

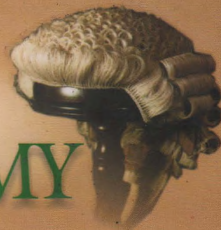


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2016 CONFERENCE PROCEEDINGS



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LAW TEACHERS HELD AT NASARAWA STATE UNIVERSITY, KEFFI**

Editor-in-Chief

Dr. Abdulkarim A. Kana

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Theme: Law and Economy

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Modes of Corporate Liability for Money Laundering and Financing of Terrorism

By

Dr. Kunle Aina, Dr. B. R. Akinbola, Dr. A J. Osuntogun, Dr. M. A. Araromi,
Dr. P. K. Oniemola, Dr. M. Adigun & Miss D. Adeyemo*

Abstract

In this study, corporate liability in respect of money laundering and the financing of terrorism will be examined. The paper discusses the concept of corporate liability. The third part discusses terrorism which is further divided into five segments. The first segment traces the history of terrorism. The second segment discusses issues in defining terrorism. The third segment discusses the definition of terrorism in Nigeria while the fourth segment catalogues some terrorist activities in Nigeria. The fifth segment discusses cyber terrorism as a distinct form of terrorism. The fourth part of the study discusses money laundering together with the financing of terrorism. The paper advocates a shift of focus from theoretical debate to practical issue of utility and concludes that corporate governance must make meaningful impacts on the life of all the stakeholders.

1. Introduction

Terrorism is a menace of international concern. It is experienced in all parts of the world in one form or the other. Nigeria as a member of the international community has had its own share of the menace through the Boko Haram insurgency. As terrorism is an issue of international concern, so also is the way it is financed¹. Thus, understanding terrorism is as important as the way it is financed. Meanwhile, money laundering involves moving money across borders and also raises fear of an international dimension as these monies may be deployed in the financing of terrorism.² In moving money across borders corporate entities like banks are often involved.³ Thus, there appears to be a relationship between terrorism, its financing; money laundering and corporate entities.

2. The Concept of Corporate Liability

The most important fundamental principle⁴ of common law that has withstood the test of time in the development of company law all over the world is the principle of a separate legal personality

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¹ See Preamble to the United Nations International Convention for Suppression of the Financing of Terrorism 9 December 1999.

² See J Trehan, *Crime and Money Laundering: The Indian perspective* (Kluwer Law International 2004) 116-117; see also the Financial Action Task Force on Money Laundering Secretariat of the Organisation for Economic Co-operation and Development FATF Cracks Down on Terrorist Financing and FATF Special Recommendation on Terrorist Financing (2001), in H Rodgin Cohen, Richard A Small and Ellen Zimilies *New Responsibilities and Obligations Under the Money Laundering Abatement and Financial Anti-Terrorism Act of 2001* (2002) 779-804

³ See D Chaikin and J C Sharman, *Corruption and Money Laundering: A Symbiotic Relationship*, (New York Palgrave Macmillan 2009) 60; J Trehan, *Crime and Money Laundering: The Indian perspective* (Kluwer Law International 2004) 92.

⁴ See James Nicholas, 'Separate Legal Personality: Legal Reality and Metaphor' [1993] 5 (2) *Bond Law Review* 217 at 218.

of a company.⁵ In 1897, when the House of Lords affirmed this principle,⁶ as a common law principle, it was limited in its application to the United Kingdom and its colonies. Today, however, the principle has become the pivot upon which other principles of company law find their base. Indeed, it has become a universal principle that has been enacted in to company law of most countries of the world.⁷ Nigeria is not an exception.⁸

In *Marina Nominees Ltd v. FBIR*,⁹ the Supreme Court held that a subsidiary company was a separate company different from its parent company, notwithstanding the evidence to the contrary, that the company had no separate office and staff as it relied on the staff and office of its parent company to perform its agency function. of course, it is crucial to appreciate the fact that as important as this corporate personality attribute is, the effect of its contribution to the development of company law has become a subject of fierce intellectual discourse. Two aspects of this debate are important. The first is on the nature of corporate personality itself. The second is the effects of the corporate personality on the social- economic life of the state. With regard to the first, scholars are not of the same view on the nature of corporate personality attribute of a company.¹⁰ Some are of the view that the theory of corporate personality is fictitious and not real.¹¹ Others are of the view that it is just a conception of the state and not more.¹² While others are of the view that it is a mere legislative device¹³. Indeed, the whole theoretical discourse is full of controversy without a meeting point of reconciliation. To a certain extent, the question of jurisprudential theory behind a legal person is a laudable subject of enquiry. Thus, it may not be necessary to dismiss the controversy as unwarranted as Dewey did.¹⁴ However, since research usually aims to solve a particular problem. It is suggested that further research on this issue should be concentrated on the effect of the concept of corporate entity on the social- economic life of the people.

⁵ Separate legal personality of company is a principle which conceives a company as a separate entity implying that a company is existing separately from the aggregation of the shareholders who owned and controlled it. See David Million, 'Theories of corporations' (1990) 20 (1) *Duke Law Journal* 201 at 206.

⁶ This was done in the popular case of *Salomon v. Salomon & Co Ltd* (1897) AC 22.

⁷ See for example in New Zealand, Section 15 of the Companies Act provides that a company is a legal entity in its own right separate from its shareholders.

⁸ See, Section 37 of the Companies and Allied Matters Act, Cap C20, Laws of the Federation of Nigeria (LFN) 2004 (herein after referred to as CAMA) which provides that 'As from the date of incorporation, the subscriber of the memorandum together with such other persons as may, from time to time, become members of the company, shall be a body corporate by the name contained in the memorandum, capable forthwith of exercising all the powers and functions of an incorporated company including the power to hold land, and having perpetual succession and a common seal, but with such liability on the part of the members to contribute to the assets of the company in the event of its being wound up as is mentioned in this Act'.

⁹ (1986) 2 NWLR (Pt. 20) 48.

¹⁰ There has been a controversial debate on the theory of corporate personality leading to different theories like fictitious theory, contract theory, creature theory, concession theory etc. For discussion of all these theories, see Sanford A. Schane, 'The Corporation as a Person: The Language of a Legal Fiction' (1987) 61 *Tulane Law Review* 563-609.

¹¹ Some are of the view that it is not real, while others are of the view that it is real. For those who hold that it is fictitious, see Farrar J.H *Company Law* 3rd (Ed) Butterworths London (1991) 72. He noted that it is 'essentially a metaphorical use of language, clothing the formal group with a single separate legal entity by analogy with a natural person'. For the opposing view, the Realist theory are of the view that group exists and it functions as a unit or organism.

¹² The concession theory of corporate personality is of the view that the legitimacy of corporate personality comes from the state.

¹³ See for example Chief Justice Marshall in *College v. Woodward* (1819) 17 U.S. [4 Wheat] 518. He noted 'an artificial being, invisible, intangible and existing only in contemplation of law'.

¹⁴ See Dewey 'The Historical Background of Corporate Legal Personality' (1926) 35 *Yale Law Journal* 655 at 656. In contrast, see Blumberg P., 'The Corporate Entity in an Era of Multi-National Corporation' 15 *Delaware Journal of Corporate Law* at 324.

shareholders of the company liable for a crime committed on behalf of the company.²⁶ In such a scenario, it must be noted that the company as a separate entity is still not affected by the punishment meted out to its directors. As Helena argues the companies can remove such individuals and 'their removal is unlikely to affect the continued 'life' of the corporate legal person'.²⁷ Consequently, addressing the issue of corporate wrongs and crimes still remains 'an incredibly slow' and unrewarding struggle.²⁸ To assist in addressing the problem they created, the companies themselves have been embarking on Corporate Social Responsibility, a voluntary approach by which they 'adopt their own codes of conduct which are self-imposed ethical standards' in their relationship with other stakeholders and society where they operate.²⁹ In addition to that, the United Nations has imposed a responsibility on corporations to respect human rights by acting with due diligence to avoid infringing on the rights of others³⁰ and to address adverse impacts of which their business operations are involved.³⁰ By and large, irrespective of the controversies surrounding the concept of corporate liability, the concept exists and it consists in holding companies as separate entities criminally or civilly liable for their actions. Within the context of this study, it implies that companies may be held criminally or civilly liable for acts committed by them which amount to terrorism, money laundering and the financing of terrorism. Having stated thus, the next issue to be considered is what terrorism means.

3. Terrorism

As previously intimated, terrorism will be examined in this study from its historical evolution, controversial issues involved in its definition, its definition in Nigeria in spite of the controversy, series of terrorist acts in Nigeria and cyberterrorism.

3.1 History of Terrorism

The term 'terrorism' is a coinage from the Latin word 'terrere' which means 'frighten' or 'tremble' and the French word 'isme' which means 'practice'.³¹ Terrorism therefore is to practice what is frightening or induces trembling. The term terrorism was coined by Maximilien Robespierre around 1793-1794. Although the word was coined around 1793-1794, terrorism has been in existence for about 2000 years ago.³² It can be traced to the violent acts of a Jewish sect known as the Zealots. This sect resisted the rule of the Roman Empire. They used a primitive dagger known as sica in attacking the Romans (most especially Roman soldiers) and their properties. They often attacked in places like crowded markets or feast days. The attacks were often done in broad daylight so that it could be witnessed by people and sent fear in them.³³

After the Zealots, the Assassins were another sect who adopted violence in a way similar to that of the Zealots. Between 1090 and 1272, the Assassins resisted the Christian Crusaders who

²⁶ See for example the case of *PFS v Jefia* (1998) 3 NWLR (Pt. 543) 602 at 614.

²⁷ See Helena op cit. note 21.

²⁸ Ibid.

²⁹ For a discussion of Corporate Social responsibility at the international level, see Katarina Weilert 'Taming the Untamable? Transnational Corporations in the United Nations Law and Practice' (2010) 14 *Max Planck Year Book of United Nations Law* 445-506.

³⁰ See Special Rep. of the Secretary-General, 'Guiding Principles on Business and Human Rights: Implementing the United Nations "Protect, Respect and Remedy" Framework' *U.N. Doc. A/HRC/17/31* (21 March 2011).

³¹ Erik Mannik, 'Terrorism: Its Past, Present and Future Prospects', 150-171 at 152 <http://www.ksk.edu.ee/wp-content/uploads/2011/03/KVUOA_Toimetised_12-M%C3%A4nnik.pdf> accessed on 6 May 2016.

³² Abimbola J.O & Adesote S.A., 'Domestic Terrorism and Boko Haram Insurgency in Nigeria, Issues and Trends: A Historical Discourse' (2012) 4 *Journal of Arts and Contemporary Society* at 12.

³³ Ibid.

invaded their land which is now part of the present day Syria. The Assassins considered violence a divine act and believed that if they died in it, they would be rewarded with heaven. This belief resonates with the suicidal martyrdom being practiced today by some terrorist groups. During the period of the Zealots and the Assassins, religion was the only basis for the justification of terrorism.³⁴ While terrorism was used by the Zealots and the Assassins to resist what could be considered a foreign domination as a religious duty, it assumed a secular dimension in the 1800s with the emergence of secular political movements such as nationalism, anarchism and Marxism to challenge the divine rule of kings³⁵. During the French revolution of 1789-1799, terrorism was used by supporters of democracy against monarchical rule. The regime *de la terreur* (Reign of Terror) was introduced to get rid of supporters of monarchy. It was this time that the term 'terrorism' was used for the first time.³⁶ Its popularity however started with the Russian revolutionaries who opposed tsarist rule in 1917.³⁷ While terrorism was used to oppose the state as personified by kings in the 1800s, it became associated with state repression during the 1920s-1930s.³⁸ As monarchy was supplanted and followed by the entrenchment of democratic rule, terrorism adopted against the supporters of monarchy became an instrument of state oppression.³⁹

3.2 Issues in the Definition of Terrorism

The historical evolution of terrorism has thrown up some challenges in having it defined. The major challenge is the emergence of a divide aptly caught in the popular saying that 'one person's terrorist is another person's freedom fighter'.⁴⁰ Closely examined, this divide is essentially a political one and it does not really affect the competence of legal draughtsmen in having any conduct criminalised irrespective of the motive behind it.⁴¹ However, the divide though a political one has greatly affected reaching a consensus on the legal definition of terrorism. Apart from this challenge, another one is that a definition of terrorism that focuses on non-state actors has met with stiff resistance from some quarters for its failure to regulate terrorism unleashed by state on civilians. Another one is the question of whether crimes against humanity have not already addressed the issue of terrorism in its definition which include widespread and systematic attack on the civilian population. It has however been contended that crimes against humanity have not been codified and lack requisite specificity expected of a criminal statute⁴². What has emerged is a piecemeal development of the definition of terrorism. The piecemeal approach started with the UN adoption of the 1963 Tokyo Convention on offences and Certain Other Acts Committed on Board Aircraft. Eight other conventions similar to this convention were also adopted between 1970s and 1980s. Before 1999, two other conventions were also adopted.⁴³ More recently, certain significant strides have been taken towards the definition of terrorism. The most significant of these strides is the emergence of the International Convention for the Suppression of the Financing of Terrorism agreed to by the UN General Assembly in 1999. The definition in the treaty is the first general definition of terrorism in an international treaty. Terrorism is defined as:

Any other act intended to cause death or serious bodily injury to a civilian, or to any other person not taking an 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

³⁴ Ibid.

³⁵ Ibid.

³⁶ Ibid at 13.

³⁷ Ibid.

³⁸ Ibid.

³⁹ Ibid.

⁴⁰ Henry J. Steiner, Phillip Alston & Ryan Goodman, *International Human Rights in Context: Law, Politics, Morals*, Third Edition, Oxford University Press, 2007, 375.

⁴¹ Ibid at 375-376.

⁴² Ibid at 376.

⁴³ Ibid.

population, or to compel a Government or an international organisation to do or to abstain from doing any act.

As of mid-2001, only four states ratified the treaty whereas twenty-two states are required for the treaty to become effective.⁴⁴ However, after the 11 September attack, 156 states ratified it.⁴⁵ With the wide ratification of the treaty, terrorism appears to have had a near universal definition. However, Egypt, Jordan and Syria entered a reservation to the definition of terrorism.⁴⁶ Jordan stated that 'it does not consider acts of national armed struggle and fighting foreign occupation in the exercise of people's right to self-determination as terrorist acts within the context of paragraph 1 (b) of Article 2 of the Convention'.⁴⁷ Twenty-four states objected to the reservation on the ground that the reservation is against the object and purpose of the treaty.⁴⁸ No African and Islamic states entered an objection against the reservation.⁴⁹ Due to the disagreement at the international plane among states on the definition of terrorism, the definition of terrorism varies among states at the domestic plane.

In the United Kingdom Terrorist Act 2000 terrorism is defined as 'the use or threat of action . . . designed to influence the government or to intimidate the public or a section of the public . . . for the purpose of advancing a political, religious or ideological cause'.⁵⁰ In the United States, terrorism is defined as 'violent acts or acts dangerous to human life that . . . appear to be intended (i) to intimidate or coerce a civilian population; (ii) to influence the policy of a government by intimidation or coercion; or (iii) to affect the conduct of a government by assassination or kidnapping'.⁵¹ In Canada's Anti-terrorism Act (Bill C-36) 'terrorist activity' is defined as 'an act or omission . . . that is committed in whole or in part for a political, religious or ideological purpose, objective or cause and in whole or in part with the intention of intimidating the public, or a segment of the public, with regard to its security, including its economic security, or compelling a person, a government or a domestic or an international organization to do or to refrain from doing any act, whether the person, government or organization is inside or outside Canada . . .'.⁵² In the Israeli Prevention of Terrorism Ordinance No. 33, terrorism is not defined but a terrorist organization is defined as 'a body of persons resorting in its activities to acts of violence calculated to cause death or injury to a person or to threats of such acts of violence'.⁵³

The definition does not only differ in various criminal statutes as exemplified above, it also differs in civil contexts such as grounds for deportation or standards for regulating non-profit and charitable organisations.⁵⁴ The main challenge essentially lies between definitions that are too broad and much inclusive which create the problem of vagueness and those that are too narrow and under-inclusive which leave much behind. While a narrow definition may not necessarily be problematic except that the law containing such a definition may not be effective, a broad definition will readily constitute a threat to human rights and security. The Inter-American

⁴⁴ Ibid.

⁴⁵ Ibid.

⁴⁶ Ibid at 377.

⁴⁷ Ibid.

⁴⁸ Argentina, Austria, Belgium, Canada, Czech Republic, Denmark, Estonia, Finland, France, Germany, Hungary, Ireland, Italy, Japan, Latvia, the Netherlands, Poland, Portugal, Russia, Spain, Sweden, United Kingdom, United States of America. For the list of these states, see Henry J. Steiner, Phillip Alston & Ryan Goodman, *International Human Rights in Context: Law, Politics, Morals*, op cit. 377.

⁴⁹ Ibid.

⁵⁰ Section 1 (1).

⁵¹ United States Code, Title 18, Section 2331 (18 USC 2331)

⁵² Microsoft Encarta Premium 2009.

⁵³ Ibid.

⁵⁴ Henry J. Steiner, Phillip Alston & Ryan Goodman, *International Human Rights in Context: Law, Politics, Morals*, op cit at 379.

Commission on Human Rights in the context of fair hearing observes in relation to vagueness that 'any laws that purport to proscribe conduct relating to terrorism be classified and described in precise and unambiguous language...ambiguities in laws proscribing terrorism not only undermine the propriety of criminal processes that enforce those laws, but may also have serious implications beyond criminal liability and punishment, such as the denial of refugee status'.⁵⁵ The Commission adds that 'the Commission and the Court have...found certain domestic anti-terrorism laws to violate the principle of legality because, for example, they have attempted to prescribe a comprehensive definition of terrorism that is inexorably overbroad and imprecise...'.⁵⁶ It is not only the imprecise language that may be problematic; the scope of responsibility may also be problematic as well. In Resolution 1566 of the Security Council, states are required to 'find, deny safe haven and bring to justice...any person who supports, facilitates, participates or attempts to participate in the financing, planning, preparation or commission of terrorist acts or provides safe havens'. Amnesty International observes that the:

language casts the net so wide that people, including human rights advocates or peaceful political activists can easily and unintentionally fall victim to the measures advocated in the resolution. The resolution does not even require that acts contributing "terrorist acts" such as unknowingly providing lodging, have to be intentional or done with the knowledge that they will assist the crime. In resorting to such exceptionally broad language, the resolution would call for measures which do not even permit individuals to foresee whether their acts will be lawful or not, a basic requirement in criminal law...⁵⁷

3.3 Defining Terrorism in Nigeria

In defining terrorism in Nigeria, Nigeria adopts a definition of its own as done by other states in addition to the piecemeal approach of the United Nations.

The definition of 'act of terrorism' contained in the Prevention of Terrorism Act 2011 is sufficiently specific to know beforehand what terrorism is. It cannot be contended to be over-inclusive and vague. Where the definition appears not have covered a situation not envisaged due to under-inclusiveness, at least the specific situations covered in various treaties to which Nigeria is a party is recognised under the Terrorism (Prevention) (Amendment) Act 2013. While section 2 of the Prevention of Terrorism Act 2011 as amended and section 19 (g) of the Terrorism (Prevention) (Amendment) Act 2013 address the issue of defining terrorism in terms of the practice of what is frightening, section 3 of the Prevention of Terrorism Act 2011 as amended tends to address the issue of defining terrorism from the perspective of 'freedom fighters'. Freedom fighting here is limited to an act 'which disrupts a service but is committed in pursuance of a protest... [and that] demonstration or stoppage of work is not a terrorist act' provided it is not intended to frighten. However, the definition does not cover state terrorism practiced on the citizens. Thus, if any government in Nigeria unleashes terror on Nigerians, the situation is not covered. Within the context of this study therefore, any corporate act geared towards any of the situations envisaged in section 2 of the Prevention of Terrorism Act 2011 as amended and section 19 (g) of the Terrorism (Prevention) (Amendment) Act 2013 will bring about an imputation of corporate liability whereas those geared towards 'freedom fighting' within the meaning of the provision of section 3 of the Prevention of Terrorism Act 2011 will not bring about an imputation of corporate liability. Similarly, any corporate act which brings about any of the situations envisaged in any of the treaties referred to in the Terrorism (Prevention) (Amendment) Act 2013

⁵⁵ Report on Terrorism and Human Rights, Inter-American Commission on Human Rights, 22 October 2002.

⁵⁶ Ibid.

⁵⁷ Henry J. Steiner, Phillip Alston and Ryan Goodman, *International Human Rights in Context: Law, Politics, Morals*, op cit. at 380.

will also give rise to corporate liability. However, where a corporate entity takes an active part in having Nigerians repressed by their own government, such a corporate entity would not have incurred liability of any kind within the context of terrorism even if its action would have been criminal in another context. Having examined the definition of terrorism, it is apposite to consider some actions which are calculated to frighten and which fall within the meaning of statutory definition of terrorism.

4. Terrorism in Nigeria

Terrorism is relatively recent in Nigeria. It is arguable that the Boko Haram insurgency started terrorism in Nigeria. In 2013, 90% of all terrorist acts in Nigeria were brought about by Boko Haram resulting in the deaths of about 1, 587 people.⁵⁸ Boko Haram is considered one of the deadliest organisations in the world with a record of an average of close to eight deaths per terrorist attack.⁵⁹ Between 2009 and 2012, over 3, 500 Nigerians lost their lives due to Boko Haram insurgency.⁶⁰ About 60% of their attacks are brought about through armed assaults using guns while a quarter of attacks and fatalities were brought about through bombings.⁶¹ Boko Haram is responsible for about 35 bombings⁶² making Nigeria 4th among countries most hit by terrorist attacks.⁶³ A Sunni Islamic fundamentalist sect,⁶⁴ Boko Haram is intolerant of secular institutions and advocates maximum Sharia.⁶⁵ Due to the enormity of its killings all in the name of Islam, people have regarded its ideology as radical. Boko Haram has unleashed terror on Nigerians in a number of instances. In 2011, not less than 425 people were killed through bombings and targeted killings in the Northern part of Nigeria.⁶⁶ Similarly, in August 2011, not less than 24 people died with about 100 injured through suicide bombing of the United Nations building. In January 2012, Boko Haram killed 180 people through a bomb attack in Kano.⁶⁷ On 25 February, 2014, Boko Haram attacked a school in Buni Yadi, Yobe State killing about 43 children.⁶⁸ In April 2014, the group abducted 276 girls from Chibok.⁶⁹ On 5 May 2014, Boko Haram killed about 393 people in an attack in Gamborou Ngala, Borno State.⁷⁰ In July 2014, the group captured and occupied more than 20 towns spanning Adamawa, Borno and Yobe State killing several thousand civilians.⁷¹ On September 1, 2014 Boko Haram captured Bama town and killed about 50 civilians. The group imprisoned about 300 men and later killed them while 30 women were forced to marry its members.⁷² Between December 12 and 14, 2014 24 people were killed while more than 110 children were abducted in two attacks on Gumsuri Village.⁷³

⁵⁸ Institute for Economics and Peace *Global Terrorism Index 2014: Measuring and Understanding the Impact of Terrorism* (2014) 19.

⁵⁹ Ibid.

⁶⁰ Ibid at 53.

⁶¹ Ibid.

⁶² Ibid.

⁶³ Ibid at 19.

⁶⁴ Ibid at 53.

⁶⁵ Ibid.

⁶⁶ Human Rights Watch 'World Report 2012: Nigeria 2012 from <http://www.hrw.org/world-report-2012/world-report-2012-nigeria> (last accessed on 1 May 2012).

⁶⁷ BBC News Africa 'Deadly attack on Nigeria's Bayero university in Kano' 30 April 2012 from <http://www.bbc.co.uk/news/world-africa-17886143> (last accessed on 2 May 2012).

⁶⁸ Amnesty International 'Amnesty International Report 2014/15: The State of the World's Human Rights' Index: POL 10/001/2015 (2015) 274.

⁶⁹ Ibid.

⁷⁰ Ibid at 275.

⁷¹ Ibid at 274.

⁷² Ibid at 275.

⁷³ Ibid.

On 14th March, 2015 Boko Haram attacked military barracks in Maiduguri and freed several detainees.⁷⁴ As of June, 2015, the terrorist acts of the group include murder, rape, torture, forced marriages and recruitment of child soldiers.⁷⁵ Between June and December, 2015 about 1, 600 civilians were killed bringing the total death toll to about 3, 500 civilians in 2015.⁷⁶ During this period, places targeted include markets, transport hubs, bars, restaurants and places of worship.⁷⁷ On 20 September, 2015 about 75 people were killed at a mosque and viewing Centre near Ajilari Cross, Maiduguri.⁷⁸ In Damaturu, Yobe State at least five worshippers who were celebrating Ramadhan were killed through a bomb attack on 17th July, 2015.⁷⁹ On 5 July 2015, at least eight worshippers were also killed by a bomb attack inside the Redeemed Church in Potikum, Yobe State⁸⁰. If one considers various acts of terrorism catalogued above, it can be seen that they are mainly bombings, armed attacks, targeted killings and kidnapping. However, a modern form of terrorism which defies these traditional means is cyberterrorism.

5. Cyberterrorism

Cyberterrorism may be said to be the use of the internet to perpetrate acts of terrorism. The internet has become invaluable means employed by terrorists to perpetrate their heinous acts which include spreading of propagandas against the government, communication amongst members or groups and veritable tool for recruiting their prospective agents. This, definitely, constitutes threat to national security of any nation because the Electronic Information Systems are vital to national security. Cybersecurity is of great relevance to national security because of the increase in use of digital technology for critical infrastructures, intelligence gathering and management, and military operations.⁸¹ Even though cyberterrorism, as a new form of security threat, is now engaging the minds of the international organisations which are into discussions at various levels on how to counteract and suppress it, there is no clear cut definition or generally agreed definition of the concept. Hence, there is high degree of subjectivity in determining what exactly constitutes cyberterrorism. According to Dennis,

Cyberterrorism is the convergence of terrorism and cyberspace. It is generally understood to mean unlawful attacks and threats of attack against computers, networks, and the information stored therein when done to intimidate or coerce a government or its people in furtherance of political or social objectives. Further, to qualify as cyberterrorism, an attack should result in violence against persons or property, or at least cause enough harm to generate fear. Attacks that lead to death or bodily injury, explosions, plane crashes, water contamination, or severe economic loss would be examples. Serious attacks against critical infrastructures could be acts of cyberterrorism, depending on their impact. Attacks that disrupt nonessential services or that are mainly a costly nuisance would not.⁸²

⁷⁴ Ibid.

⁷⁵ Amnesty International 'Our job is to shoot, slaughter and kill' Boko Haram's reign of terror in North-East Nigeria April 2014 Index: AFR 44/1360/2015.

⁷⁶ Amnesty International Boko Haram: Civilians continue to be at risk of human rights abuses by Boko Haram and human rights violations by state security forces' written statement to the 30th session of the UN Human Rights Council (14 September-2 October 2015) Index: AFR 44/2428/2015; Amnesty International Boko Haram: Bombing campaign sees civilian deaths spiral 24 September 2015 Index: 44/2490/2015.

⁷⁷ Ibid.

⁷⁸ Ibid.

⁷⁹ Ibid.

⁸⁰ Ibid.

⁸¹ Kristina Cole, Marshini Chetty, Christopher LaRosa, Frank Rietta, Danika K. Schmitt and Seymour E. Goodman (April 25, 2008) 'Cyber security in Africa: An Assessment,' Sam Nunn School of International Affairs, Georgia Institute of Technology, Atlanta, GA US.

⁸² Denning, D., Cyberterrorism, Testimony before the Special Oversight Panel of Terrorism Committee on Armed Services, US House of Representatives, 23 May 2000. from <http://www.cs.georgetown.edu/~denning/infosec/cyberterror.html> (Retrieved on 7 April, 2016)

Some writers are in support of the restrictive scope of definition of cyberterrorism given by Dennis. For instance, Weimann postulates that terrorist use of computers to facilitate other terrorist activities such as propaganda, recruitment, data mining, communications, or other purposes cannot be regarded as cyberterrorism.⁸³ The microcosmic definition of cyberattack also creates a bottleneck in appreciating the real consequences of cyberterrorist attacks in the real world. Cyber attack is defined as:

...the deliberate exploitation of computer networks as a means to launch an attack. Such attacks are typically intended to disrupt the proper functioning of targets, such as computer systems, servers or underlying infrastructure, through the use of hacking, advanced persistent threat techniques, computer viruses, malware, phishing or other means of unauthorized or malicious access. Cyberattacks may bear the characteristics of an act of terrorism, including the fundamental desire to instil fear in furtherance of political or social objectives.⁸⁴

It is instructive to view cyberterrorism not from the narrow perspective of making computers the target of terrorist attacks through a synthesis between computers and terrorism but focus should be beamed on other areas where terrorism may portend danger to the society through consequential physical attacks on infrastructures and people and promotion of acts of terrorism.⁸⁵ Put in another way, by limiting cyberterrorism to attacks on computers and computer networks we are prone to attacks that rely on computers or the Internet to knit other aspects of terrorist operations.⁸⁶ Taking the specious and restrictive approach to determining the meaning of cyberterrorism is to focus on the computers, computer systems and information infrastructure as the subjects of the attack while leaving out the actual consequences of computer network (co-)operations, and other ancillary terrorists acts, like intelligence gathering, recruitment, sharing information on how to make explosives, etc. that can be done with the convergence of the Internet and terrorism. Terrorism with the use of information systems and tools constitutes a dangerous omen especially to the information-based economies of the world's leading countries. Of course, all the countries that make use of computers that are connected to the internet are vulnerable to attack.⁸⁷ The first known terrorist attack against national computer systems was carried out in 1998 when an offshoot of the Tamil Tigers bombarded Sri Lankan embassies with eight hundred emails a day over two-week period, and content of the emails read: 'We are the Internet Black Tigers and we're doing this to disrupt your communications.'⁸⁸ Also in 1999 during the Kosovo conflict the North Atlantic Treaty Organisation (NATO) computers were hit with email bombs, macro viruses, and denial-of-service attacks by Serbian hackers and other groups protesting the bombings. A reprisal attacks were carried out by hackers from Albania and NATO countries on the Serbian computers.⁸⁹ It should be noted that globally physical warfare is now giving way to cyberwarfare. Therefore, there is a need to take proactive steps to nip it in the bud.

⁸³ Weimann Gabriel, 'Cyberterrorism: The Sum of All Fears?' 28 studies in Conflict and Terrorism 129, 130 (2005) cited in Clive Walker, 'Cyber-Terrorism: Legal Principle and Law in the United Kingdom' (2006) *Pennsylvania State Law Review*, Vol. 110:3 at 634.

⁸⁴ 'The Use of the Internet for Terrorist Purposes' United Nations Office on Drugs and Crimes, Vienna, 2012, p.7. from https://www.unodc.org/documents/frontpage/Use_of_Internet_for_Terrorist_Purposes.pdf (Retrieved on 18 April, 2016).

⁸⁵ Sarah Gordon, (2003) Cyberterrorism? From <https://www.symantec.com/avcenter/reference/cyberterrorism.pdf> (Retrieved on 18 April, 2016).

⁸⁶ Ibid.

⁸⁷ Richard W. Aldrich, 'Cyberterrorism and Computer Crime: Issues Surrounding the Establishment of International Legal Regime' INSS Occasional Paper 32, Information Operation Series, April 2000, USAF Institute of National Security Studies, USAF Academy, Colorado, p.1.

⁸⁸ Douglas Holmes, 'E-government, E-business Strategies for Government' Nicholas Brealey Publishing, London, (2001), 200.

⁸⁹ Ibid.

The claim that cyberterrorism is more humane than conventional warfare or traditional terrorism; because it would not inflict loss of life and severe economic hardship, has been disproved. Holmes said:

Chaos would ordinarily ensue if terrorists broke into computer *Mission Impossible-Style* to disrupt railways and air traffic control, overload telephone lines, change the pressure in gas pipelines, shut down electricity grid, sabotage stock exchanges and banking systems, block communications used by emergency services, alter hospital patient records such as blood type and reprogram robots used in telesurgery.⁹⁰

Under the Nigerian Cybercrimes (Prohibition, Prevention, etc.) Act, 2015 the act of cyberterrorism is proscribed.⁹¹ The Cybercrimes Act in section 18(1) provides that any person that accesses or causes access to be had to any computer or computer system or network for the purposes of terrorism commits an offence and liable on conviction to life imprisonment. Terrorism under the Cybercrimes Act, according to section 18(2), derives its definition from the Terrorism (Prevention) Act, 2011, as amended by the Terrorism (Prevention) (Amendment) Act 2013⁹². of particular relevance in the Act is the labelling of acts done to cause an attack upon a person's life which may cause serious bodily harm or death and causing destruction to a Nigerian Government or public facility, a transport system, an infrastructure facility, including an information system, a public place or private property likely to endanger human life or result in economic loss as acts of terrorism.⁹³ With the combined reading of the Prevention of Terrorism Act 2011, Terrorism (Prevention) (Amendment) Act 2013 and Cybercrime Act 2015 terrorist acts are not narrowed down to computers or computer systems as target. Therefore, the scope of cyberterrorism under the Nigerian law is wider than the tenuous definition supplied by Dennis. Cyberterrorism should therefore mean using the Internet to perpetrate any act of terrorism. It is salient to consider the fact that Nigeria, just as many other developing nations, does not possess robust critical infrastructure that runs on or makes use of digital control systems neither is her military superstructure based on computer or digital technologies.⁹⁴ Giving so much consideration to cybersecurity in this respect will not loom large. The economic, political and human sectors of the society which are based on the use of digital technologies for operations and communication purposes therefore constitute important factor to be considered in the cybersecurity issues. Cyberterrorism activities may create great danger to these sectors of the society through the cyberspace.

The strategies of cyberterrorists include targeting government computers and related networks, private individuals and corporations. The advantage terrorists enjoy is anonymity wherein they can launch their attacks under cloaked identity and remotely access target computers or networks. Further benefits of terrorists operation through the cyberspace include the ability to spread propagandas, incitement and recruit followers using the Internet. Cyberterrorism can also be carried out with cheaper rate compared with traditional terrorism. It is arguable that while cyberterrorists may not menacingly kill people directly in the traditional way terrorists operate, however one cyberattack could make life very difficult and also damage the economic and social system of a country. Moreover, financial institutions are also prone to cyberterrorism. Commercial Banks, stock exchange markets and e-commerce electronic platforms are vulnerable to cyberattacks both within and outside the country and they constitute vital aspect of national

⁹⁰ Ibid. at 202.

⁹¹ Later referred to in this work as the Cybercrimes Act.

⁹² The Terrorism (Prevention) Act, 2011 was amended by the Terrorism (Prevention) (Amendment) Act 2013.

⁹³ Section 1(3)(c)(i-iii) of the 2011 Act as amended by the 2013 Act.

⁹⁴ Kristina Cole, *et al.* op. cit.

security⁹⁵. Cyberterrorism may be state-sponsored or may be from non-state actors who engage in cyberattacks to pursue their objectives.⁹⁶ The means by which the internet is used to finance terrorism include direct solicitation, e-commerce; exploitation of online payment tools and through charitable organisations.⁹⁷ Often times the use of e-commerce in raising money for the purpose of terrorism is self-financing as this may involve using websites as online stores for offering books, audio or video recordings and other items for sale to supporters of a terrorist group. Direct solicitation involves using websites, chat groups, mass mailing and targeted communications to solicit for financial supports by terrorists from their apologists.

Online payment facilities can be exploited in two ways. The first has to do with using dedicated websites or communication platforms for transferring fund electronically between parties. Electronic fund transfers can be made using PayPal, credit card, internet banking system, electronic wire transfer, etc.⁹⁸ On the other hand, online payment facilities may be exploited through fraudulent means to wire fraud, stock fraud, identity theft, credit card theft and auction fraud. Such ill-gotten funds can be laundered through online fund transfer systems and such funds can be routed through several countries before getting to the final destination. On the last account, which is raising funds through charitable organisations, terrorist groups may also float charitable organisations under a disguise of executing legitimate philanthropist schemes and solicit online donations from the unaware public in support of the schemes which in actual fact is to pursue their acts of terrorism. In the Middle East for instance such organisation floated in pursuit of this end include Benevolence International Foundation, Global Relief Foundation and the Holy Land Foundation for Relief and Development⁹⁹. Having considered cyberterrorism as a form of terrorism, money laundering and the financing of terrorism will now be considered.

6. Money Laundering

The complexities of modern world with the level of globalisation leave series of investment and complex financial transactions in place. The World Bank and the International Monetary Fund found that between 3 to 5 percent of the world's gross domestic product emanates from money laundering which is estimated to be 12.17 and 3.61 trillion US dollars annually. Series of transactions ranging from real estate, banking and insurance, securities, asset financing, oil and gas, aviation, culture and tourism, professional services are being conducted with huge amount of monies exchanging hands. Money laundering can be conducted without it being observed by even the keen mechanisms put in place and even disguised in the form of the above undertakings. Money laundering is viewed as a serious crime which has permeated the corporate world. Individuals in collaboration towards concealing the proceeds of crime usually do so using corporate entities as the conduit pipe to launder money. The origin of the money is concealed in such a manner that it is seen as if the money came from a legitimate source. It has to do with engaging in financial transactions, with proceeds from a criminal activity with the intention to conceal or disguise the nature of business, the source of the money from authorities. To Robinson, 'illegal, or dirty, money is put through a cycle of transactions, or washed, so that it comes out the other end as legal, or clean, money. In other words, the source of illegally obtained funds is obscured through a succession of transfers and deals in order that those same funds can

⁹⁵ Mu'azu Abdullahi Saulawa & Junaidu Bello Marshal, 'Cyberterrorism: A Comparative Legal Perspective', (2015) 33 *Journal of Law, Policy and Globalisation* 2.

⁹⁶ Catherine A. Theohary & John W. Rollin, 'Cyberwarfare and Cyberterrorism in Brief' Congressional Research Service, March 27, 2015. from <http://fas.org/sgp/crs/natsec/R43955.pdf> (Retrieved on 18 April, 2016)

⁹⁷ 'The Use of the Internet for Terrorist Purposes' United Nations Office on Drugs and Crimes, Vienna, 2012, at 7. <https://www.unodc.org/documents/frontpage/Use_of_Internet_for_Terrorist_Purposes.pdf> accessed on 18 April, 2016.

⁹⁸ Ibid.

⁹⁹ Ibid.

eventually be made to appear as legitimate income¹⁰⁰. Money laundering has been seen to take place in three phases namely: firstly, the money is derived from an illegal source; secondly, the money is then transferred, and thirdly the money is used for a legitimate transaction. Therefore, since the money is tainted, they are eventually used in carrying out legal transactions to make the sources look legitimate without authorities being able to trace the illegal activities which resulted in the making of the initial money. The transnational nature of money laundering has made it to be a major crime which has attracted both domestic and international legislation to checkmate it. At the domestic level, efforts are being made to curb it through the promulgation of laws that define the crime and set out mechanism for the punishment of perpetrators. At international level avenue for cooperation among countries in ensuring that the proceeds of crime are detected and the culprit brought to book are well documented. With the trends and patterns involved in terrorism, money laundering has taken different dimension as it is seen as a way to conceal and transfer funds for the purpose of financing high profile terrorism.

7. National Perspective to Money Laundering

Most nations today have their own share of high profile cases of money laundering. In order to nip it in the bud, legislations have been passed. In Nigeria there is the Money Laundering (Prohibition) Act 2011 which broadly addresses matters relating to money laundering. Under the Money Laundering (Prohibition) Act banks are barred from receiving cash in excess of Five Million Naira and Ten Million Naira from individuals and corporate entities respectively. There is however, no limit placed on the daily transactions or transfers made through the electronic banking platform. Nevertheless, banks have the obligation to report to the Economic and Financial Crimes Commission (EFCC) any transaction that is above Five Million for individual and Ten Million in the case of corporate entities. They are further required to make reports on suspicious transaction notwithstanding that the transaction is within the daily stipulated limits. The EFCC Act places a duty on the commission to also monitor and enforce the provisions of the Money Laundering (Prohibition) Act 2011. The United Kingdom also has series of laws on money laundering such as the Proceeds of Crime Act 2002 which centres on establishment of Asset recovery agency for confiscation of property derived from crime, and money laundering.¹⁰¹ A person is said to have committed an offence if he conceals, disguises, converts, transfers or removes criminal property from the UK. Concealment is concealing or disguising the nature, source, location, disposition, movement or ownership or any rights on the property.¹⁰² A breach of the provision makes the person liable to 6 months imprisonment or a fine that is not in excess of the statutory maximum upon conviction.¹⁰³ It also penalises failure of nondisclosure by a person who knows or suspects or has reasonable grounds of suspecting and knowing that another person engages in money laundering based on information coming to him in the course of business in the regulated sector and also fails to make disclosure as soon as practicable¹⁰⁴. The Money Laundering Regulation 2007 identifies series of money laundering related offences which is committed by a body corporate with the consent or the connivance of an officer of the body corporate; or attributable to any neglect on his part, such officer and the body corporate will be guilty of an offence and will be punished accordingly for the offence.¹⁰⁵ Other relevant laws include the Serious Crimes Act 2015. The United States Money Laundering Control Act 1986 makes it illegal the concealment of the proceeds of crime or money obtained from specified illegal activities. It makes a person who knowingly conceals facts and involved himself in a financial transaction in respects of property from the proceeds crime with the intent to promoting the specified unlawful activity and fails to report same in accordance with the requirement of the

Section 16 of the 2011 amendment.

¹⁰⁰ J Robinson, *The Laundrymen* (Simon & Schuster London, 1998) 3.

¹⁰¹ Section 327 (1).

¹⁰² Section 327 (3).

¹⁰³ Section 334.

¹⁰⁴ See generally Section 330.

¹⁰⁵ Regulations 45 and 47.

law 'shall be sentenced to a fine of not more than \$500,000 or twice the value of the property involved in the transaction, whichever is greater, or imprisonment for not more than twenty years, or both'.¹⁰⁶ The Bank Secrecy Act also makes it obligatory to report certain transactions more than 10 thousand US Dollars in a single business day, as well as the report of suspicious transactions. The Financial Crimes Enforcement Network, which is a unit of the US treasury Department, is responsible for enforcement of the laws relating to money laundering in the UK.

8. Relevant International Law Instruments

Giving credence to the need to checkmate the trend of money laundering owing to its cross border nature has made countries to take measures in the development of the international framework that will foster cooperation in tackling the problem. There is the Financial Action Task Force on Money-Laundering (FATF) which has issued series of recommendations on how the national legal systems can enhance the financial sector and foster cooperation on anti-money laundering activities. These recommendations have been endorsed by the United Nations Security Council¹⁰⁷ as well as the United Nations General Assembly.¹⁰⁸ Concerted efforts are ongoing and some of these have been mere collaborations while others have brought about the emergence of binding international law instruments. Particularly the international criminalisation of money laundering was first brought into focus at the international sphere by the United Nations Convention against the Illicit Traffic in Narcotic Drugs and Psychotropic Substances 1988 (the Vienna Convention 1988). This was followed by two other conventions which widened the scope of money laundering to include proceeds to other forms of crimes. The conventions are the UN Convention against Transnational Organized Crime 2003 and the UN Convention against Corruption. The 2003 Convention basically encourages the cooperation of State parties in curbing organised crimes such as money laundering and also requires members to create domestic offences and offer legal assistance, extraditions, training and capacity building in addressing such crimes. UN Convention against Corruption provides for cooperation in combatting corruption and even the criminalisation of corrupt practices which include money laundering or laundering of funds emanating from corruption, prosecution and asset recovery of the proceeds of corruption. Internationally, the link between, money laundering and financing of terrorism is well appreciated. There is therefore the International Convention for the Suppression of the Financing of Terrorism 2002 came into force as a means of ensuring that financial institutions are not utilised as a means in financing terrorism. Money laundering tends to favour the perpetration of terrorism because of its sophistication which may allow huge amount of monies to be moved without the suspicion of the authorities.¹⁰⁹ It outsmarts the financial system owing to its complexities and sophistication.¹¹⁰ The UN resolution further typifies the nexus between organised crimes such as money laundering by stating that there is close connection between international terrorism and transnational organized crime, illicit drugs, money laundering, illegal arms trafficking, illegal movement of chemical, biological and other potentially deadly materials.

9. Hybridity of the offences: Money Laundering and Terrorism Financing

In Article 2 of the United Nations Convention for the Suppression of the Financing of Terrorism 1999, it is stated that:

Any person who:

¹⁰⁶ Section 1956 a (1).

¹⁰⁷ Resolution 1617 (2005).

¹⁰⁸ Resolution 60/288.

¹⁰⁹ Guy Stessens, *Money Laundering: A New International Law Enforcement Model* (Cambridge University Press, Cambridge 2000) 8.

¹¹⁰ Nimrod Raphaeli, 'Financing of Terrorism: Sources, Methods and Channels', (2003) 15 (4) *Terrorism and Political Violence* 59.

...By any means, directly or indirectly, unlawfully, and wilfully, 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 as annexed.

(b) Any other act intended to cause death or serious bodily injury to a civilian, or to any other person not taking an 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 any act.

Terrorism Financing is defined in the Money Laundering (Prohibition) Act 2011 as 'the financial support, in any form, of terrorism, or those who encourage, plan, or engage in terrorism'.¹¹¹ As contained in the Long Title, the 2013 Act amends the Terrorism (Prevention) Act, 2011 by providing for extra-territorial application of the Act and strengthening of terrorist financing offences; and for related matters.¹¹² It is provided in Section 33 (1) of the Terrorism Prevention Act 2011 (as amended in 2013) that persons found guilty are liable to forfeiture of funds or proceeds connected to terrorism which is in their custody. In the case of a corporate entity, in addition to penalties contained in the Act, civil proceedings may be brought against the corporation by the authorities. Similarly where a body corporate is connected in the finance of terrorism whether directly or indirectly, willingly provides, solicits or collects any fund or attempts to provide, solicit or collect any fund with the intention or knowledge that they will be used, in full or in part in financing a terrorist or terrorist organization, the body corporate shall be liable to a fine of not less than N100,000,000, its principal officers upon conviction will be sentenced to imprisonment for a term of not less than ten years, and corporate body shall be wound up and prohibited from reconstitution or incorporation under any form or guise.¹¹³ The above penalties also apply in relation of funds or property used for terrorism whether the body corporate is in or outside Nigeria be it that the means of fund is from legitimate or illegitimate sources¹¹⁴. Two offences may emerge in the financing of terrorism. First, there may be no case of money laundering in which case the source of finance may emanate from a legitimate source. On the other hand, there may be instances where the fund may actually be laundered for the purpose of financing terrorism, in which case there may be two offences, money laundering on the one hand and financing of terrorism on the other hand.¹¹⁵ To cap it all, it has been stated that 'money laundering cleans dirty money' whereas terrorist financing dirties clean money.¹¹⁶ Article 5 of the Convention requires state parties to employ domestic law in making corporations liable for terrorism where such is linked to 'a person responsible for the management or control'.

10. Conclusion

The concept of corporate liability is controversial. However, in spite of this controversy, there is the approach in common law system which tends to create criminal liability. Therefore, in the context of money laundering and terrorism financing, the current criminal liability proposition is to attribute the acts of natural persons running the affairs of the corporate entity as that of the

¹¹¹ Section 25.

¹¹² Section 16 of the 2011 amendment.

¹¹³ See generally Section 10 as amended.

¹¹⁴ See Section 13 as amended.

¹¹⁵ See Ilias Bantekas, 'The International Law of Terrorist Financing' (2003) 97(2)*American Journal of International Law* 316.

¹¹⁶ John GD Waszak, 'The Obstacles of Suppressing Radical Islamic Terrorist Financing' (2005) 37 (2) *Case Western Reserve Journal of International Law* 673.

entity,¹¹⁷ and this supports why there are specific penal sanctions arising from money laundering and terrorism financing. This is based on three models or theories of corporate criminal liability which is the adaptation and imitation model, aggregation or collective knowledge model, and the faulty organisation model. The first essentially draws from tort law which makes the entity to be liable for the acts of the management or employees. Hence the corporate entity may be held to be criminally liable for the acts of its employees in the course of his employment. The second aggregation or collective knowledge model entails 'matching the conduct of one individual with the state of mind or culpability of another individual' or where 'the behaviour of one agent can be joined with the knowledge of another in order to create a criminal offence'. In the case of faulty organisation model, liability is based on failure of the corporate entity 'to act in its own right'.¹¹⁸ Linking the above propositions to the laws on Money Laundering, it is clear that it is becoming settled that corporations can be held criminally liable as seen in the laws, which provide for the fining of these corporations. While the theories hold natural persons acting for the company liable, the Terrorism (Prevention) (Amendment) Act 2013 go beyond this and hold corporate entities criminally liable by providing for instances where they could be wound up and have their properties forfeited. The Act appears to dispense with theories and adopts a pragmatic approach. While corporate criminal liability appears settled, it is however not clear with respect to civil liability. In the United States, there appears to be mixed judicial positions on the civil liability against financiers of terrorists. The first case which made terrorists organisations to bear civil liability was the case of *Tel-Oren v. Libyan Arab Republic*, involving a Palestinian Liberation Organization (PLO) attack in 1978 in Haifa where there were 121 civilian hostages, and quelling the crisis led to the death of twelve children, twenty two adults and eighty seven injured persons. This case appeared to have stirred up the move towards the initiation of private suits by victims of international terrorism.¹¹⁹ But, the action of the plaintiff did not succeed because the court was of the opinion that international law of civilised nations was not in breach. In *Wultz v. Islamic Republic of Iran*,¹²⁰ the Federal District Court ordered Iran and Syria to make payment of \$300 million for damages suffered having labelled the two States as terrorist states.¹²¹ There is currently a Bill before the Congress known as Justice against Sponsors of Terrorism Bill which will enable victims to commence legal action against persons involved in terrorist financing.

11. Recommendations

In the light of the foregoing, it is therefore recommended as follows:

- There should be a legislative intervention permitting civil action by victims of terrorism against corporate entities which are financing terrorism.
- Class action should be given a prominent position in maintaining civil action against corporate entities involved in the financing of terrorism.
- The stiffest possible sanctions should be applied against perpetrators of terrorism as deterrence to others.

¹¹⁷ See Hans de Doelder and Klaus Tiedemann (Eds), *Criminal Liability of Corporations*, Kluwer Law International, The Hague (1996) 304.

¹¹⁸ *Ibid.* 102.

¹¹⁹ 517 F. Supp. 542, 549–51 (D.D.C. 1981), *aff'd*, 726 F.2d 774 (D.C. Cir. 1984) cited in Alison Bitterly 'Can Banks Be Liable for Aiding and Abetting Terrorism?: A Closer Look into the Split on Secondary Liability Under the Antiterrorism Act' (2015) 83 (6) *Fordham Law Review* 3397.

¹²⁰ 755 F. Supp. 2d 1, 61 (D.D.C. 2010). Cited in Alison Bitterly 3412.

¹²¹ *Wultz v. Islamic Republic of Iran*, 864 F. Supp. 2d 24, 42 (D.D.C. 2012) cited in Bitterly 3412.