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Legal and Policy Framework for Tackling Post-Traumatic Stress Disorder (PTSD) within the Nigerian Armed Forces

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Abstract

In Nigeria, nearly a decade of contending with the debilitating scourge of insurgency and a myriad of emerging security threats has necessitated the deployment of troops to various operations. This in addition to the various peacekeeping missions that members of the armed forces regularly embark upon in the pursuit of world/regional peace makes military personnel and officers of the Nigerian armed forces one of the most susceptible categories of people to Post Traumatic Stress Disorder (PTSD). The probable consequence is that a growing number of military personnel or officers of security agencies (both serving and retired) may be presenting for mental health issues like PTSD. Apart from serving members of the military, service members who transition out of the military also often face substantial challenges transiting to civilian life. This paper critically examines the legal and policy framework managing PTSD within the Nigerian armed forces. Gleaning from the cross-country study of two jurisdictions of the United States of America and the United Kingdom, the article concludes that there is a glaring dearth of PTSD management mechanisms within the Nigerian criminal justice system culminating in a total disregard of the ailment specifically in relation to veterans of war and conflict. The paper recommends that the Nigerian criminal justice system accords proper recognition to PTSD particularly in respect of members of the armed forces in line with enumerated international best practices.

Keywords: *Post-Traumatic Stress Disorder (PTSD); Armed Forces; Criminal Justice; Mental Health.*

Introduction

Military personnel and security agents are by the nature of their professional careers, generally exposed to varying degrees of trauma. They can be exposed to an array of potentially traumatizing experiences because wartime deployments can result in sustaining/witnessing severe injuries or violent deaths, sometimes occurring suddenly. For some, the damage of this level of stress and distress is immeasurable. Apart from the austere environment of deployment, active military members may also experience non-military-related traumas such as interpersonal violence,

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physical or sexual abuse, and the symptoms related to these traumas can sometimes be exacerbated in the deployed environment.

This paper interrogates PTSD management mechanisms within the military/security architecture in Nigeria vis-à-vis the legal, policy and regulatory framework for management of the ailment. The paper is divided into five parts. Part one is the general introduction of the concept. Part two contains the conceptual background of PTSD. This will include understanding PTSD as a global phenomenon, and within the context of the Nigerian Armed Forces and relevant security agencies. Part three discusses the legal and policy framework on tackling post-traumatic stress disorder in Nigeria, while Parts four and five deal with comparative lessons and the conclusion respectively.

A. Understanding PTSD

PTSD is a mental health condition that is triggered by a terrifying event, either experiencing it or witnessing it.[1] It is a condition that can develop following exposure to extremely traumatic events such as interpersonal violence, combat, life-threatening accidents or natural disasters.[2] Symptoms of PTSD include distressing and intrusive memories and nightmares of the trauma, irritability, hyper-vigilance (enhanced state of threat sensitivity or preoccupation with the potential for danger), difficulty sleeping, poor concentration and emotional withdrawal. These symptoms may also include flashbacks, nightmares and severe anxiety, as well as uncontrollable thoughts about the event.

The following examples explain the presentation of episodes of PTSD-

> "*I saw flashes, flashes like incoming round hits, like fire crackers, hearing machine guns, I heard machine guns, I heard rifle fire, I heard more explosions and I could not move. I was happy because I knew I was going to die.''*[3]

> *"I was flying back to San Francisco to get a flight to the East Coast and I had a nightmare." "The motion of the plane brought me back, and I woke up shouting. Everyone on the plane moved away and there was a big empty spot around me on the plane. After that, it was very bizarre and jarring*.''[4]

These two instances are recollections of two veterans of the United States Army of their experiences of episodes of PTSD. Robert Kilgour, a former British soldier, having served in Northern Ireland, Bosnia and the Gulf war returned to civilian life in 1993, and now blames a history of violence on his time in the army. According to Kilgour, "*they trained you to be a soldier, a killer, but they don't then train you to be a civilian again.''*[5] Kilgour reportedly no longer acts like a rational man, he frequently gets into fights and admits to liking no one, even his own self,

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[1] Mayo Clinic, 'Post traumatic stress disorder', (12 December, 2022), available at <https://www.mayoclinic.org/diseases-conditions/posttraumatic-stress-disorder/symptoms-causes/syc-20355967> accessed on the 16th April, 2023

[2] Rachel Yehuda and others, 'Post-Traumatic Stress Disorder', (8 October, 2015), available at <https://pubmed.ncbi.nlm.nih.gov/27189040/> accessed on 10th April, 2023

[3] *State of Louisiana v Wayne Felde, (1982) Supreme Court of Louisiana , No. 81 – KA - 0998*

[4] Parker Kerry, 'Legacy is how troops are', (8th November, 2012), available at <http://www.usatoday.com/story/news/nation/2012/11/08/kerry-legacy-is-how-troops-are-treated/1689873/> accessed 8th April, 2023

[5] The Guardian, 'Collateral damage to ex-soldiers living with PTSD', (18th October, 2014), available at <https://www.theguardian.com/society/2014/oct/18/collateral-damage-ex-soldiers-living-with-ptsd> accessed on 1st May, 2023

because he is disgusted with some of the things he had done.[6] Danny Fitzsimons, another UK veteran had joined up the army at 16, excelled in training, saw active service in Kosovo, Afghanistan and Iraq, and won a distinction as a sniper. In 2004, after eight years, he applied to have his contract extended, but was discharged by the armed forces, citing "anxiety disorder." When he returned home, Fitzsimons was a different character. He had gone into the army full of hope and came out full of hate. Fitzsimons began to get in trouble with the law. He served nine months in prison for assault (his defence was that he thought he was being followed), was convicted for firing a flare gun over the heads of teenagers climbing on his roof, and was charged with a racist assault. In May 2008 Fitzsimons was diagnosed with combat related PTSD by a court appointed doctor. He slipped through cracks in the system and got himself a job in Iraq when he should not have been allowed to leave the UK because he was on bail. He had been in Iraq for just 36 hours when he shot dead two colleagues, Scottish security guard Paul McGuigan and Australian Darren Hoare. Fitzsimons claimed it was self-defence, but he was convicted of the two murders and sentenced to 20 years in jail, in Iraq.[7]

Most people who go through traumatic events may have temporary difficulty adjusting and coping.According to the *Diagnostic and Statistical Manual of Mental Disorders* (*DSM*), the traumatic event must involve exposure to actual or threatened death, serious injury, or sexual violence.[8] Exposure is defined as directly experiencing or witnessing a traumatic event, or learning that a trauma occurred to a close family member or friend. PTSD can also develop from repeated or extreme exposure to aversive details of traumatic events, such as military photographers whose job it is to photograph the details of wartime atrocities, first responders who are charged with collecting human remains, and police officers who are repeatedly exposed to details of child abuse.[9]

Chronic PTSD affects biological, psychological, and behavioral processes and can result in severe functional impairment, reduced quality of life, and high comorbidity with medical and other psychiatric disorders.[10] Although most individuals experience a traumatic event during their lifetime, the majority of trauma-exposed individuals do not develop PTSD. The lifetime prevalence of PTSD is estimated at 8.3%.[11] In the immediate aftermath of experiencing traumatic events, a vast majority of individuals exhibit normative acute reactions such as intrusive thoughts or dreams about the event, hyper-alertness, irritability, and problems with sleep, memory, and/or

[6] *Ibid*
[7] *Ibid*
[8] American Psychiatric Association, 'Diagnostic and Statistical Manual of Mental Disorders', in American Psychiatric Association (ed), (American Psychiatric Association Publishing; Washington DC, USA 2013) p. 10
[9] C.L Lancaster and others, 'Posttraumatic Stress Disorder: Overview of Evidence-Based Assessment and Treatment', (2016) 5(11) *National Library of Medicine*<https://pubmed.ncbi.nlm.nih.gov/27879650/ 105.doi:10.3390/jcm5110105.PMID: 27879650; PMCID: PMC5126802> accessed on 5th March, 2023
[10] Taylor Carter, ' Veterans and Post-traumatic Stress Disorder or PTSD', (4th November, 2022), available at <https://advancedpsychsolutions.com/blog/veterans-and-post-traumatic-stress-disorder-or-ptsd/> accessed on 10th March, 2023
[11] D.G Kilpatrick and others, 'National estimates of exposure to traumatic events and PTSD prevalence using DSM-IV and DSM-5 criteria' *Journal of Traumatic Stress* (2013) 26(5) p.537–547 <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC4096796/> accessed 16th March, 2023

concentration.[12] There is literature to the effect that for approximately two-thirds of individuals exposed to traumatic events, the symptoms resolve on their own.[13]

In summary, PTSD is best characterized as a disorder of failed recovery. It represents one of the few mental disorders in which the inciting event or cause is generally known. PTSD's most distinctive feature is its etiological event. Without this event, PTSD symptoms are indistinguishable from symptoms associated with combinations of other psychiatric diagnosis.[14] PTSD thus is characterized by a failure to follow the normative trajectory of recovery after exposure to a traumatic event. A key to understanding this disorder is therefore investigating predictors of the trajectory of recovery or non-recovery.

B. **PTSD as a Combat [Military] Related Global Phenomenon**- A Cross-Country Survey of International Response to the Scourge.

i. The United States of America (USA)

After two decades of continuous war in Afghanistan, a growing number of veterans with combat experiences were becoming plagued with mental issues such as PTSD. For veterans, PTSD symptoms include combat flashbacks, intense memories, or recurrent dreams of the traumatic event, or the feeling that the stressor is reoccurring.[15]In a study conducted in the United States of America, approximately two thirds of soldiers with PTSD remain with the disorder following treatment.[16] Baseline and post-treatment assessments of PTSD and depression were performed upon 709 veterans with PTSD with a remission rate of 39.4%. Treatment was least effective for intrusion symptoms and had no effect on flashbacks or on poor recall of traumatic features. Of veterans who remitted, 72.8% still met diagnostic criteria for at least one cluster. Poor clinical effectiveness was noted for depression; only 4.1% of the patients remitted following treatment. Treatments for veterans with PTSD show limited overall effectiveness in real-world settings.[17]

Studies also reveal that the number of veterans with PTSD varies by service era. For *Operations Iraqi Freedom* (OIF) and *Enduring Freedom* (OEF), it is reported that about 11-20 out of every 100 Veterans (or between 11-20%) who served in OIF or OEF have PTSD in a given year.[18] For the *Gulf War (Operation Desert Storm)*, about 12 out of every 100 Gulf War Veterans (or 12%) had PTSD in a given year.[19] The Vietnam War produced about 15 out of every 100 veterans (or 15%) diagnosis of PTSD at the time of the most recent study in the late 1980s, the National

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[12] Patrick Sloan , 'Post-traumatic stress in survivors of an airplane crash-landing: A clinical and exploratory research' *Journal of Traumatic Stress* (1988) 1 <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC5126802/> accessed 10th February, 2023

[13] E.B Blanchard and others, 'Prediction of remission of acute posttraumatic stress disorder in motor vehicle accident victims' *Journal of Traumatic Stress* (1997) 10 <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC5126802/> accessed on 17th April, 2023

[14]Young Allan, 'Reasons and Causes for Post-Traumatic Stress Disorder' *Sage Journals* (1995) 32(3) <doi:10.1177/136346159503200303> accessed 23rd April, 2023

[15] J.I Walker, 'The Psychological Problems of Vietnam Veterans' *Journal of the American Medical Association* (1981) 246(7) <https://pubmed.ncbi.nlm.nih.gov/7253146/> accessed 15th February, 2023

[16] Ofir Levi and others, 'A Sobering look at Treatment Effectiveness of Military-Related Posttraumatic Stress Disorder' *Sage Journals (*2022) 10(4)
<https://journals.sagepub.com/doi/full/10.1177/21677026211051314> accessed 15th February, 2023

[17]*Ibid*

[18] U.S Department of Veteran Affairs, 'PTSD: National Centre for PSTD', (3rd February, 2023) available at <https://www.ptsd.va.gov/understand/common/common_veterans.asp> accessed 15th February, 2023

[19]*Ibid*

Vietnam Veterans Readjustment Study (NVVRS).[20] It is estimated that about 30 out of every 100 (or 30%) of Vietnam Veterans have had PTSD in their lifetime.

As a way of controlling the effects of PTSD, there are interventions in place by some relevant authorities of the United States of America, two of which are the Department of Veterans Affairs, and the Veterans' Treatment Courts.

ii. The Department of Veterans Affairs

As a way of supporting veterans, the government of the United States of America operates the U.S. Department of Veterans Affairs (VA). Established in 1989, this body is a cabinet-level executive branch of the federal government charged with providing life-long healthcare services to eligible military veterans at the 170 VA medical centers and outpatient clinics located throughout the country. Non-healthcare benefits include disability compensation, vocational rehabilitation, education assistance, home loans, and life insurance. The body also provides burial and memorial benefits to eligible veterans and family members at 135 national cemeteries across the country. Domiciled within the VA is the National Centre for PTSD.

The National Centre for PTSD was formed to advance the clinical care and social welfare of US Veterans (and others who have experienced trauma, or who suffer from PTSD), through research, education, and training in the science, diagnosis, and treatment of PTSD and stress-related disorders.[21] This Centre prides itself as the world's leading research and educational center of excellence on PTSD and traumatic stress, and is organized to facilitate rapid translation of science into practice. This is geared towards ensuring that the latest research findings inform clinical care, the translation of practice into science and for questions raised by clinical challenges to be addressed using rigorous experimental protocols.

Specifically, the Center's activities are hinged on the following initiatives-

iii. Research Initiatives

The National Center for PTSD helps to improve the care of Veterans and others affected by trauma through its strong commitment to research on the prevention, causes, assessment and treatment of traumatic stress disorders. The National Center has 7 divisions, and each of those divisions has its own area of specialization, giving researchers access to different types of expertise across many geographical areas of the country. Besides its own staff, the National Center has built strong collaborative relationships with Institutions and agencies from VA, other branches of government, the health care community, and academia, giving researchers a vast array of partners for research activities.[22] Most importantly, these activities are enriched by constant contact with clinicians who are directly involved in patient care, giving the research activities a uniquely real-world perspective.

iv. Education Initiatives

The National Center for PTSD's education initiatives aims to synthesize research information and coordinate communication among top scientists in the field of PTSD. The Center also strives to

[20] *Ibid*
[21] *Ibid*
[22] *Ibid*

disseminate that information to those who can put it to use, i.e. clinicians and other mental health care providers, policymakers, educators, Veterans, trauma survivors and their families. The Staff of the Center who are involved in education efforts are also in a prime position to gather feedback from clinicians and providers in the field that can inform future research efforts. In this way, research and education activities compliment and reinforce one another. The major focus of the Center's education activities has always been America's Veterans and Service members, but over the years, it has become clear that the educational materials and training programs produced by the National Center for PTSD can also be of help to others who have experienced traumatic stress, disaster survivors, crime and accident victims and first responders—in short, anyone who has been exposed to traumatic events.

The National Center also works to ensure that professional and special provider populations involved with caring for Veterans and others who experience trauma have access to education and training opportunities. In particular, the PTSD Consultation Program offers providers who are working with U.S. Veterans free consultation with PTSD experts. Consultants assist providers with questions about PTSD assessment and treatment, clinical practice, resources for PTSD care, administration and programmatic issues, and improving care for Veterans. The Consultation Program also hosts a monthly lecture series featuring expert commentary on topics derived from consultation requests. Since 2019, the consultation program has offered opportunities for licenced mental health providers who treat veterans to receive free in-person training in prolonged exposure to PTSD.[23]

v. The Veterans Treatment Courts

Veterans, particularly those who were involved in combat, experience difficulty readjusting to civilian life after deployment and this can contribute to involvement in the criminal justice system.[24] A significant number of the American veterans who returned from the Vietnam conflict experienced rather severe problems adjusting to civilian life. An early sign that a veteran may have unaddressed problems may be when they first break the law.[25] As a result, an innovation that is to serve as an intervention in this regard is the Veterans Court.

The veterans' court is a *special court* charged with trying cases of minor offenses that involve veterans, particularly those diagnosed with service-related illnesses. It offers opportunity for the VA, local support organizations, and local communities to engage veterans and offer treatment as an alternative to time in jail because "*those who have served the country are entitled to a second chance*.''[26] In 2008, Judge Robert Russell, presiding Judge of the Buffalo Drug and Mental Health Court, New York created the Nation's first Veterans Treatment Court and this has been used as a model for the establishment of other veterans' courts in other parts of the United States of America.[27]. This was in response to a growing number of veterans appearing on his

[23] *Ibid*

[24] Kelli E. Canada, and David L. Albright, 'Veterans in the Criminal Justice System and the Role of Social Work' *Journal of Forensic social work*, (2014) *4*(1) <https://doi.org/10.1080/1936928X.2013.871617> accessed 12th January, 2023

[25] *Ibid*

[26] Jim Absher, 'Veteran Treatment Court', (23rd August, 2022) available at <https://www.military.com/benefits/military-legal-matters/veterans-treatment-courts.html> accessed on 12th January, 2023

[27] U.S Department of Justice 'Veteran Court Treatment Program', (10th March, 2021), available at <https://bja.ojp.gov/program/veterans-treatment-court-grant-program/overview> accessed on 17th January, 2023

dockets that were addicted to drugs or alcohol and suffering from mental illness. They are a hybrid-drug and mental Health Court that serves veterans struggling with addiction, serious mental illness and/or co-occurring disorders.

The goal of Veterans Treatment Courts therefore, is to divert those with mental health issues and homelessness from the traditional justice system and to give them treatment and tools for rehabilitation and readjustment. They promote sobriety, recovery, and stability through a coordinated response that involves cooperation and collaboration with the traditional partners found in Drug and Mental Health Courts, with the addition of the VA, volunteer veteran mentors, and veterans and Veterans' family support organizations.[28] The mechanism of the veteran courts allow veterans to remain in the community while undergoing treatment, and a judge regularly checks on their progress. Failure on the part of a veteran undergoing treatment to adhere to set requirements, for example, failing a drugs test or refusing to obey court orders, would automatically draw a sanction from the court. Such sanctions range between community service, fines, jail time, or transfer out of Veterans Treatment back to a traditional criminal court. Veterans respond favorably to this structured environment because without this structure, veterans will reoffend and remain in the criminal justice system. Also most significantly because a veteran treatment court judge handles numerous veterans' cases and is supported by a strong, interdisciplinary team, such a judge is in a much better position to exercise discretion and effectively respond than a judge who only occasionally hears a case involving a veteran defendant. A veteran treatment court judge has a better understanding of the issues that a veteran may be struggling with, such as substance addiction, PTSD, traumatic brain injury, or military sexual trauma.[29]

Despite being lauded in many quarters, the concept has not been without criticism. There are arguments that individual's right to self-determination is violated by the sanctioning of non-adherence to treatment.[30] Specifically, due process or the legal right to formal legal proceedings could be violated if court participants are required by the specialty court judge to comply with treatment and subsequently sanctioned to jail for noncompliance. These specialty courts have also been criticized for having vague written policies, including the requirements for successful completion or graduation.[31] Critics have also questioned participants' full understanding of the weight of a guilty plea in lieu of trial. For example, some specialty court participants' length of supervision exceeds the period of punishment that accompanies usual processing in a traditional court (i.e., time spent in jail).[32] By way of legislation, many states in the United States of America have taken the initiative to promote Veterans Treatment Courts or Veterans assistance within the state court system.[33]

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[28] Office of National Drug Control Policy, 'Veterans Treatment Courts', available at <https://obamawhitehouse.archives.gov/ondcp/ondcp-fact-sheets/veterans-treatment-courts> accessed 13th April, 2023

[29] Justice for Vets, 'What is a Veteran Treatment Court', available at <https://justiceforvets.org/what-is-a-veterans-treatment-court/> accessed 5th February, 2023

[30] Kelli E. Canada, and David L. Albright, (n24)

[31] *Ibid*

[32] *Ibid*

[33] Nevada and Texas have passed legislation calling for the statewide establishment of Veterans Treatment Courts. Similar legislation has been introduced in Colorado, Illinois, and at least nine other states; California, Minnesota,

vii. United Kingdom (UK)

Various studies have been carried out to fluctuating and varying effect of PTSD in the United Kingdom within veterans of combat conflict of the armed forces. Research from King's College London found an intrinsic link between an increase in the rate of probable PTSD and combat activities of the members of the UK Armed Forces.[34] In the year 2018, for the first time ever, the rate of PTSD was higher among veterans than the general public.[35] The result published in the British Journal of Psychiatry estimated the rate of PTSD among UK veterans of all conflicts to be 7.4%, while the rate of PTSD among the public was 4%.[36] The rate of PTSD was higher for veterans who served in Iraq or Afghanistan. Among those who'd deployed to the conflicts, the rate of PTSD was 9%.[37] For veterans who deployed to those war zones in a combat role, 17% reported symptoms of PTSD and 30% were predicted to develop a mental health condition.[38]

Levels of PTSD have repeatedly been shown to be lower in the UK military compared with the USA and various explanations have been advanced regarding deployment characteristics, such as possible higher levels of combat exposure among US troops, differential demographics of those deployed (US personnel more likely to be younger, of lower rank and reservists), and length of deployment as well as cultural differences such as access to healthcare and attitudes towards trauma reporting. This (comparative) low figures of combat related PTSD within members of the UK armed forces notwithstanding, PTSD cannot be discountenanced because evidence suggests that when PTSD hits, it hits hard.

C. Post- Traumatic Stress Disorder within the Nigerian Military

> *"I have seen things. The first man I killed, to date, I still see him in my dreams. Whenever I sleep, I see that man. I see blood gushing out of his head. That memory never leaves me; the picture is fresh in my mind. I am not a happy man. I am going through hell. Sometimes, I feel like blowing my head off so I can just have peace."*[39]
>
> *"It was so bad one time that I would be aloof for almost four hours. I wouldn't hear or see anyone or anything. I would be hallucinating. I confided in a friend who told me to report to the hospital for some mental check, but I am a man. We are expected to be strong as soldiers.*[40] *I may not be able to give you a number, but just know*

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and New Hampshire have passed legislation that permits judges to order treatment, instead of prison, for veterans suffering from combat- related mental health disorders.

[34] Combat stress for veteran mental health, 'New Research Reveals Higher Rate of Ptsd Among Veterans', available at <https://combatstress.org.uk/new-research-reveals-higher-rate-ptsd-among-veterans> accessed 2nd January, 2023

[35] *Ibid*

[36] King's College London 'Increase in probable PTSD among British military', available at: https://www.kcl.ac.uk/archive/news/ioppn/records/2018/october/increase-in-probable-ptsd-among-british-military-veterans accessed on 2nd January, 2023

[37] Stevelink, S and others, 'Mental health outcomes at the end of the British involvement in the Iraq and Afghanistan conflicts: A cohort study'. *The British Journal of Psychiatry,* (2018) *213*(6) 690-697.

[38] *Ibid*

[39] The testimony of a Nigerian soldier simply named as Olanrewaju who was on combat duty in North Eastern Nigeria fighting the terrorist insurgency. Available at <https://punchng.com/insurgency-battle-hardened-soldiers-resort-to-alcohol-drugs-others-to-fight-depression/> accessed 2nd January, 2023

[40] The testimony of a Nigerian soldier simply named as Tunji who was on combat duty in North Eastern Nigeria fighting the terrorist insurgency. Available at <https://punchng.com/insurgency-battle-hardened-soldiers-resort-to-alcohol-drugs-others-to-fight-depression/> accessed 6th January, 2023

> *that most of us here are losing our minds. I am scared that when I finally retire, I may not be able to relate well with my family. All I know is death*."[41]

These are the recollections of two Nigerian soldiers deployed to North Eastern Nigeria on counter-terrorism operations. Recent empirical findings have revealed that three out of ten (3/10) combat Nigerian military personnel are vulnerable to PTSD.[42] This appears disturbing as the security challenges orchestrated by the Boko-Haram insurgents have forced combat deployment on an apparently ill prepared and poorly equipped military population in recent times. In a study conducted to examine the influence of combat exposure on PTSD among military combatants in the North Eastern part of Nigeria where the insurgency was raging, a total of 249 participants including officers and men of the Nigerian army on operation were the subjects, and it was found that combat exposure was significant on PTSD.[43] Studies have indicated a positive relationship and even causal effect of combat exposure on PTSD.[44]

The effect of PTSD on the men of the Nigerian Armed Forces is not new however. In a research to investigate the prevalence of post-traumatic stress disorder (PTSD) and survivor guilt in a sample of hospitalised soldiers evacuated from the Liberian and Sierra-Leonean wars in which Nigerians were involved as peace keepers, prevalence rate for PTSD was found to be 22% and survivor guilt was found in 38% of the responders.[45] PTSD was significantly associated with long duration of stay in the mission area, current alcohol use, lifetime use of alcohol, and lifetime cannabis use. The study took place at the 68 Nigerian Army Reference Hospital, Lagos, Nigeria and it involved all hospitalized patients (Nigerian soldiers) from the Liberian and Sierra-Leonean military operations during a 4-year period (1990 - 1994) who were physically capable of being assessed.[46] Available statistics indicate a steady rise in the rate of combat related PTSD among soldiers over the last 15 years. Specifically, a study conducted by a military doctor at the 44 Nigerian Army Reference Hospital, Kaduna, put PTSD prevalence rate among soldiers in combat operations at 32%. This is against the 22%, 12% and 24% recorded by previous studies.[47]

The profound effect of PTSD and the general mental wellbeing of soldiers manifests in devastating ways. There have been recurring incidents of murder, suicide and murder-suicide within the ranks of soldiers deployed to war zones, and this has an intrinsic link to PTSD. In 2018, there were

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[41] The Punch, 'Insurgency: Battle hardened soldiers resort to alcohol drugs to fight depression' (May 29th, 2022), available at <https://punchng.com/insurgency-battle-hardened-soldiers-resort-to-alcohol-drugs-others-to-fight-depression/> accessed on 12th January, 2023

[42] A. Ameh and o. Kazeem, 'Post-Traumatic Stress Disorder among Nigerian Military Personnel Findings from A Post Deployment Survey' *Journal of Humanities and Social Science Research* (2014) 2(1) p. 56-61

[43] Dami B. Evans, 'Combat exposure and PTSD among military combatants in North East Nigeria'. *Journal of Psychology and Clinical Psychiatry* (2018) 9(4) <https://www.researchgate.net/publication/328120354_Combat_exposure_and_PTSD_among_military_combatants_in_North_East_Nigeria> accessed 2nd January, 2023

[44] Dauda A. Saleh and others, 'The wound of religious violence and terrorism in Nigeria: Post Traumatic Stress Disorder', *International Journal of humanities and Social Sciences* (2016) vol 4(1) p. 209–214.

[45] G T Okulate, and O B E Jones, 'Post-Traumatic Stress Disorder, Survivor Guilt and Substance Use: A Study of Hospitalized Nigerian Army Veterans'. *South African Medical Journal* (2006) 96(2) 144-6

[46] *Ibid*

[47] James Abel, and others, 'The Wounds of Terrorism Among Combat Military Personnel in Nigeria'. *Journal of Psychology and Clinical Psychiatry* (2018) 9(4) p. 425-42

numerous reports of soldiers who allegedly committed suicide.[48] In Borno State, it was reported that a soldier committed suicide after killing a colleague.[49] That same year, another report showed that a soldier opened fire at a military facility in Abuja, killing one colleague and injuring another before fatally shooting himself with the rifle.[50] Again in 2018, another Nigerian army captain who was on deployment in the northeast committed suicide at the 7 Division Hospital in Maiduguri.[51] Similarly in 2020, a soldier in the North East reportedly opened fire on a captain, killing him before turning the gun on himself. Five months earlier, in June 2020, an army captain committed suicide while undergoing a psychiatric evaluation in Borno State at the 7 Division Medical Centre in Maiduguri.[52]

D. PTSD as a Criminal Defence for Men and Women of the Armed Forces in Nigeria

Research in Nigeria has shown that many military returnees from warzones suffer from post-traumatic stress disorder,[53] but even beyond service years, veterans can turn into a menace to the society. Service members who transition out of the military often face substantial challenges during their transition to civilian life. Leaving military service requires establishing a new community and a sense of connectedness to that community. Little is known about how social connectedness may be related to other prominent transition outcomes, particularly symptoms of PTSD.[54] They can display impairment in social and occupational functioning characterized by high substance use that can culminate in amongst other vices, a life of crime. PSTD may affect the sufferers understanding of reality, their perception of surrounding circumstances, and reaction to otherwise normal events. These symptoms raise questions concerning the PTSD victim's ability to possess the requisite criminal intent and whether PTSD can qualify as an insanity type of defence. This further begs the question whether victims of PTSD that was contracted in the course of (combat) service should be subjected to the same criminal standards a perfectly normal human being naturally would.

Ordinarily in law, everyone is presumed to be sane, of sound mind and accountable for his actions unless the contrary is proved. But where there is defect or incapacity of the understanding, as there can be no consent of the will, the act is not punishable as a crime. In the legal sense, whether the accused was sane or insane at the time when an act is committed is a question of fact to be decided by the trial judge, and not by medical men irrespective of how eminently qualified or knowledgeable they may be.[55] However, correlations between a diagnosis of PTSD and

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[48] The Punch, 'Insurgency: Battle hardened soldiers resort to alcohol drugs to fight depression' (18th December, 2021), available at <https://punchng.com/insurgency-battle-hardened-soldiers-resort-to-alcohol-drugs-others-to-fight-depression/> accessed 12th January, 2023

[49] *Ibid*

[50] *Ibid*

[51] The Cable, 'Overstayed and tired: Is the army doing enough for soldiers on the frontline?' (24th December, 2022), available at <https://www.thecable.ng/overstayed-and-tired-is-the-army-doing-enough-for-soldiers-on-the-frontline> accessed 12th April, 2023

[52] The Punch, (n48)

[53] James Abel and others, 'Combat Exposure and Self-Efficacy Predicting Psychological Distress Among Military Personnel Exposed to Boko-Haram insurgency: The Moderating Role of Unit Support'. *Journal of Addict & Psychology* (2019) 2(2)
<https://irispublishers.com/oajap/fulltext/combat-exposure-and-self-efficacy-predicting-psychological-distress-among-military-personnel.ID.000532.php> accessed 20th February, 2023

[54] Sarah Kintzle and others, 'PTSD in U.S. Veterans: The Role of Social Connectedness, Combat Experience and Discharge. Healthcare Journal (2018) 6(3) 102

[55] *Josephine Ani v. The State* (2002) 8 SCM 1; (2002) 48 WRN 94

interpersonal violence, as well as between a diagnosis of PTSD and criminal behavior have been described in the psychiatric literature, lending some empirical support for the use of PTSD as a criminal defense.[56]

E. A Review of the Case of *Danjuma V Nigerian Army* and the Deficiency of the Current Law in Nigeria Regarding *PTSD*[57]

This case presents a classical illustration of the absence of PTSD considerations within the contemplation of the repertoire of the Nigerian criminal justice system in general, and specifically with regards to personnel of the armed forces. Mr Danjuma, a serving military officer stationed at the headquarters of the 2nd Division of the Nigerian Armed Forces in Ibadan Oyo State, Nigeria was involved in a physical altercation with his wife resulting in a fatal head injury to her. Subsequently, the officer was charged with murder punishable under section 106(b) of the Armed Forces Act and convicted for manslaughter and sentenced to twenty years imprisonment by the General Court Martial. The officer appealed to the Court of Appeal.

During the course of investigation and trial, it was discovered that the marriage had an acrimonious history with a tinge of intermittent violence that ultimately culminated in the death of the appellant's wife. While making submissions before the court, learned counsel for the appellant submitted that the appellant had exhibited some mental infirmity and irrational behaviour during the period the unfortunate incident occurred. The learned counsel also averred that at the time of the incident, the appellant lacked the mental capacity to understand what he was doing and to control his actions. On one occasion, the appellant was reportedly seen standing and crying, prompting the appellant's Regimental Sergeant Major (RSM) to order that the appellant be taken to the hospital. Evidence was also advanced to the effect that the appellant at one point had to be taken to "a man of God'' for prayers because he believed he was being chased in his dream by people and also persistently encountered masquerades anytime he slept. The appellant's father-in-law also testified to the good character of the appellant, stating that he had known the appellant long before he married his daughter and had never found his character wanting until the appellant went (and returned) from Dafur, Sudan on combat duty whereupon the father-in-law noticed a negative alteration in the appellant's behaviour. Both submissions were never disputed or impugned by the prosecution so it is safe to say that evidence was successfully led to show that the behaviour of the appellant appeared abnormal at times.

In the course of further submissions, it was also the contention of the defence counsel that a trial court must subject all defences whether specifically raised or not to scrutiny especially when the life of a citizen is at stake.[58] This according to the counsel is in line with the satisfaction of the constitutional requirements of fair hearing to the effect that trial courts are enjoined to consider all defences put forward by the accused person whether or not such defences have been specifically raised. As such, once the evidence adduced at the trial tends towards any defence, such defence must be considered or pronounced upon.[59] Even where an accused does not raise a defence, where the evidence on record discloses such a defence it must be considered by court.[60] The court agreed

[56]Omri Berger and others, 'PTSD as a Criminal Defense: A Review of Case Law'. *Journal of the American Academy of Psychiatry and the Law* (2012) 40(4) <https://jaapl.org/content/40/4/509> accessed 1st February, 2023
[57]*Ibid*
[58]*DSP Godspower Nwankoala v The State* (2006) 14 NWLR PT 1000 at 65
[59]*Adebayo Idowu v The State* (2011) LPELR 3597 CA; See also *Galadima v The State* (2012) 18 NWLR, 1333 @ 610
[60]See *Ada v The State* (2008) 13 NWLR, 1103, 167- 168

with these contentions but emphasised that it is not the duty of any court to look for all possible exculpatory evidence that is not borne out in the records in favour of an accused person.[61]

Reading the lead judgment in the case, Haruna Simon Tsammani, JCA held thus-

> *"the best evidence that could have settled the issue of insanity would be the medical evidence, but there was none. There is also no evidence that the Appellant was ever admitted to or treated in any hospital for any mental ailment that could lead him to develop any insanity. It is therefore my humble and respectful view that the General Court Martial was right when it found no evidence of insanity that could negative the intent to kill on the part of the Appellant. The defense of insanity raised by the Appellant was therefore not proved.''*

While concurring with the lead judgment, Folasade Ayodeji Ojo, JCA dovetailed into another factor that in the opinion of the learned judge should be addressed summarily when he stated thus-

> *"the instant appeal has its root in acts of domestic violence. Finally, I wish to lend my voice to the outcry against the alarming increase in domestic violence in our society. Domestic violence has resulted in unnecessary deaths of otherwise healthy partners in the marriage institution. My passionate appeal is that couples should pray for patience and endeavor to resolve issues between them amicably. Conflicts would arise but resort to violence should be avoided.''*

With the greatest respect to the Justices of the Court of Appeal in the instant case, a failure to avert their minds to a possible case of PTSD as a conceivable cause for the appellant's violent conduct resulting in the wife's death exposes in certain terms the unconscious denial of the existence of the ailment within Nigeria's criminal jurisprudence. This is all the more damning because evidence (even if not directly) was led in the course of the trial to present the appellant as a possible PTSD patient. Without diminishing the importance of the well-articulated admonition on domestic violence and the technicalities of criminal defence articulated by the two aforementioned Justices of the Court of Appeal, the learned Justices should have had the gumption and perspicacity of taking cognizance of the career of the appellant because it has been scientifically proved that the traumatic experience that comes with the territory of the job of military personnel makes them susceptible to PTSD.

Consequently, it is humbly submitted that having a case of a serving military officer who had experienced first hand, the spoils of war, the court should have as a matter of necessity, investigated the issue of PTSD before arriving at a judgement. Rather, apart from not doing so, what bothered the mind of one of the learned Justices was the issue of domestic violence, while the learned Justice who read the lead judgment focussed fully on the technicalities involved in the presentation of insanity as a criminal defence, completely discountenancing the possibility of a PTSD influenced rage on the part of the appellant. While it must be noted that the learned justices only applied the law as it is, this omission sets the tone for what needs to be done towards bringing the issue of PTSD amongst military personnel firmly within the contemplation and discourse of the Nigerian criminal justice system.

F. Agenda Setting for Nigeria

The war against terror has taken a mental toll on members of Nigeria's military. However, there is still paucity of research on the factors that predict PTSD in Nigerian military setting despite

[61]See *Ashare Ayuba v The State* (2018) LPELR 44495 (SC)

increasing rate of terrorism exposure.[62] According to a survey of military wives across the country many troops experience nightmares, anxiety, insomnia, burst of anger, depression, flashbacks and suicidal tendencies from their experiences on the front lines.[63] Consequently, the Federal Government of Nigeria has initiated steps to build a Post Traumatic Stress Disorder (PTSD) Centre for the Nigerian Armed Forces. The Center is the pet project of the Defence and Police Officers Wives Association (DEPOWA).[64]When fully established, the center would help evaluate, counsel, and provide adequate support to personnel and, by extension, their families before reintegration from conflict zones. It would also cater for the treatment, management, and rehabilitation of PTSD suffered by families in the Armed Forces. The facility will also serve as a repository for research on mental health challenges in the Armed Forces of Nigeria.

In a similar vein, the Nigerian Army also very recently held a Post-traumatic Stress Disorder (PTSD) seminar for soldiers and officers of its 8 Division to address the prevalent cases of PTSD among troops.[65] According to the military sources, the second phase of the seminar will focus on Post-Traumatic Stress Disorder awareness and management campaigns to units and formations in various operational theatres.[66]These developments show that the military authorities are rising to the challenge posed by the PTSD scourge although there is still so much to be done.

G. Conclusion/ Recommendations

Nigeria is rated as one of the most vulnerable countries at risk of PTSD.[67] It causes substantial distress and interferes with morale, physical fitness, personal and social functioning of troops. It has a subsequent pervasive impact on military readiness and the accomplishment of military goals. [68] This study has implied that the welfare of victims of PTSD within the Nigerian military leaves a lot to be desired. It has also revealed lacunas within the Nigerian criminal justice system regarding the attitude of the court towards the scourge of PTSD implying the non-recognition of the ailment within the lexicon and jurisprudence of the justice system. This is not in tune with contemporary international best practices as revealed by the cross-country survey in this article. It is therefore worrisome that veterans of war/conflicts have been totally disregarded by the criminal justice system, and conveniently all classed as criminals in the prison population. Terrifyingly, this means that over the years, substantial numbers of soldiers who may have had PTSD and served various sentences for varying offences have been released back into the community, in the same psychological state as they were when they returned home from serving in wars/conflicts. Such

[62]A. Ameh and o. Kazeem, (n42)

[63] African Defense forum, 'Nigeria To Open PTSD Center For Military Personnel'', (20th September, 2022), available at <https://adf-magazine.com/2022/09/nigeria-to-open-ptsd-center-for-military-personnel/> accessed on 25th March, 2023

[64] The Sun, 'FG to build PTSD Centre for Armed forces in Abuja', (4th October, 2022), available at <https://sunnewsonline.com/fg-to-build-ptsd-center-for-armed-forces-personnel-in-abuja/> accessed 25th March, 2023

[65] Leadership news, 'Army Trains Soldiers, Officers on Post-traumatic Disorder', (30th March, 2023), available at <https://leadership.ng/army-trains-soldiers-officers-on-post-traumatic-disorder/>accessed on 1st May, 2023.

[66]*Ibid*

[67] M.L. Duckers and others, 'A vulnerability paradox in the cross-national prevalence of post-traumatic stress disorder'. *British Journal of Psychiatry* (2016) 209(4)
<https://discovery.ucl.ac.uk/id/eprint/1508274/> accessed on 2nd May, 2023

[68]Chen Xue and others, 'Analysis of risk factors for combat-related PTSD among military personnel and veterans'. *Journal of Clinical Medicine* (2015) 10(3) <https://pubmed.ncbi.nlm.nih.gov/25793582/ > accessed on 2nd May, 2023

persons are ticking time bombs in every sense of the word and will eventually crack because their incarceration would not have dealt in any way with the possibility of being PTSD patients.

Gleaning from the cross-country experience undertaken in this article, the following recommendations are proffered-

(a) The Nigerian criminal justice system should borrow a leaf from the practice in the United States of America of the use of Veterans Courts where ex-service men who have fallen short of the law and arrested are put through a different legal process from the average civilian, and given access to psychiatrists, psychologists and lawyers who specialise in combat-related PTSD. By this practice, veterans of war with mental issues are diverted from the traditional justice system and given treatment and tools for rehabilitation and readjustment instead of punishment. This will also ensure most significantly that, because a veteran treatment court judge handles numerous veterans' cases and is supported by a strong, interdisciplinary team, such a judge is in a much better position to exercise discretion and effectively respond than a judge who only occasionally hears a case involving a veteran defendant;

(b) A consideration of PTSD should be examined and considered in law courts where serving or retired members of the armed forces are subjects of the suit. At the present time a defence of PTSD may only suffice under a defence of insanity and only when such a defence is raised. Considering the peculiar nature of the ailment, it is suggested that recognition is accorded to PTSD within the Nigerian criminal justice system especially as it relates to the fate of serving and retired members of the Armed Forces, and this should be addressed during trial even when not raised specifically. This need was particularly accentuated in the analysis of the case of *Danjuma v Nigerian Army;*

(c) The military authorities should place emphasis on the treatment of PTSD. Corroborative care should be given to individuals who are at high risk of PTSD, for instance those on or back from the war front. They should be closely monitored as well for further symptoms.