

Proscribing Time?: Proscription and Temporality in Terrorism Trials

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This article explores the closely knit yet complex link between proscription and temporality through the examination of terrorism trials in Nigeria. Through the notion of proscribing time, this article demonstrates the ways in which proscription is enacted, imagined, and contested in light of important temporal effects. With a few exceptions, recent debates around proscription remain almost overwhelmingly focused on the banning of particular groups linked to terrorism, and on proscription power and its wider political and ethical ramifications. This “actor-oriented” focus (proscribed/proscriber), I argue, reinforces certain theoretical and ontological claims recognizable in the dominant analysis of terrorism. Moreover, such a perspective is predominantly organized around a forward-oriented logic of security preemption, which does not fully reveal the complexity and broader consequences of proscription. Thus, drawing upon relevant insights about temporality, especially as discussed in critical security studies, critical legal studies, and beyond, this article demonstrates how time is proscribed (rather than terrorist groups) to render visible the complexity and ramifications of proscription. The article, as such, contributes theoretically to ongoing debates about proscription and temporality in critical security studies more broadly. It also, empirically, makes a worthwhile contribution to a relatively small, though important, scholarship on terrorism trials in Nigeria.

Cet article s'intéresse aux liens étroits mais complexes entre la proscription et la temporalité en examinant les procès relatifs au terrorisme au Nigéria. En utilisant la notion de temps de proscription, cet article démontre comment la proscription est promulguée, imaginée et contestée à la lumière d'effets temporels importants. À quelques exceptions près, les débats récents concernant la proscription sont pratiquement tous centrés sur l'interdiction de groupes spécifiques liés au terrorisme, et sur le pouvoir de proscription et ses ramifications politiques et éthiques au sens large. Selon moi, la focalisation « centrée sur l'acteur » (personne proscrire/auteur de la proscription) renforce certaines affirmations théoriques et ontologiques reconnaissables dans l'analyse dominante du terrorisme. De plus, une telle perspective s'organise majoritairement autour d'une logique tournée vers l'avenir de préemption sécuritaire, qui ne révèle pas pleinement la complexité et les conséquences plus larges de la proscription. Aussi, en s'appuyant sur des informations pertinentes quant

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Chukwuma, Kodili Henry (2024) Proscribing Time?: Proscription and Temporality in Terrorism Trials. *International Political Sociology*, <https://doi.org/10.1093/ips/olad027>

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à la temporalité, notamment selon l'analyse des études de sécurité critiques et des études juridiques critiques, cet article démontre que le temps est proscrié (plutôt que les groupes terroristes) pour rendre la complexité et les ramifications de la proscription invisibles. Sur le plan théorique, l'article, en soi, contribue aux débats actuels sur la proscription et, au sens large, à la temporalité en études de sécurité critiques. Sur le plan empirique, il apporte aussi une contribution significative aux travaux de recherche relativement restreints mais importants sur les procès du terrorisme au Nigéria.

Este artículo explora el vínculo, estrechamente entrelazado pero complejo, existente entre la proscripción y la temporalidad mediante el estudio de los juicios por terrorismo en Nigeria. Este artículo demuestra, usando el concepto de tiempo de proscripción, las formas en que se promulga, imagina e impugna la proscripción a la luz de efectos temporales importantes. Con algunas excepciones, los debates recientes en torno a la proscripción siguen centrándose, de manera casi abrumadora, en la prohibición de determinados grupos vinculados al terrorismo, así como en el poder de proscripción y en sus ramifications políticas y éticas más amplias. Argumentamos que este enfoque «orientado al agente» (proscrito/proscriptor) refuerza ciertas afirmaciones teóricas y ontológicas reconocibles en el análisis dominante del terrorismo. Además, esta perspectiva se organiza predominantemente en torno a una lógica orientada hacia el futuro de las preferencias en materia de seguridad, la cual no revela plenamente la complejidad y las consecuencias más amplias que conlleva la proscripción. Por lo tanto, este artículo demuestra, partiendo de ciertas ideas relevantes sobre la temporalidad y especialmente de cómo se discute esta en los estudios críticos de seguridad, en los estudios legales críticos y en otros ámbitos, cómo se proscrie el tiempo (en lugar de los grupos terroristas) con el fin de hacer visibles tanto la complejidad como las ramifications de la proscripción. El artículo, como tal, contribuye teóricamente a los debates existentes relativos a la proscripción y a la temporalidad en los estudios críticos de seguridad en general. También, hace una valiosa contribución empírica a un estudio relativamente pequeño, aunque importante, sobre los juicios por terrorismo en Nigeria.

Introduction

In 2017, Nigeria began mass trials of terrorist suspects as part of its broader counterterrorism efforts against insurgent groups such as Boko Haram. Although these trials took place between 2017 and 2018 in three notably short phases, most of the suspects were arrested in 2009 and beyond during the state's crackdown on uprisings and attacks by members of Boko Haram. Interestingly, many of these arrests were made before the formal proscription of Boko Haram, even though suspects were ostensibly arrested for membership of a "proscribed" terrorist group. In the Federal Republic of Nigeria (FRN) versus Yusuf case, for example,¹ the accused was arrested and detained from 2012 prior to the elaboration of the executive proscription order in 2013,² yet was made to sign multiple statements at different pre-trial stages—including before and after Boko Haram was proscribed—claiming "to being an active member of the terrorist group." During the adjudication process, however, the prosecutor argued that since the suspect claimed to be a member of Boko Haram "at all times, and at no time" denying his membership of the group,

¹FRN versus Yusuf Yahaya, DPP/ADV:CCG/762/14.

²Terrorism Proscription Order 2013. Online available at [https://www.cbn.gov.ng/out/2013/fprd/terrorism%20\(prevention\)%20\(proscription%20order\)%20notice,%202013.pdf](https://www.cbn.gov.ng/out/2013/fprd/terrorism%20(prevention)%20(proscription%20order)%20notice,%202013.pdf).

the charges against him were substantial and lawfully consistent.³ As discussed further below, this case, among others examined in this article, highlights and situates time at the heart of the legal discourse of proscription rather than terrorist entities or (executive) proscription orders as such. Moreover, this also highlights the complexity of temporality, which exceeds linear security rationales (including the forward-oriented focus of preemption), which are, often, reinforced or undermined in juridical processes.

With the above in mind, we can begin to nuance our understanding of proscription and security preemption more broadly. It is worth noting that research on proscription in the context of counterterrorism is relatively recent yet offers significant insights into the workings and impacts of proscription (powers) in different domestic and global settings (de Goede 2018; Jarvis and Legrand 2018; Ejeh, Bappah, and Dankofa 2020; Haspelslagh 2021). With a few notable exceptions (de Goede 2018), the routine focus on outlawed—or (de)listing of—terrorist groups as the “target of proscription,” and on proscription powers and their implications in this tenor of work, I argue, reinforces essentialist assumptions and classificatory systems prevalent in dominant analysis of terrorism (see Jackson 2007a). More importantly, such a perspective does not demonstrate extensively the complexity of proscription, especially in relation to temporality and the effects that it entails. On the other hand, the preemptive logic of security politics, including in relation to legal practice and counterterrorism, has been explored in critical security studies and related fields to illuminate the ambiguity of temporality and its functions (Amoore 2008; Amoore and de Goede 2008; Fisher 2013; de Goede, Simon, and Hoijtink 2014; Anwar 2021; Suresh 2023). In particular, there are insightful works on the deeply entangled relationship between security and legal temporalities (Anwar 2021), on the performativity of criminal trials in relation to risk and sentencing (de Goede and de Graaf 2018), on legal technicalities and their various effects in terrorism trials (Suresh 2023), and on (the criminalization of) terrorist financing and insurance with regard to war on terror (de Goede 2003; Aradau and Munster 2007), among others.

Thus, the core argument advanced in this article, specifically through this notion of *proscribing time*, draws upon—and contributes to—this stream of work on temporality in critical security studies and beyond to examine the ways in which proscription is imagined, contested, and made real in legal discourse, considering important temporal effects at the heart of this production. Put otherwise, the article argues that time/temporality is important in (legal) articulations of proscription precisely because this shifts the focus from terrorist groups—and the state or other authoritative actors—to time as the object of proscription. It also highlights the construction of multiple temporalities within legal discourse as demonstrated in terrorism trials in Nigeria, which facilitate the production of legal subjects and criminality, and enable the interrogation of proscription (power). Argued thus, this article is organized around two key premises: First, time and temporality are essentially fundamental to (theorizing) proscription rather than terrorist entities (or state authority), as often assumed. Second, the link between proscription and temporality, as highlighted in the cases discussed below, the article argues, produces multiple and varied temporalities, which are in turn recomposed through language and labeling in juridical processes. This complexity, I suggest, highlights diverse, albeit often competing, ideas about proscription in relation to time, which offer potential insights for problematizing proscription regimes, exclusionary practices, and their various implications while overcoming the problem of essentialism implicitly reinforced in recent works on proscription. In light of these claims, this article contributes to theoretical debates on proscription and temporality in critical security studies more broadly. It also makes an important empirical contribution to a relatively small, though no less relevant, literature on terrorism trials in Nigeria. These

³FRN versus Yusuf Yahaya.

postulations and contribution of course transcend the aforementioned literature and speak more widely to debates on counterterrorism (in Nigeria), (critical) legal practice, security preemption, and securitization, among other related discussions.

This article proceeds as follows: In the next section below, I examine the connection between proscription and time in existing scholarship to highlight certain relevant insights as well as a significant gap, particularly regarding the limited attention given to (the importance of) time in proscription. Following on from this, the next section explores the debate on security and legal temporalities as discussed within critical legal studies, critical security studies, and related fields to outline a set of ideas relevant for my own intervention in this article. Then I move to outline the methodology adopted herein, before detailing a brief account of terrorism trials in Nigeria to serve as a useful context for subsequent discussions in this article. This final section of this article examines the centrality and complexity of temporality in the legal production of proscription and the role of language and labeling in this (re)production, respectively. I finish this article by returning to—and reflecting on—this idea of *proscribing time* to outline more extensively its functions and consequences, including for counterterrorism governance, legal subject(hood), proscription regimes, and resistance to these.

Proscription and Time

Broadly defined, proscription or powers of proscription refer to “a series of legal instruments which permit state governments or other authoritative actors to ban the presence of, or support for, an identified (terrorist) organisation within its jurisdiction” (Jarvis and Legrand 2018, 201). This act of banning or proscribing, among other things, signals the invalidation of the group’s ideology and actions and, at the same time, seeks to stifle the group’s ability to promote or support violence. Despite increasing attention to proscription in different (sub)fields, including international relations (Jarvis and Legrand 2016), security studies (Gross 2010), terrorism studies (Ibiz and Curtis 2015), and legal studies in particular (Hogg 2008; Muller 2008), it remains an underexplored aspect of counterterrorism governance, especially in relation to other well-known tools of counterterrorism such as military force, anti-terrorism laws, development-oriented measures, and deradicalization initiatives (Jarvis and Legrand 2017). Research in this area, however, has made relevant theoretical and empirical contributions by exploring different case studies and contexts that offer an important, textured knowledge about proscription. This includes an analysis of how proscription regimes emerge and their different ambitions, as well as the consequences that typically characterize proscription powers (Jarvis and Legrand 2017). In addition to these, there has been inquiry into broader questions around the effects of proscription on liberal democracy and human rights (Hocking 2003; Pantazis and Pemberton 2009), and its impacts on peace processes and negotiations (Gross 2010; Haspesslagh 2021), as the relationship between (proscription) law and politics increasingly renders proscription vulnerable to certain interests, not least those of oppressive regimes, foreign policy interests, and wider geopolitical ambitions (see Muller 2008; Sentas 2010).

Although this current of analysis offers an essentially useful repository about proscription, this scholarship remains nearly overwhelmingly focused on the link between proscription and particular actors (rather than on the processes and, more importantly, temporal logics through which it is made real and contested), such as the listing or banning of particular individuals and groups associated with terrorism, concerns around the effects of proscription on banned groups, humanitarian actors and peace brokers, and its broader implications for democratic societies. As Kirkpatrick (2019) notes, for example, “through the creation of a particular discourse, proscription enables ‘the state’ to expand security powers to address a newly classified ‘threat.’” While recognizing the critical orientation of much

of this work, cutting across several disciplines and fields, such an “actor-oriented” focus (prosciber/proscribed) undermines the complexity of proscription, especially considering the centrality of time and temporality. Moreover, this body of work frequently conceptualizes the relationship between law and security politics in a linear, dominant form with respect to preemption, which unwittingly or otherwise reinforces certain problems encountered in much scholarship on terrorism, particularly those ontologically fixed upon violent acts carried out by non-state (terrorist) actors, and the binary systems constitutive of such analysis of terrorism (i.e., self/other, state actors/non-state terrorists, West/rest, proscription order/proscribed other, and proscription law/outlawed subjects).

Furthermore, temporal bearings within the discourses and practices of proscription have been somewhat recognized in existing work on proscription, whether directly or indirectly. The relevance of time in this discussion, for example, is reflected in the series of studies with time-referent titles such as “proscribing the past” (Kirkpatrick 2019), “proscription’s futures” (de Goede 2018), “listing and delisting” (Haspeslagh 2013; de Goede 2011), among other works (including the title of this article—“proscribing time”). What is more, Jarvis and Legrand (2018) note that “proscription typically serve a ‘preventive’ purpose which is directed toward crimes as yet uncommitted.” Despite these illustrations of (the significance of) time and temporality within academic debate on proscription, this relationship between proscription and temporality, I argue, warrants further empirical inquiry to highlight more comprehensively important complexities it engenders—that is, the varied temporal forms and rationales that underpin the production, and indeed contestations, of proscription. Doing so, I suggest, presents a potentially useful roadway for advancing theoretical knowledge and innovation.

de Goede’s (2018) work is prominently influential with regard to the relevance of temporality in (analyzing) proscription. As de Goede (2018) points out, “it is this dimension of time, temporality, and temporariness of proscription that generates its exceptional nature and complexity.” Indeed, this provides a veritable springboard for further inquiry into the interaction between proscription and time, notwithstanding an important caveat worth noting: de Goede’s work, however, focuses on the “temporariness of proscription,” and on questions about the relationship between “prevention” and “punitive” aspects of counterterrorism. These, of course, reflect wider (temporal) issues in proscription scholarship, which often go unacknowledged or ignored altogether. Proscription, for instance, has been described in much of this scholarship as the banning—or listing—of individuals and groups linked to terrorism, which, among other consequences, disassociates them from the rest of society (Jarvis and Legrand 2017). This suggests, on the one hand, a “specific moment” in which such proscription takes place (often at the behest of actors with formal authority (power) against *othered* subjects), and on the other, implies a specific linearity with respect to the prevention of “future” crimes or violence. As noted above, this reverberates certain assumptions about preemptive security, including the domain of state sovereignty, which does not help us understand if and how proscription is (de)stabilized in terrorism trials, including by terrorist suspects and judges, as well as within media and public discourse.

Relatedly, analysis around the deproscription of terrorist organizations—which, to some extent at least, remodels similar ideas and binary of securitization and desecuritization—often implies a neat break between the (time of) listing and delisting of groups linked to terrorism (Kirkpatrick 2019). Haspeslagh (2021) highlights the implication of this binary, though in relation to the (un)labeling of terrorists, arguing that “unlabelling terrorists is not as simple as dropping the t-word. . .this also raises the important question of whether the ‘terrorist’ tag can ever be truly reversed.” In this article, I argue that this very much applies to [p]roscription, especially when time and temporality are placed at the center of theorizing proscription. While proscription decisions (and power) are often situated within varied histori-

cal contexts, including certain geopolitical preferences, political/judicial decision-making, and colonial legacies, in much of this literature, the emphasis is typically on the move from nonproscribed to proscribed, which invokes a temporal discontinuity. As such, this ignores the diverse, and often conflicting, temporalities through which proscription is made meaningful.

As demonstrated below, examining the ways in which proscription, time, and temporality are deeply entangled and articulated within legal discourse—by exploring terrorism trials in Nigeria—illustrates more fully the production, complexity, and effects of proscription, and thus contributes theoretically to the debate on proscription. The idea of *proscribing time* developed in this article, to emphasize, is fundamentally different from “the time of proscription or deproscription,” which suggests either a forward-oriented (prevention or precautionary) idea of proscription or signifies a certain period marking the listing and/or delisting of those linked to terrorism. Rather, it highlights important nuances of proscription that go beyond the actual declaration of proscribed groups and/or the time of (de)listing, and beyond the prevention of future crimes or violence. Proscribing time, as I show below, entails overlapping, sorting, and ultimately *banning* time (rather than terrorist groups), which produces multiple, complex temporalities and illustrates more elaborately the workings and consequences of proscription. Put differently, time is not only fundamental to (defining) proscription but also entails diverse temporal rationales, which highlight, among other things, crucial contestations or resistance to state power, as well as the knottiness of juridical processes. Approached in this way, I argue, it steers theoretical and ontological debate away from the “actor-oriented” focus along with the essentialisms and problems that this unreflexively reinforces by situating time as the “object of proscription.”

Security and Legal Temporalities

Debates on preemption, risk (ification), and temporality in critical security studies and international relations more broadly have examined the forward-oriented logics of security temporality, which consistently shape security discourses and practices, particularly in relation to managing future threats, regulating uncertainty, and justifying emergency measures in preventing ostensibly ominous events ([de Goede and de Graaf 2013](#); [Stevens 2016](#); [Aradau 2017](#); [Anwar 2021](#)). As [de Goede \(2018\)](#), among others, has noted, this mobilization of “the future” is indeed deeply political as “contemporary security politics deploys its own future-oriented common-sense often characterised by doomsday scenarios and impending catastrophes which require immediate, urgent, and of course, present actions.” For instance, the preemptive outlook of counterterrorism practices akin to the global war on terror—such as the proliferation of anti-terror legislation, hasty policies informed by prediction and calculation of risks, and various measures introduced to monitor, dissuade, and/or disrupt future terrorist attacks—illustrates vividly this emergency imaginary of security.

This present–future gaze of security, however, increasingly overlaps with traditional understanding(s) of “legal temporality,” which is supposedly (and comparatively) slow, backward-looking, and mostly apolitical ([Sullivan 2014](#)). This often suggests a chasm or incompatibility between the “evidentiary standards of the law and the fragmentary, secretive and often speculative nature of (information used for) security interventions” (Opitz and Tellmann quoted in [Anwar 2021](#), 5). However, a growing number of studies—predominantly in critical legal studies, criminology, international relations, and critical security studies—have demonstrated the ways in which security rationalities are produced, sorted, and contested in legal practice ([Amoore 2008](#); [Mawani 2014](#); [Opitz 2011](#); [Agathangelou and Killian 2016](#); [Aradau 2017](#); [Chowdhury 2020](#)).

Amoore (2008, 850) argues that law, in fact, “authorises, and contests, specific modes of risk management and security norm, instead of receding” from these as an autonomous arbiter. This entanglement of security, law, and temporality has indeed become increasingly possible in post-9/11 domestic and global contexts in which the adoption of anti-terrorism laws and judicial approval of proscription orders, among other practices, enable the legitimization of “anticipatory prosecution” of future terrorists and criminals (Chesney 2005, 2007). As de Goede and de Graaf (2013, 317) point out, building on the vitally important work of (critical) legal scholars, terrorism trials are *performative spaces* where “potential future terror(ists) is imagined, invoked, contested, and made real in court proceedings and verdicts, as well as through its wider media and societal echoes.” In other words, it is during terrorism trials that, *inter alia*, criminal intent, terrorist identity, proscription, and temporalities are “evoked by the prosecution, rejected by the defense and judged by the jury or judge” (de Goede and de Graaf 2013, 317). Thus, the relationship between the law and security (exception) is much closer, more dynamic, and more processual than typically assumed, which blurs the dichotomy between traditionally forward-oriented security logics and backward-oriented legal decisions.

Furthermore, more recent interventions have queried the “singular, authorial manner” in which the relationship between law and politics in general, and “security exception” in particular, has been conceptualized (Suresh 2023, 5). Drawing upon the idea of “legal technicalities,” Suresh demonstrates the ways in which participants in terrorism trials, especially terrorist suspects, make use of mundane legal practices and procedures “to find a footing in the courtroom in order to obtain a particular future” (2023, 25). This highlights the twists and turns in terrorism trials, and an alternative function of temporality—the acquittal of terrorist suspects rather than risk preemption or exception—albeit with respect to a “future time or outcome.” Moreover, the temporal imaginary of past and future (time), as McIntosh (2020) notes, takes for granted the “temporal present,” which is sociopolitically articulated as an exceptional space that is contextually produced and reproduced. Relatedly, Fisher (2013) uses the concept of atemporality to highlight the complexity of the narratives of time that move beyond “the exception, the event, or the emergence” and instead pay attention to the muting of context. What is more, the intricacy of temporality within the context of law and (security) politics, drawing upon ideas about the “multiplicity of time” in feminist, postcolonial, and socio-legal scholarship, was compellingly articulated by Anwar (2021) in her examination of court proceedings on terrorism financing cases. Demonstrating the entanglement of security and legal temporalities, Anwar (2021) suggests moving beyond questions of defining specific temporal chronotypes (linear, backward, forward, present, cyclical, future, etc.) and instead focusing on how multiple temporalities become visible and their effects. Even more importantly, the idea of “sorting time” developed in her work highlights the ways in which different interpretations of time and violence intersect, overlap, and are (re)presented in legal practice to prosecute or convict terrorist suspects. This body of work also highlights the production of legal subjects and criminality “in and through time,” as well as the contestation of temporal narratives and (security) politics (Solomon 2014; Chowdhury 2020; Anwar 2021).

I draw upon these insightful works—on preemption, (legal) practice, and temporality in critical legal studies, critical security studies, and related fields—to examine the connection between proscription and temporality and, in so doing, push further the ongoing debate on proscription in two significant ways, particularly through the idea of *proscribing time*. First, I demonstrate the importance and centrality of time and temporality within legal discourse of proscription, which I argue move the debate on proscription away from actor-centered perspectives dominant in recent works on proscription despite the critical, and seemingly varied, orientation of these interventions. Rather than individuals and organizations associated with terrorism,

time itself, I argue, is “securitized,” *prohibited*, and made vulnerable to security and legal intrigues.

Second, by identifying the place of time at the heart of legal definitions of proscription in terrorism trials in Nigeria, I illustrate the complexity of temporality within this legal discourse (specially enacted through “governing, contesting, and sorting time”) and its effects, including establishing criminal intent, constructing terrorist identity or threat, imagining risk and prevention strategies, and contesting juridical truths. This performs other broader functions too, such as legitimizing the terrorism trials and broader counterterrorism efforts in Nigeria, despite concerns about the hurried and often arbitrary nature in which the arrest of suspected terrorists was conducted, the unlawful detention of suspects without immediate or fair trial, issues with anti-terrorism laws and their revisions, the contestation of executive proscription orders, and the secretive nature of terrorism trials (Human Rights Watch 2018; Ngari and Olojo 2020).

Notes on Method

As the foregoing suggests, this is not a juridical intervention, and my concern in this article is not to establish—or to contest the veracity of—the legal judgment or verdict in these selected cases. Rather than approaching these historically and politically, I place these cases within broader debates about proscription and temporality in critical security studies. Also, as outlined above, I approach terrorism trials as performative spaces where the scope, legitimacy, and meaning of proscription vis-à-vis time are enunciated, scrutinized, and (de)stabilized (de Goede and de Graaf 2013). The analysis that follows, thus, recognizes the productive power of legal arguments and the ways in which these are embedded in and reproduce deeper-lying social and symbolic structures (Amoore 2008; Kessler 2008; de Goede and de Graaf 2013). After all, (the crime of) terrorism is essentially a political and contested concept; hence, terrorism trials inevitably take on this aspect of political disputes. Such a performative perspective of terrorism trials, which focuses specifically on linguistic utterances and their effects, sees trials as the stage or place where these contestations play out, where narratives of (in)justice are established, and where subject positions are enacted and entrenched (de Graaf 2011). Similarly, Mattei (as quoted in Bogelein, Eppert, and Schmidt-Kleinert 2022, 452) defines courtrooms as “heterotopia,” where “space and speech define gender and power relations.” More recent scholarship on courtroom research in the context of terrorism trials, such as Bogelein et al. (2022), which draw upon an interactionist approach, offers other useful methodological guides for my analysis below to explore (i) the interaction between the state (and those who represent it) with the defendant/defense; (ii) the self-presentation of defendants; and finally (iii) the connection between court proceedings and the world outside.

This article stems from a broader research project on terrorism trials in Nigeria, and the five cases (see table 1) examined below, including cases from the so-called Kainji trials, were selected primarily due to the similarity of the offense concerning membership of proscribed terrorist organization, despite notable differences between these cases, including the alleged crimes or charges, the length of trial, and the judgment. In the FRN versus Murktar Ibrahim case, for example, additional charges include preparatory acts such as membership and participation in online forums. In FRN versus Dala, the accused was charged with criminal conspiracy and acts of terrorism, while in the FRN versus Goni case, other alleged criminal offenses included withholding relevant information about Boko Haram from security agencies. The accused in these cases, however, were arrested between 2010 and 2013 before the formal proscription of Boko Haram, often based on anecdotal intelligence gathered as part of the state counterterrorism campaign through various

Table 1. Terrorism trials in Nigeria: five cases examined

No	Case	Charge(s)
1.	The Federal Republic of Nigeria (FRN) vs. Yusuf Yahaya, DPP/ADV:CCG/762/14.	Membership of a proscribed terrorist organization
2.	FRN vs. Murktar Ibrahim, Charge No: FHC/ABJ/CR/178/2012	Preparatory acts, i.e., activities in online forums, acts of terrorism, and membership of a proscribed terrorist organization
3.	FRN vs. ALH. Kyari Goni Abdullahi, DPP/ADV:CCG/229/14	Membership of a proscribed terrorist organization
4.	FRN vs. Abdalla Dala Alias Aramma, DPP/ADV:CCG/630/14	Criminal conspiracy, acts of terrorism, and membership of Boko Haram
5.	FRN vs. Mustapha Alhassan, DPP/ADV:CCG/796/14	Membership of a proscribed group

means including torture, to identify members of Boko Haram and prevent future terrorist acts or threats.

The research data was collected during archival research in Abuja, Nigeria, between February and April 2020, from the Complex Case Working Group, which is a subdepartment within the Ministry of Justice set up in collaboration with the British government to prosecute terrorism suspects (see [Chukwuma 2022b](#) for more on state archives in Nigeria). The data includes case files as well as court judgments, detailing the charge(s), facts of the case, observation and legal opinion, prosecutor's argument and the defense, and final judgment of concluded cases. It is important to note, however, that due to the fragmentation of state archives in Nigeria, crucial details about the cases examined below, including, for example, court proceedings and exchanges, may have possibly been excluded. These texts were read inductively, focusing on the ways in which proscription and temporality are conjured, connected, and contested. The empirical section below is conducted through an interpretive and narrative style of textual analysis, which pulls different parts of each case to offer a comprehensive account in light of the focus of this article.

Terrorism Trials in Nigeria

Research on terrorism trials in Nigeria, particularly in relation to the prosecution of suspected members of Boko Haram, is relatively (very) small despite the rapid proliferation of works on counterterrorism strategies in Nigeria over the last decade or so. As such, this article contributes empirically to filling this gap. For anyone (un)familiar with issues of terrorism in Nigeria since 2009 at least, Boko Haram, among several other terrorist groups, has carried out relentless attacks initially targeted against state officials and security forces but soon included civilian targets within its strings of attacks. There is substantial literature on counterterrorism efforts in Nigeria, which mostly focuses on the use of military (or hard) approaches and nonmilitary (soft) measures alongside a few ([Ugwueze and Onuoha 2020](#)), though no less significant, critical interventions ([Chukwuma 2021, 2022a; Oyawale 2022](#)).

In 2017, Nigeria began trials of 1,699 Boko Haram suspects prosecuted for various charges, ranging from providing material support to the group to providing professional services to members of Boko Haram such as mechanic repairs. These trials were superintended by the Complex Case Working Group located within the Department of Public Prosecution in the Ministry of Justice and were set up in concert with the British government. This collaboration in developing the criminal justice system in Nigeria vis-à-vis counterterrorism—which illuminates the continuing legacies of British colonialism in Nigeria ([Chukwuma 2022b](#))—also involves the

building and renovation of state prisons, training of individuals in the United Kingdom, and other material support (the provision of information and communication technologies) to prosecute terrorist suspects. The “Kainji trials,” which refers to the place where these trials took place between 2017 and 2018 (i.e., Wawa cantonment, Kainji, Niger state), have been heavily criticized for a range of issues, including procedural and more substantive problems, such as the secretive nature of the trials (especially the first phase, which was held behind closed doors), the role of the military in the arrest, detention, and trial of suspects (the trials took place in a military facility), inadequate resources granted to defense lawyers, the limited timeframe of trials (each of the three phases of the Kainji trials lasted no longer than five days), and the predominant use of confessional statements as evidence (Ngari and Olojo 2020).

It is also worth noting, however, that the mass arrest of suspects from 2009 until 2013 (and beyond) was part of the state’s initial responses to uprisings and clashes between Boko Haram and state security forces in 2009, which were—and continue to be—driven by a military-centered approach (Ngari and Olojo 2020).⁴ Even more importantly, and indeed a point that is often ignored in various commentaries, is that Boko Haram was proscribed as a terrorist organization in June 2013 after most of the arrests—and detentions—of terrorist suspects had been carried out (Ejeh, Bappah, and Dankofa 2020). Yet much of the criminal charges against suspects during these trials were for membership of a “proscribed” terrorist group (i.e., Boko Haram). Interestingly, the Terrorism (Prevention) Act (TPA) 2011 and its subsequent revision (2013) make provision for the prosecution of individuals linked to “proscribed terrorist organizations” (see Sections 2 and 16, respectively).

Indeed, several cases of terrorism have been prosecuted under the EFCC Act 2004 and TPA 2011 before the mass trials in 2017–2018. These earlier trials, however, highlighted certain problems and inadequacies of existing anti-terrorism (and proscription) laws, and Nigeria’s counterterrorism regime in general, such as the lack of provisions for the criminalization of acts of terrorism committed by anyone in or outside Nigeria, and the lack of proscription order of Boko Haram and other terrorist entities as terrorist groups for purposes of application of the law (Ngari and Olojo 2020). Moreover, Subsection 4 of the TPA 2011 (compare with Section 16(4) of TPA 2013)⁵ outlines an important caveat:

It is a defence for a person charged under this section to prove that the organisation had not been declared a proscribed organisation at the time the person charge became or profess to be a member of the proscribed organisation and [he] has not taken part in the activities of the organisation at any time after it has been declared to be a proscribed organisation.⁶

The above highlights, on the one hand, the disparity between (timings of) the proscription order by the federal executive declaring Boko Haram as proscribed terrorist organization (in 2013) and the proscription law (i.e., TPA 2011) and how all this plays out in terrorism trials. On the other hand, however, this offers a useful background for examining (the politics of) legal sense-making of proscription as articulated in the five cases discussed below. In other words, how is proscription enacted and contested in these trials, chiefly with regards to temporality? As argued throughout this article, this places time (and temporality) at the center of (theorizing) proscription instead of terrorist groups or on (executive) proscription power.

⁴For criminal trials, the Nigerian legislative framework does not extend to the Nigerian military’s powers to make arrests. However, the military-oriented focus of the country’s counterterrorism strategy increasingly makes it possible to override this aspect of the Nigerian law.

⁵Terrorism Prevention Act 2013. Online available at <http://nctc.gov.ng/terrorism-prevention-amendment-act-2013/>.

⁶Terrorism Prevention Act 2011. Online available at <https://gazettes.africa/archive/ng/2011/ng-government-gazette-dated-2011-06-10-no-59.pdf>.

Also, differences between the timings of different events and actions—i.e., arrests, detention, proscription of Boko Haram, and trials—help to shed light on the complexity of proscription and temporality as produced within legal discourse.

It is pertinent to also highlight the gendered dimension of anti-terrorism laws in Nigeria, as indicated above, as well as terrorism trials, given that most of the suspects include men of different ages. Such issues related to gender, particularly the link between masculinity and violence in law, policy, and academic discourses of terrorism and political violence, are, of course, not new. In *FRN versus Murktar Ibrahim*, for example, the second prosecution witness (PW2), who is also the staff officer responsible for investigating terrorist suspects, told the court that the link between the accused and an online [terrorist] personality, Abu Sabaya, was based on anecdotal evidence, and before he met the accused person.⁷

Empirical Accounts of Proscription and Temporality

In this section, I examine, first, how time is situated within legal discourse of proscription, specifically in relation to the sense-making of the timings of different events (pre/post trial), which are relevant in establishing or contesting juridical truths. Here the prosecution and the defense rely upon, and consistently refer to, confessional statements of suspects about being members of Boko Haram which were often obtained at different times (before and after the proscription of Boko Haram) and often ignore the conditions in which such statements were obtained or their temporal implications. Thus, instead of focusing categorically on the proscription of terrorist entities, the referential value of time and timing is ontologically fundamental in making proscription real. I also highlight in this subsection the ways in which legal subjects—and terrorist identity—are discursively and “temporally stretched or shrunk” within this discourse. Secondly, examination of these cases too, as demonstrated below, reveals multiple yet complex temporalities constitutive of proscription. This surpasses linear (forward or backward) temporal forms and highlights specifically the production of legal timelessness or episodes, through which time vis-à-vis proscription is “securitized,” suspended, and scrutinized.

Thirdly, I demonstrate the vitally crucial functions of language and labeling in criminal trials as revealed through the study of different stages of the trials (arrest, statement, etc.), as detailed in the case files. My analysis of these selected cases, as well as other cases in this research project on terrorism trials in Nigeria, shows that the use of labels such as “proscription” or “proscribed terrorist group” became increasingly prominent and used more frequently in juridical processes after the executive proscription order in 2013. While the TPA 2011 explicitly refers to “membership of proscribed terrorist organizations,” this featured less prominently in the pretrial stages and at other periods prior to the proscription of Boko Haram in June 2013. Such mobilization of the proscription label in legal repertoires and adjudication processes has been highlighted in other works; however, the centrality (and complexity) of temporality in these cases, I argue, make proscription semiotically open, flexible, and amenable to different purposes.

Centrality of Time in Proscription

In *FRN versus Yusuf*, the accused was arrested on November 29, 2012 and charged for “professing to be a member of Boko Haram, a proscribed terrorist group.”⁸ According to the facts of the case, the accused claimed to have joined the group in 2008, shares Boko Haram’s ideology, including its stance against western education, and associates with other members of the group. While the suspect was arrested

⁷FRN versus Murktar Ibrahim.

⁸DPP/ADV:CCG/762/14, FRN versus Yusuf Yahaya.

in 2012 prior to the proscription of Boko Haram, the Senior State Counsel argues however,

his statement was read to him 15 months after (in 2013) and he confirmed and signed this. Therefore, there was no time when he denounced membership, but he has at all times maintained his claim of membership and ideology of the sect. Therefore, can be successful tried for membership of a [proscribed terrorist organisation] contrary to section 16 of the TPA (2013). Therefore, the suspect should be charged and prosecuted accordingly.⁹

References to time in the above shift focus from the official banning of Boko Haram as fundamental in enacting proscription and criminality, not least because membership of “proscribed” terrorist groups is determined through the overlapping, meshing, and sorting of different times. Moreover, such “ritualistic performances of confession and avowal” by accused persons in the production of criminal intent are, by and large, organized around, and made meaningful through, time (Foucault quoted in [de Goede 2018](#)). Interestingly, the defense lawyer highlighted the “variation in [the] time” of arrest, pretrial detention, and arraignment, as well as the circumstances and conditions under which the accused’s statements were obtained at various times. He noted that the accused was illiterate, hence “did not fully understand what was being communicated [or interpreted] at different moments” in the pretrial stages, and that Boko Haram was not a proscribed group at the time of his [the accused’s] arrest. The court judgment, however, agrees with the legal argument presented by the prosecution—along with its preemptive justification—based on the accused’s avowal of being a member of Boko Haram “at all time.”

Furthermore, in *FRN versus Murktar Ibrahim*, the accused was arrested for his activities in online forums deemed to promote jihadist ideologies, which, according to the prosecution, seemingly constitute “preparatory action,” along with the allegation of being a member of Boko Haram. During cross-examination, though, the intelligence agency (as PW2) told the court that, “as at the date when the accused person was arrested for his online activities on a jihadist website, Boko Haram has not been officially outlawed.”¹⁰ This claim notwithstanding, the prosecution’s case was primarily hinged upon the “temporal facts” of the case (that is, whether these timings matter and how they *should* apply) rather than on the proscription of terrorist entities. As clarified further in the court judgment, with regard to the evidence presented by the intelligence agency (PW2),

he [the investigator] does not expect any court of law to buy this story having regard to the time lag (between the collection of exhibits and their confirmation by the accused) without the court contextualising the event of the signature, as well as the allegations of torture which the accused had testified on in his evidence-in-chief.¹¹

The above text further highlights the importance of time, timings, and (in)actions in the production of juridical truths about proscription, as well as the nonlinear relationship between law and security politics. The judge in this instance clearly recognizes the temporal ramifications of the prosecutorial narrative and the alleged pretrial misconduct by state security agencies, including concerning the use of torture in obtaining confessional statement. Thus, the judge called for more clarification or contextualization, and the “exclusion of conflicting evidence.” Indeed, as [Chowdhury \(2020, 3\)](#) points out, “legal adjudication processes are driven not through the application of legal rule alone, but also through the deployment of different legally produced temporalities upon which events and subject formation are

⁹DPP/ADV:CCG/762/14, *FRN versus Yusuf Yahaya*.

¹⁰The Federal High Court of Nigeria, Abuja 2015. *FRN versus Murktar Ibrahim*, Charge No: FHC/ABJ/CR/178/2012.

¹¹The Federal High Court of Nigeria, Abuja 2015. *FRN versus Murktar Ibrahim*, Charge No: FHC/ABJ/CR/178/2012, p. 34.

structured.” As such, the legal subject in the above cases emerges in and through time, *stretching* from when they confirmed, rejected, or denied being members of Boko Haram to the time of their arrest, pretrial statement, detention, and trial.

What is more, this temporal discourse of proscription also enables the production of terrorist identity, which is, of course, constructed and situated “within time” (Ricoeur 1980), and seemingly poses a threat regardless of when the proscription order outlawing Boko Haram was elaborated and communicated. In the case between FRN and Goni Abdullahi, the suspect was arrested in March 2013 and charged with membership of a proscribed group after having been “at large,” according to security intelligence.¹² Though the accused claimed to be “a member of the sect,” according to the facts of the case, he has “never participated in any terrorist attack.”¹³ Yet the legal opinion of the State Senior Counsel recommends prosecution based on the accused’s confessional statement, as well as his association with members of Boko Haram and other circumstantial evidence, including the investigation report (such as the different locations he visited or was sighted by the state security agency before his arrest). This essentially weaves together legal and security temporalities by *banning* time and, in doing so, enabling the criminalization of pre-crime actions. As de Goede and de Graaf (2013) observe, the law’s temporal focus on establishing criminal offenses often intertwines with political action and policy that allow for certain temporal sorting practices to be made meaningful. Thus, the pre-crime, mundane activities carried out by the accused, including his movement or mobility, and the relationships or associations he forms, which serve as anecdotal evidence mostly for intelligence purposes, are given temporal significance by the prosecution, supposedly to prevent future crimes.

The focus on time in the articulation of proscription as illustrated in these cases transcends the materiality often associated with proscription regimes and/or order, as well as academic discussions about these. Temporality fundamentally renders proscription open to diverse interpretations, and rationales, with often far-reaching consequences. The significance of temporality here, to emphasize, extends beyond recognizing the importance of time in (legal) discourses of proscription. Rather, this article foregrounds the centrality of temporal trappings in the construction and contestation of proscription. As Ricoeur (1984, 3) notes, “the world unfolded by every narrative work is always a temporal world and. . . narrative, in turn, is meaningful to the extent that it portrays the features of temporal existence.” Thus, it is through legal temporal narratives that multiple and scattered events are made meaningful through their contingent (temporal) integration. Proscription is therefore constructed through, and according to, its temporal articulations, contestations, and consequences.

The court is markedly a charged space in which meaning(s) and effects of proscription in relation to temporality are variously enacted and scrutinized. As revealed in these trials, the defense counsel, the judge, and the accused consistently highlight the gaping hole in the prosecution, including concerning the timings of the proscription order, as well as other lapses within existing anti-terrorism laws in Nigeria. In the FRN versus Murktar case discussed above, for example, the defense counsel argued that “the use of internet for the dissemination of news or information was not covered in the Terrorism (Prevention) Act 2011 when the accused was arrested (this was only provided for in the revised Terrorism Act 2013).”¹⁴ Also, with regard to the listing of terrorist groups, the defense counsel argued—relying upon Sections 36(12) of the 1999 Constitution of Nigeria¹⁵—that “the offence of

¹²According to the case file, this case was adjourned, pending further investigation and fact-finding.

¹³FRN versus ALH. Kyari Goni Abdullahi, DPP/ADV:CCG/229/14.

¹⁴The Federal High Court of Nigeria, Abuja 2015. FRN versus Murktar Ibrahim, Charge No: FHC/ABJ/CR/178/2012.

¹⁵According to Section 36(12) of the 1999 Constitution of the Federal Republic of Nigeria, “a person shall not be convicted of a criminal offence unless the offence is defined, and the penalty therefore is prescribed in a written law.

membership of proscribed terrorist organisation was allegedly committed in 2010, whereas the accused was charged under section 2 of TPA (2011), and meanwhile Boko Haram was proscribed in 2013.”¹⁶ Such attempts to untangle the link between accused persons and criminality, again, place time at the center, in making sense of the relationship between anti-terrorism laws, proscription (executive) orders, and related preemptive measures, and how all these interact in criminal trials. In all, the different, competing accounts of time explored in this section “ultimately effects determinations of criminal responsibility” and (Chowdhury 2020, 5), more significantly, provide the means through which proscription becomes imagined, embodied, and scrutinized.

Multiple and Complex Temporality

As discussed in previous sections, security and legal temporalities are often described as operating in fundamentally dissimilar ways, whereby one (legal) is slow and backward-oriented and the other (security) is characterized by speed and forward-oriented logics. Also, more recent works on preemption have identified the increased relationship between law and politics with regard to the precautionary approach involved in counterterrorism. Yet, as the discussion in the previous subsection shows, not only is time central to (legal) articulations of proscription, but also temporality often outstrips the production of these linear temporal forms and security rationales. Building upon my analysis above, the following section examines two temporal assertions—i.e., timelessness and episodic—to illustrate the complexity of temporality in the context of proscription.

The ambition of preventing future terrorist violence inevitably seeps into, and recomposes, legal discourses to expedite criminal prosecution of terrorist suspects, thereby creating a form of “legal timelessness” or atemporality. As in the above-discussed case between FRN versus Yusuf, where the suspect’s statement was read, rewritten and reaffirmed multiple times, including in pretrial stages in which, according to the prosecution, the accused supposedly claimed to be a member of Boko Haram “at all times, and at no time did he denounce his membership.”¹⁷ This, in effect, homogenizes different timings regardless of the events or actions occurring “within, and at particular moments in, time,” producing a form of “legal timelessness.” As explained above, this temporal design produces legal subjects that could be stretched or diminished, as well as enabling the construction of terrorist identity that erase individual narratives, existing legal rules, and other precrime measures (Anwar 2021). Thus, statements offered by accused persons, as well as broader political practices related to counterterrorism (proscription order, for example), are read with a preemptive focus underwritten by legal timelessness. This temporality is, however, scrutinized by defense lawyers, accused persons, and judges, as I show later in this section.

Furthermore, in FRN versus Abdalla Dala, the suspect, who was arrested in 2012, “emphatically admitted being a Boko Haram member since 2009 at least and had received training on how to handle firearms and participated in terrorist acts carried out by the group.”¹⁸ According to the case file, the prosecution argued that it “made sense to prosecute him for criminal conspiracy, acts of terrorism and, most especially, for being a member of a terrorist organisation.”¹⁹ Chiefly, the suspect’s claim of being a member of Boko Haram enables the production of this timeless framework that conflates past, present, and future scenarios, disregarding other in-

A written law according to this section, refers to an Act of the National Assembly or a law of a state, and subsidiary legislation or instrument under the provisions of a law.”

¹⁶The Federal High Court of Nigeria, Abuja, FRN versus Murktar Ibrahim.

¹⁷FRN versus Yusuf Yahaya

¹⁸FRN versus Abdalla Dala Alia Aramma, DPP/ADV:CCG/630/14.

¹⁹FRN versus Abdalla Dala Alia Aramma, DPP/ADV:CCG/630/14.

tervening factors, timings, and (in)actions, such as the proscription of Boko Haram as a terrorist organization, the time of arrest, detention, and arraignment of the accused in court, and so on. Along this line, “securitizing” time therefore allows for its suspension and facilitates the production of ostensibly “temporal exceptions.”²⁰ Even though the timing of the proscription of Boko Haram as a terrorist organization is widely recognized in these cases, including by prosecutors, defense counsels, suspects, and witnesses, its regulation through various temporal claims, however, makes this timeless perception increasingly permissible “through a noticeable silencing of context” (Fisher 2013, 66). As such, confronted with an excess, this temporal system of timelessness “interiorises what exceeds it through an interdiction (i.e., banning) and thus designates itself as exterior to itself” (Cercel, Fusco, and Lavis 2021, 6).

To put the above in a different way, time is problematized as a security threat yet due to certain timings, events, and (in)actions that cannot (and must not) be provided for by legal texts, outlawed for proscription to be made meaningful (see Agamben’s (2005) work on “exceptions,” and for other engagement with this idea, see Lloyd 2012; Lee, Jan, and Wainwright 2013). This exception, which is made possible by legal timelessness, in effect authorizes criminality and facilitates the conviction of terrorist suspects. In a word, the foregoing demonstrates the complexity of temporality—its precarious direction, ebbs and flows, and effects—and shows how individuals and terrorist organizations are *written into* proscription, though less prominently and most especially, according to the dictates of (legal) time.

Nevertheless, accused persons, defense lawyers, and judges are increasingly aware of, and often scrutinize, these security and legal temporal forms and rationalities. The defense in FRN versus Yusuf as previously mentioned, drew the court’s attention to crucial “variations in the time” of arrest, pretrial detention, and arraignment, as well as the circumstances and condition in which the accused’s statements were obtained multiple times. Similarly, the judge in FRN versus Murktar refers to the “time lag” in the account of the intelligence agency and the importance of “contextualizing events” as they unfolded. What is more, the accused person in FRN versus Abdala Dala described his relationship and participation in the activities of Boko Haram since 2009. Specifically, he highlights the nuances, ebbs, and flows of this relationship, from “moments of active participation” to moments of inaction, disillusion, and detachment, prior to his arrest in 2012 and the proscription of Boko Haram the following year.

The case between FRN versus Mustapha Alhassan further highlights the destabilization of the temporal assumptions of (legal) timelessness by elaborating an episodic, nonlinear narrative. The accused was “arrested in 2010 in Bauchi state for allegedly being a member of Boko Haram based on intelligence report.”²¹ The prosecutorial narrative was built upon the alleged “membership of Boko Haram” and the aim to secure conviction by using different courts, ignoring important details especially concerning the formal proscription of Boko Haram, the time of arrest, and pretrial detention. During court exchanges, the accused narrated his ordeal, beginning from when he was arrested to his time in police detention, his arraignment in different states (Bauchi, Lagos, and Abuja), and the implications of this for obtaining court judgment. Having “denied being a member of Boko Haram at any time,” the accused claimed that “he spent several months in prison in Lagos even though the case was pending before the Federal High Court in Bauchi,” which caused a significant delay in the trial.²² The court therefore held that the

²⁰Here I am thinking about exception in relation to temporality, taking cues from important works in critical legal studies and critical security studies that eschew problematic binaries, such as between normality and security exception, legal normativity (legal rules) and legal exceptions, negation or regulation, normal time and exceptional time, etc. Instead, treating these as fundamentally entangled and, above all, contested in (legal) practice.

²¹FRN versus Mustapha Alhassan, DPP/ADV:CCG/796/14.

²²FRN versus Mustapha Alhassan, DPP/ADV:CCG/796/14.

accused should be tried in Bauchi (instead of Abuja), and that further fact-finding and investigation should be conducted. Thus, the accused narrative does not only highlight his awareness of time but also deconstructs the master temporal narrative of timelessness through “temporal decentring” (Solomon 2014).

Essentially, time is treated in the foregoing in an episodic, nonlinear way to unlock and disentangle the timeless narrative of security by narrating “a series of events that allows one to add, construct, and configure” alternative temporal representations (Ricoeur 1980, 179). These accounts of accused persons, their defense lawyers, and the judge draw attention to broader issues related to state-led counterterrorism interventions and the complexity of the juridical processes involved in terrorism trials. Notably, the mass arrest of terrorist suspects in 2009 by state security forces in response to the unfolding terrorist violence (but also for other symbolic purposes) was commonly based on fragmentary intelligence and was often carried out without due consideration of existing laws, including anti-terrorism laws or lack thereof, and human rights norms. Thus, legal processes and technicalities (i.e., the presentation of evidence, testimonies, the defense, and so on) in light of temporality help to highlight these security practices.

Above all, court settings, as has been noted in other interventions (Kirkpatrick 2019; Anwar 2021), allow for the production of multiple, complex temporalities that emerge from the adjudicatory process, often involving different actors (prosecutors, defense lawyers, accused, witnesses, judges, security agencies, and so on). While (security and legal) time is frequently represented as linear directional where future actions or events naturally unfold as past ones recede, though a product of power relations, especially in the realm of counterterrorism and security prevention, terrorism trials, as demonstrated in this article, provide much space for the contestation of temporal logics of exception, including by “marginalized voices.” This renders visible diverse ideas of time and temporality—timeless (which is preemptive) and episodic (which seeks to dismantle certain juridical truths). It is by no means implied here, though, that power asymmetries are absent in these trials or that accused persons (or even defense counsels and witnesses) are positioned in significantly privileged ways in relation to the state, prosecutors, and judges. Rather, such trials offer a considerable opportunity to glean from, analyze and theorize resistance, particularly in the context of preemption and security politics.

Language and Labeling in Terrorism Trials

The subsections above examined the centrality of time and the complexity of temporality in legal articulations of proscription, respectively. The following section explores the importance of language and labeling for proscription within legal discourse. Indeed, proscription, like other labels with significant implications in security politics, is typically mobilized for constructing identities and subject-positions. As de Goede (2018, 349) notes, “with proscription law and other pre-crime measures, the juridical repertoire of establishing and assessing intentions is not just broadened but fundamentally altered.” More generally, the importance of language (and other symbolic practices) for proscription in producing representations of threat to provide justification for exceptional measures has been highlighted in Bourne’s (2018) work. Moreover, as Jackson (2007b, 2008) argues, terrorism—as well as proscription—is essentially a linguistic and political label rather than an ontologically stable phenomenon. Of course, the normative significance of the “proscription label” is “highly dependent upon its consistent application to all qualifying cases,” groups, and times (Jackson 2008).

Still, as discussed earlier, the complexity of temporality, which is so fundamental to legal discourse of proscription, increasingly renders this label flexible and amenable to different purposes. In the cases examined in this article, as well as other case files in this broader research project on terrorism trials in Nigeria, ref-

erences to “proscribed terrorist organization”—as opposed to, say, “membership of terrorist organization”—increased significantly after the proscription order by the federal executive in June 2013. This does not suggest, however, that proscription was entirely absent in juridical repertoire or broader political discourses before this period. Moreover, even though the Terrorism (Prevention) Act 2011 refers to “proscribed terrorist organizations” (see Section 2), this featured less prominently in terrorism trials and legal discourse prior to 2013. According to the facts of the case in *FRN versus Yusuf*, the suspect was arrested in November 2012 and claimed to have joined Boko Haram in 2008 and shared the group’s ideology. The charge against the accused elaborated in February 2015, however, states:

That you Yusuf, adult, male, “sometime in 2013” at Kaduna state within the jurisdiction of this honourable court, did profess to be a member of Boko Haram, a “proscribed terrorist group”. You thereby committed an offence contrary to section 16(1) of the Terrorism Prevention Act 2013 (as amended).²³

The above charge highlights at least two things: On the one hand, it ignores—or excludes—certain timings, particularly concerning when the suspect was initially arrested and when his statement was obtained prior to 2013. Such timing and events, which cannot be accounted for, invariably regulate and shape the production of proscription. On the other hand, the charge modifies the suspect’s statement of being a member of Boko Haram, essentially by adding “a proscribed terrorist group.” This alteration, regulation, omission, and indeed temporal exceptions, as noted above in relation to the complexity of temporality, enable the criminalization of individuals and/or groups linked to terrorism. Still the mobilization of this label of “proscription” performs other functions, such as constructing the referent (i.e., Boko Haram) as a significant threat and, in so doing, problematizing the suspect’s relationship to Boko Haram. Put differently, the suspect is not only a member of Boko Haram but, most importantly, a member of “a proscribed terrorist group.” Nevertheless, courtrooms as “spaces of language” mean that different actors that participate in terrorism trials *do* things with language (Suresh 2023, 72). The defense in *FRN versus Yusuf* stressed the “variation in time” with regard to different pretrial activities, which, among other things, help to illuminate the omissions in the above charge statement.

Similar mobilization of proscription in labeling terrorist suspects is evident in the *FRN versus Goni* case. Here again, the findings of this case note that “the suspect admitted membership of the sect [Boko Haram] and. . .he was an active member of Boko Haram.”²⁴ The legal opinion, recommendation, and charge contrastingly state that “credible evidence exists for an offence of membership of a proscribed organisation.”²⁵ Thus, proscription is more than an instrument for countering terrorism and rather constitutes a linguistic and political label mobilized in juridical repertoire and adjudication processes shaped by temporality. According to *de Goede and de Graaf (2013)*, “terrorism trials do not take place in an empty space devoid of existing meanings but rather are susceptible to wider processes of media attention, political pressure, and public outrage.” Legal arguments and processes as such are embedded in—and reproduce—wider social and symbolic structures by drawing upon already existing laws, ideas, repertoires, and discourses to construct meaning.

The centrality and complexity of temporality in relation to proscription, as demonstrated in this study of terrorism trials in Nigeria, makes such an articulation of proscription in criminal trials increasingly pervasive and far-reaching. For one, this provides a more expedient alternative to other material evidence in establish-

²³ *FRN versus Yusuf Yahaya*.

²⁴ *FRN versus ALH. Kyari Goni Abdullahi*.

²⁵ *FRN versus ALH. Kyari Goni Abdullahi*.

ing criminal intention in the absence of which, as Kirkpatrick (2019, 330) argues, “the prosecution would have to establish the legal facts in every case that an individual is a member of [dangerous group] thus increasing the evidential burden.” In addition to this, and just like with the terrorist label and its pejorative connotations, the use of proscription in labeling suspects ultimately serves to delegitimize the claims and narratives of accused persons, not least because they are prejudicially constructed—and positioned—as members of proscribed, dangerous, and outlawed groups. In sum, then, the use of language and labeling deepen the temporal effects of proscription by aiding and abetting exceptions and contesting juridical truths. It also undermines considerably the extra-discursive features of proscription, such as terrorist entities.

Proscribing Time?

I finish this article by returning to the key points and argument developed above regarding the complex relationship between proscription and temporality. What, specifically, does *proscribing time* in light of these cases explored in this article tell us about proscription and other preemptive measures, and what implications does this entail for debate about proscription and beyond? As noted, much scholarship on proscription frequently, and ambiguously, focuses on the (de)listing or banning of terrorist groups and the impacts of this therefrom. The primary focus in this tenor of works, though conceptualized in varied ways, essentially involves how proscription power/law/order/ or proscription list emerge, what they *do*, and their wider normative, political, and ethical implications.

Importantly, the ontological state of being and main referent of proscription are organized around the “target of proscription,” that is, terrorist groups (and their proscribers). As noted above, such ontological claims are not uncommon in mainstream analysis of terrorism in which terrorism is treated as an extra-discursive phenomenon that is characterized by certain “brute facts” and binary juxtapositions that are integral to its constitution (Jackson 2007a). However, this limitation has been surprisingly underappreciated in debate on proscription, including in notably critical works. Moreover, (the importance of) time within recent interventions on proscription is largely forward-looking, although significant insights from analysis of legal temporality have somewhat broadened knowledge about preemption, especially in relation to the war on terror.

In light of the preceding discussion, this article therefore demonstrates the importance, and more precisely, the centrality of temporality in (legal) articulation of proscription. Among other things, this perspective stands as an alternative to the overwhelming conceptualization of proscription, which focuses on terrorist groups and also nuances our understanding(s) of temporality. On the one hand, time constitutes the key referent in speaking about—and theorizing—proscription. Yet time is complex, multiple, contingent, and therefore contested, on the other hand. Indeed, this broadens the remit and applicability of proscription, especially in counterterrorism and security practices, as well as juridical processes. As proscription becomes increasingly speakable and is unencumbered by the constraints of (non)material features such as terrorist entities and proscription lists (and time—as its suspension is constitutive of legal temporality, as argued above). These implications notwithstanding, the radical indeterminacy and contingency that emanate from this temporal perspective offer relevant potential for interrogating proscription regimes and other exclusionary practices while eschewing the reproduction of essentialist claims about proscription. It also sheds light on the turns involved in terrorism trials, as well as the courts as spaces for examining security exceptions. In essence, conceptualizing and exploring proscription through a temporal lens enables a broader, deeper critique of proscription (powers), especially by highlight-

ing the multiple—and subtle—ways in which it is (temporally) produced, mobilized, and undermined.

This analysis further extends to the analysis of temporality in critical security studies, which has made significant contributions in highlighting the working and consequences of time in security politics by demonstrating the complexity of temporality in terrorism trials. This shows the varied ways in which time is produced, suspended, and, invariably, contested in juridical processes. As argued in the foregoing, this moves beyond identifying different temporal forms and instead highlights how temporality is used in legal discourse to permit or undermine security exception. In light of this, future work in critical security studies could begin to explore how time is made visible specifically through its suspension, what effects this gives off, and how temporal claims are articulated by different non-state actors for various purposes.

Conclusion

This article examined the closely knit relationship between proscription and temporality by looking at terrorism trials in Nigeria. The discussion herein, more specifically, zoomed in on the ways in which proscription is enacted—and of course contested—in terrorism trials in light of the temporal implications of this production. It illustrated the importance of temporality in legal discourse of proscription, in which time function as the locus of proscription, and highlighted the articulation of multiple temporalities in juridical processes that produce legal subjects and criminality, as well as enable the interrogation of proscription (powers). In doing so, the article makes two notable contributions: Firstly, it contributes to theoretical debates about proscription, and temporality in critical security studies and beyond. Through highlighting the centrality and complexity of temporality in legal articulations of proscription, this article demonstrates more comprehensively the broader implications of proscription while moving away from an actor-oriented perspective dominant in most analyses of proscription.

Secondly, it makes a significant empirical contribution to scholarship on terrorism trials, which is still largely underdeveloped, as well as counterterrorism practices in Nigeria more broadly. This contribution is important not least because terrorism trials in Nigeria (and elsewhere) are often characterized by secrecy and other procedural problems, which occlude them from scrutiny within academic and public discourse. As such, this article goes some way toward shedding light on the complexity of these trials and their broader normative and political implications, not least for ongoing state-led counterterrorism interventions in Nigeria.

Acknowledgments

My sincere thanks to the journal editors and the anonymous reviewers for their generous engagement and feedback on this article. Many thanks, too, to Lee Jarvis for feedback on an earlier draft and to colleagues at the PhD-Staff research meeting on January 25, 2023, in the School of Government and International Affairs at Durham University, where I presented an earlier draft of the article.

References

- AGATHANGELOU, A., AND K. KILLIAN. 2016. *Time, Temporality and Violence in International Relations: (De)Fatalizing the Present, Forging Radical Alternatives*. London: Routledge.
- AMOORE, L. 2008. "Risk before Justice: When the Law Contests Its Own Suspension." *Leiden Journal of International Law* 21: 847–61.
- AMOORE, L., AND M. DE GOEDE. 2008. *Risk and the War on Terror*. London: Routledge.

- ANWAR, T. 2021. "Time Will Tell: Defining Violence in Terrorism Court Cases." *Security Dialogue* 53 (2): 130–47.
- AGAMBEN, G. 2005. *State of Exception*. Chicago, IL: University of Chicago Press.
- ARADAU, C. 2017. "Assembling (Non)Knowledge: Security, Law, and Surveillance in a Digital World." *International Political Sociology* 11 (4): 327–42.
- ARADAU, C., AND R.V. MUNSTER. 2007. "Governing Terrorism through Risk: Taking Precautions, (Un)Knowing the Future." *European Journal of International Relations* 13 (1): 89–115.
- BÓGELEIN, N., K. EPPERT, V. ROTH, AND A. SCHMIDT-KLEINERT. 2022. "Courtroom Ethnography in the Context of Terrorism: A Multi-Level Approach." *International Journal of Qualitative Methods* 21: 1–11.
- BÓGELEIN, N., K. EPPERT, AND A. SCHMIDT-KLEINERT. 2022. "Conference Proceedings of the International Symposium "Terrorism in Court – National Courts as Epistemic and Empirical Field in Terrorism and Violence Research." *Criminology—The Online Journal* 4: 453–9.
- BOURNE, A.K. 2018. "Securitization and the Proscription of Terrorist Organisations in Spain." *Terrorism and Political Violence* 30 (2): 318–35.
- CERCEL, C., G.G. FUSCO, AND S. LAVIS. 2021. *States of Exception: Law, History, Theory*. New York, NY: Routledge.
- CHESNEY, R.M. 2005. "The Sleeper Scenario: Terrorism Support Laws and the Demands for Prevention." *Harvard Journal on Legislation* 42 (1): 1–89.
- . 2007. "Beyond Conspiracy? Anticipatory Prosecution and the Challenge of Unaffiliated Terrorism." *Southern California Law Review* 80 (3): 425–502.
- CHOWDHURY, T. 2020. *Time, Temporality and Legal Judgment*. New York, NY: Routledge.
- CHUKWUMA, K.H. 2021. "9/11 and the Politics of Counter-Terrorism: Writing Temporality in (to) Counter-Terrorism Rhetoric and Discourse in Nigeria." *Critical Studies on Terrorism* 14 (4): 421–4.
- . 2022a. "Critical Terrorism Studies and Postcolonialism: Constructing Ungoverned Spaces in Counter-Terrorism Discourse in Nigeria." *Critical Studies on Terrorism* 15 (2): 399–416.
- . 2022b. "Archiving as Embodied Research and Security Practice." *Security Dialogue* 53 (5): 438–55
- DE GOEDE, M. 2011. "Blacklisting and the Ban: Contesting Targeted Sanctions in Europe." *Security Dialogue* 42 (6): 499–515.
- . 2018. "Proscription's Futures." *Terrorism and Political Violence* 30 (2): 336–55.
- DE GOEDE, M., AND B. DE GRAAF. 2013. "Sentencing Risk: Temporality and Precaution in Terrorism Trials." *International Political Sociology* 7: 313–31.
- DE GOEDE, M., S. SIMON, AND M. HOIJTINK. 2014. "Performing Preemption." *Security Dialogue* 45 (5): 411–22.
- DE GOEDE, M. 2003. "Hawala Discourses and the War on Terrorist Finance." *Environment and Planning D: Society and Space* 21 (5): 513–32.
- DE GRAAF, B. 2011. *Evaluating Counterterrorism Performance. A Comparative Study*. London: Routledge.
- EJEH, E.U., A.I. BAPPAH, AND Y. DANKOFA. 2020. "Proscription of Terrorism in Nigeria: A Comparative Legal Study." *Commonwealth Law Bulletin* 46 (3): 367–90.
- FISHER, K.M. 2013. "Exploring the Temporality in/of British Counterterrorism Law and Law Making." *Critical Studies on Terrorism* 6 (1): 50–72.
- GROSS, J. 2010. "Proscription Problems: The Practical Implications of Terrorist Lists on Diplomacy and Peace-building in Nepal." *Praxis* 26: 38–59.
- HASPELAGH, S. 2013. "Listing Terrorists: The Impact of Proscription on Third-party Efforts to Engage Armed Groups in Peace Processes—A Practitioner Perspective." *Critical Studies on Terrorism* 6 (1): 189–208.
- . 2021. "The 'Linguistic Ceasefire': Negotiating in an Age of Proscription." *Security Dialogue* 52 (4): 361–79.
- HOCKING, J. 2003. "Counter-Terrorism and the Criminalisation of Politics: Australia's New Security Powers of Detention, Proscription and Control." *Australian Journal of Politics & History* 49 (3): 355–71.
- HOGG, R. 2008. "Executive Proscription of Terrorist Organisations in Australia: Exploring the Shifting Border between Crime and Politics." In *Fresh Perspectives on the 'War on Terror'*, edited by M. Gani and P. Mathew, 297–323. Canberra: ANU E Press.
- HUMAN RIGHTS WATCH. 2018. "Nigeria's Flawed Trials of Boko Haram Suspects." Accessed September 17, 2018. <https://www.hrw.org/news/2018/09/17/nigeria-flawed-trials-boko-haram-suspects>.
- ILBIZ, E., AND B.L. CURTIS. 2015. "Trendsetters, Trend Followers, and Individual Players: Obtaining Global Counter-Terror Actor Types from Proscribed Terror Lists." *Studies in Conflict and Terrorism* 38 (1): 39–61.
- JACKSON, R. 2007a. "The Core Commitments of Critical Terrorism Studies." *European Political Science* 6: 244–51.
- . 2007b. "Language, Policy and the Construction of a Torture Culture in the War on Terrorism." *Review of International Studies* 33 (3): 353–71.
- . 2008. "An Argument for Terrorism." *Perspectives on Terrorism* 2 (2): 25–32.

- JARVIS, L., AND T. LEGRAND. 2016. "Legislating for Otherness: Proscription Powers and Parliamentary Discourse." *Review of International Studies* 42 (3): 558–74.
- . 2017. "I am Somewhat Puzzled: Questions, Audiences, and Securitization in the Proscription of Terrorist Organizations." *Security Dialogue* 48 (2): 149–67.
- . 2018. "The Proscription or Listing of Terrorist Organisations: Understanding, Assessment, and International Comparisons." *Terrorism and Political Violence* 30 (2): 199–215.
- KESSLER, O. 2008. "Is Risk Changing the Politics of Legal Argumentation?" *Leiden Journal of International Law* 21 (4): 863–84.
- KIRKPATRICK, D. 2019. "Proscribing the Past or De-Proscribing the Future: A Genealogy and Critical Discourse Analysis of Proscription in the North of Ireland, 1887–2017." *Critical Studies on Terrorism* 12 (2): 317–38.
- LEE, S.-O., N. JAN, AND J. WAINWRIGHT. 2013. "Agamben, Postcoloniality and Sovereignty in South Korea." *Antipode* 46 (3): 650–68.
- LLOYD, D. 2012. "Settler Colonialism and the state of Exception: The Example of Palestine/Israel." *Settler Colonial Studies* 2 (1): 59–80.
- MCINTOSH, C. 2020. "Theorizing the Temporal Exception: The Importance of the Present for the Study of War." *Journal of Global Security Studies* 5 (4): 543–58.
- MAWANI, R. 2014. "Law as Temporality: Colonial Politics and Indian Settlers." *University of California Irvine Law Review* 4: 65–96.
- MULLER, M. 2008. "Terrorism, Proscription and the Right to Resist in the Age of Conflict." *Denning Law Journal* 20 (1): 111–31.
- NGARI, A., AND A. OLOJO. 2020. "Besieged but Not Relenting: Ensuring Fair Trials for Nigeria's Terrorism Suspects." Institute for Security Studies. Accessed May 29, 2020. <https://issafrica.org/research/west-africa-report/besieged-but-not-relenting-ensuring-fair-trials-for-nigerias-terrorism-suspects>.
- OPITZ, S. 2011. "Conflicting Temporalities: Law in Times of Risk." *Behemoth* 4 (2): 58–82.
- OYAWALE, A. 2022. "The Impact of (Counter-)Terrorism on Public (in)Security in Nigeria: A Vernacular Analysis." *Security Dialogue* 53 (5): 420–37.
- PANTAZIS, C., AND S. PEMBERTON. 2009. "From the 'Old' to the 'New' Suspect Community: Examining the Impacts of Recent UK Counter-Terrorist Legislation." *British Journal of Criminology* 49 (5): 646–66.
- RICOEUR, P. 1980. "Narrative Time." *Critical Inquiry* 7 (1): 169–90.
- . 1984. *Time and Narrative*, vol. 1. Translated by Kathleen McLaughlin and David Pellauer. Chicago, IL: Chicago University Press.
- SENTAS, V. 2010. "Terrorist Organisation Offences and the LTTE: R v Vinayagamoorthy." *Current Issues in Criminal Justice* 22 (1): 159–69.
- SOLOMON, T. 2014. "Time and Subjectivity in World Politics." *International Studies Quarterly* 58: 671–81.
- STEVENS, T. 2016. *Cyber Security and the Politics of Time*. Cambridge: Cambridge University Press.
- SULLIVAN, G. 2014. "Transnational Legal Assemblages and Global Security Law: Topologies and Temporalities of the List." *Transnational Legal Theory* 5 (1): 81–127.
- SURESH, M.R. 2023. *Terror Trials: Life and Law in Delhi's Courts*. New York, NY: Fordham University Press.
- UGWUEZE, I.M., AND F.C. ONUOHA. 2020. "Hard versus Soft Measures to Security: Explaining the Failure of Counter-Terrorism Strategy in Nigeria." *Journal of Applied Security Research* 15 (4): 547–67.