo killings and injuries attributed to Nigerian security agents. The applicants relied, among other evidence, on medical reports, death certificates and the report of a Joint Senate Committee investigating the incident. The ECOWAS Court found the Federal Government responsible for the illegal killings and injuries and awarded compensation to the affected families and injured applicants.

The case is significant for two reasons.

First, the counter-terrorism or national-security characterization of an operation did not make the conduct immune from adjudication.

Second, state responsibility did not depend upon establishing that the individual security

officers had themselves committed the statutory offence of terrorism. The legal question concerned the State's responsibility for unlawful conduct attributed to its agents.

The case therefore supports the central distinction of this study: state-actor accountability need not be achieved by reclassifying official misconduct as terrorism. Constitutional, civil, human-rights and regional mechanisms may provide more appropriate routes.

The case also illustrates the evidentiary importance of scientific materials. Medical reports and death certificates formed part of the documentary record relied upon by the applicants. This provides concrete support for the argument that scientific and medical evidence can serve as a bridge between disputed security operations and legal accountability.

3.14 *Comparative Accountability Matrix*

The foregoing authorities demonstrate that different forms of alleged misconduct activate different legal mechanisms. This is summarized in Table 2.

Table 2 demonstrates that Nigeria possesses multiple accountability routes. The principal problem is therefore not the total absence of law but the dispersion of responsibility across multiple legal regimes.

3.15 *Legislative Priorities and the Accountability Question*

The legislative history of the 2022 framework also assists in explaining this structural asymmetry. The development of the legislation was substantially concerned with strengthening Nigeria's capacity to address terrorism financing, international obligations, financial sanctions, inter-agency cooperation and terrorist assets.

These objectives correspond with the broader need to adapt national legislation to evolving security threats. Tabiowo (2025) argues that weaknesses in legislative frameworks can affect national-security capacity, particularly where security threats evolve faster than legal and institutional responses.



The present analysis does not suggest that the legislative focus on security and terrorism financing was misplaced. Rather, it identifies a different consequence: the accountability of state officials did not become an equally explicit organizing principle within the TPPA 2022.

Recent literature reinforces this distinction. Antai et al. (2025) emphasize the tension between counter-terrorism objectives and human-rights safeguards, while Jideobi (2025) places particular emphasis on the dual responsibility of States to combat terrorism and hold state actors accountable for human-rights violations.

The present study therefore extends the existing literature by identifying the problem not simply as a conflict between national security and human rights, but as a structural mismatch between the statutory elaboration of counter-terrorism powers and the statutory elaboration of independent accountability mechanisms.

3.16 Enforcement of Remedies and Section 94

Accountability is incomplete if it ends with a judicial declaration without an effective

remedy. Section 94 of the TPPA 2022 provides that where an action or suit is brought against a relevant agency, execution or attachment against the agency is subject to a statutory notice period (Federal Republic of Nigeria, 2022).

The provision should not be interpreted as extinguishing a successful judgment. Rather, it regulates the process by which enforcement may occur. Nevertheless, it demonstrates that institutional accountability has at least two stages: **establishing liability and securing the practical benefit of the remedy**.

This distinction is particularly important in human-rights litigation. A claimant may establish unlawful conduct, but effective accountability ultimately requires compliance with judicial orders, payment of compensation where awarded and implementation of remedial directions.

3.17 Synthesis: The Accountability Gap as Fragmentation and Asymmetry

The findings can now be stated more precisely.

Nigeria does not lack legal rules governing misconduct by state officials. The Constitution protects life, dignity, liberty and fair hearing.

Table 2. Legal Classification of Counter-Terrorism Misconduct and Available Accountability Mechanisms

Alleged conduct	Primary legal framework	Principal issues	evidentiary	Potential accountability route
Lawful necessary and proportionate force	TPPA 2022, s. 64(4);	Threat assessment, operational circumstances, proportionality		Statutory protection where conditions are satisfied
Excessive or unjustified force	Constitution, s. 33; Criminal/civil law; TPPA 2022	Medical, ballistic, video, witness and operational evidence		Criminal, civil and constitutional proceedings
Torture or cruel treatment	Constitution, s. 34; Anti-Torture Act 2017	Independent medical/psychological examination, custodial records		Criminal liability, complaint, compensation and constitutional remedies
Arbitrary detention	Constitution, ss. 35 and 46; TPPA 2022	Arrest records, detention orders, access to counsel and judicial records		Fundamental-rights proceedings and other legal remedies



Misuse of counter-terrorism powers against peaceful protest	TPPA 2022, s. 2; Constitution, ss. 39–40	Nature of conduct, intent, communications and evidence of violence	Constitutional and judicial review
Alleged criminal conduct by protected officeholder	Constitution, s. 308; <i>Fawehinmi</i>	Documentary, forensic and testimonial evidence	Investigation may continue subject to constitutional limits
State illegality in bringing accused before court	Constitutional and criminal procedure law; <i>FRN v. Kanu</i>	Rendition records, travel/immigration records and official communications	Separate remedies may coexist with substantive prosecution
Death or injury during security operation	Constitution; human-rights law; <i>Abdullahi</i>	Medical, ballistic, photographic and documentary evidence	Individual and/or institutional responsibility and compensation
Judgment against relevant agency	TPPA 2022, s. 94	Judgment, notice and execution records	Judicial enforcement subject to statutory procedural requirements

Source: Author's synthesis of the legislation and judicial authorities reviewed.

The Anti-Torture Act specifically criminalizes torture and provides complaint, examination and accountability mechanisms. Fundamental-rights litigation provides judicial remedies. *Fawehinmi* demonstrates that constitutional immunity does not necessarily prevent investigation. *Abdullahi* demonstrates that state responsibility may arise from unlawful conduct by security agents. *Federal Republic of Nigeria v. Kanu* demonstrates that alleged state illegality and

substantive criminal jurisdiction may require separate legal treatment.

The TPPA 2022 nevertheless remains predominantly oriented toward preventing and punishing terrorism and empowering institutions to investigate and prosecute terrorist offences. Its provisions governing the accountability of officials who exercise those powers are comparatively less developed.

The resulting problem is best described as fragmentation and asymmetry rather than a legal vacuum.

Table 3. Summary of the Identified Accountability Asymmetry

Dimension	Terrorism-control framework	State-actor framework	accountability
Primary objective	Prevention, investigation and punishment of terrorism	Determination and remedy of unlawful official conduct	
Statutory detail	Extensive	Distributed across several laws	
Investigative authority	Clearly assigned to security/law-enforcement institutions	No single dedicated counter-terrorism accountability investigator	
Use of force	Section 64 provides conditions	Assessment requires constitutional, criminal and evidentiary analysis	



Torture	Not principally regulated by TPPA 2022	Specifically addressed by Anti-Torture Act 2017
Detention	Detailed counter-terrorism procedures	Constitutional liberty and judicial-review safeguards
Scientific evidence	Relevant to investigation and prosecution	Particularly important for independent reconstruction of alleged abuse
Prosecution	Central federal prosecutorial structure	No separate TPPA mechanism specifically for official misconduct
Institutional responsibility	Strongly developed for counter-terrorism functions	Distributed among constitutional, civil, criminal and human-rights mechanisms
Remedy	Victim-related provisions and judicial processes	Constitutional, civil, criminal, administrative and regional remedies
Overall structural issue	Strong elaboration of operational power	Less integrated mechanism for independent accountability

Source: Author's synthesis.

The principal result of the study is therefore that the TPPA 2022 creates a conditional system of operational legality but not a fully integrated system of post-operation accountability. Its safeguards—warrants, necessity, proportionality, reasonableness, reporting and judicial involvement—provide important legal controls. However, serious allegations of unlawful killing, torture, excessive force or arbitrary detention may require recourse to legal regimes outside the Act.

The accountability architecture can consequently be understood as a chain:

Counter-terrorism power → constitutional and statutory limitation → documentation and scientific evidence → independent investigation → determination of responsibility → judicial/administrative remedy.

The principal weakness identified by this study is that the TPPA 2022 is strongest at the first two stages and comparatively fragmented at the final four. This does not mean that Nigerian law lacks mechanisms for redress. Rather, the effectiveness of accountability may depend upon whether victims and investigators can successfully move across several legal regimes and obtain sufficiently independent evidence of what occurred.

The findings therefore support a reform-oriented conclusion: future development of Nigerian counter-terrorism law should

consider a more explicit statutory link between exceptional counter-terrorism powers and independent investigation, preservation of operational and scientific evidence, individual responsibility, supervisory accountability and effective remedies. Such a framework would not weaken legitimate counter-terrorism powers; instead, it would clarify the legal conditions under which those powers may be exercised and the procedures applicable when their exercise is disputed.

4.0 Conclusion

The Terrorism (Prevention and Prohibition) Act 2022 provides Nigeria with an extensive legal framework for preventing, investigating and prosecuting terrorism and terrorism financing. Its broad powers are justified by the need to respond effectively to serious threats to life, public safety and national security. Nevertheless, effective counter-terrorism must operate within a framework in which public power is accompanied by clear public responsibility. The analysis demonstrates that the Act does not confer blanket immunity on state officials. Section 64(4) makes any protection conditional upon necessity, proportionality, reasonableness and conformity with the Act, while the Constitution, the Anti-Torture Act 2017 and other applicable laws continue to regulate official conduct. The principal weakness is therefore not the complete absence of accountability, but its fragmentation across



different legal regimes, institutions and procedures. This fragmentation may complicate the investigation and remediation of unlawful killing, torture, excessive force, arbitrary detention and other abuses committed during counter-terrorism operations.

The first reform should be an express accountability provision in the Terrorism (Prevention and Prohibition) Act stating unequivocally that powers exercised under the Act do not exempt public officials from the Constitution, the Anti-Torture Act, applicable criminal law or liability for conduct exceeding statutory authority. Section 64(4) should also be clarified to expressly exclude torture, intentional extrajudicial killing and force inconsistent with section 33 of the Constitution. Death or serious bodily injury resulting from exceptional powers should automatically trigger an investigation independent of the operational unit involved. Section 64(5) should require prompt notification, preservation of operational records, audiovisual evidence, medical documentation and identification of participating officers where serious injury, death, disappearance or torture is alleged. Prosecutorial procedures should incorporate documented safeguards against institutional conflicts of interest while preserving the Attorney-General's constitutional powers. Detention provisions should remain subject to meaningful judicial review, access to legal representation and the constitutional protections of sections 35 and 36. The enforcement of judgments involving fundamental-rights violations should also be strengthened, including appropriate review of section 94 where execution delays undermine effective remedies. Finally, regular legislative oversight should require aggregate reporting on warrantless operations, deaths, serious injuries, complaints, investigations and disciplinary outcomes, while protecting genuinely sensitive intelligence. These reforms would strengthen the legitimacy of Nigeria's counter-terrorism framework by

ensuring that extraordinary security powers remain firmly connected to evidence, independent scrutiny, constitutional legality and effective remedies.

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Ethical Approval

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