

Terror in the backyard: Domestic terrorism in Africa and its impact on human rights¹

Cephas Lumina*

Introduction

Terrorism is not a new phenomenon, nor are state responses to it.² There are very few, if any, states that have not experienced the phenomenon referred to as terrorism. In the African colonial context, the nationalists who waged campaigns against the order existing at the time in the quest for freedom were decried by the colonial administrations as terrorists and subjected to penal sanctions, ranging from lengthy periods of incarceration to the death penalty.³

* Cephas Lumina is a member of the Faculty of Law at the University of KwaZulu-Natal, Durban and an extra-ordinary lecturer at the Centre for Human Rights, University of Pretoria, Pretoria, South Africa. From 2007 to 2008, he was a visiting professor at the Raoul Wallenberg Institute of Human Rights and Humanitarian Law at Lund University, Sweden.

It is notable, however, that acts of terrorism on the continent are not confined to the colonial era: Many African states have experienced acts of terrorism in one form or another in the post-independence period.⁴ During the last two decades, for example, there have been various incidents of terrorism in several countries.⁵ Acts of terrorism also seem to be widespread in the continent's various armed conflicts which have been characterised largely by egregious human rights abuses committed for the sole purpose of instilling terror in those who have nothing to do with the grievances of the warring factions.⁶

Since the 11 September 2001 attacks in the US, terrorism has been a pre-eminent concern of the international community, both with regard to its impact on human rights and how to confront it. In the aftermath of the attacks a number of countries have introduced anti-terrorist legislation or revived draconian colonial anti-terrorism legislative measures,⁷ some doing so under pressure from the US and other powerful countries.⁸ Almost invariably these laws greatly impinge upon, or have serious implications for several human rights.⁹

This paper has a dual focus. It provides a brief overview of the human rights impact of acts of domestic terrorism in Africa and also examines state responses to domestic terrorism with the aim of exploring the implications of these responses for human rights. The ultimate aim is to gain some perspective on the more general question of the impact of domestic terrorism on human rights in Africa.

Terrorism: an elusive concept

It should be noted from the outset that there is no universally accepted definition of terrorism (Duffy 2005; Saul 2006; Lumina 2007). Since the 1920s, the international community has unsuccessfully attempted to formulate a universally accepted definition of terrorism. This 'definitional knot' is primarily attributable to the fact that terrorism is a controversial and elusive concept which evokes strong emotional and contradictory responses (Lumina 2007).

In regard to the definition of 'domestic terrorism', it has been asserted that there are presently 'few instances of domestic terror completely without international linkages' (Goredema 2003:93). For this reason and to avoid being tied up in the definitional knot at the expense of its main focus, this paper does not attempt to define the term. Rather, it adopts the working definition that domestic terrorism is the use of violence by nationals of a particular state, within the territorial limits of the state, with the aim of changing the political and/or social order of that state.¹⁰ This definition focuses on the national affiliation of the perpetrator as well as the geographical location of the terrorist act.

The impact of domestic terrorism on human rights

There are two dimensions to the relationship between terrorism and human rights. One concerns the impact of acts of terrorism on human rights, while the other relates to the impact of counter-terrorism measures on the enjoyment of human rights.

Acts of terrorism and their impact on human rights

It is generally accepted that terrorism poses a threat to the social and political values that are directly or indirectly related to the full enjoyment of human rights and fundamental freedoms. Irrespective of the entity that perpetrates them – whether a state or a group of individuals – all acts of terrorism seriously impair or impede the enjoyment of human rights, including a range of socio-economic rights, such as the rights to health, food and housing (see for example UN 2002a:1, see also OAU 1999, preamble, par 10). According to a former UN special rapporteur on human rights and terrorism, ‘there is probably not a single human right exempt from the impact of terrorism’ (UN 2001b, par 102).

Women and children are particularly vulnerable to acts of terrorism, especially those committed in the context of armed conflict. In a number of the conflicts that have occurred in Africa in recent years, women and girls have been systematically raped and sexually enslaved, while children have been abducted from their homes and families. For example, since its formation in 1988, the Lord’s Resistance Army (LRA) has committed widespread abuses against civilians, including wilful killings, looting and destruction of property in order to instil terror in the local population in northern Uganda. It has also abducted close to 25 000 children and abused them as combatants, forced labourers and, in the case of girls, as sexual slaves or ‘wives’ to its commanders (see UN 2007a, par 10 and 22; Human Rights Watch 2003b).¹¹ Child abductees have often been terrorised into beating and killing civilians, and abducting other children. Similar abuses have also occurred in the conflicts in among others Côte d’Ivoire, the Democratic Republic of Congo (DRC), Liberia, and Sierra Leone.

It is important to recognise that although acts of terrorism have resulted in serious violations of human rights, states’ efforts to curb terrorist activities have also culminated in the abridgment of many rights and freedoms, not only of the ‘terrorist’ suspects but also of innocent civilians. Some of these rights and freedoms infringed upon in the quest to curb acts of terrorism include the rights to life, liberty, human dignity, privacy, expression and association, as well as procedural rights concerning persons charged under domestic anti-terrorism laws. The rights of refugees are particularly susceptible to undue suspension or violation under the guise of anti-terrorist measures (see eg Human Rights Watch 2008; Okoth-Obbo 2007; Rudiger 2007).

State responses to terrorism and their impact on human rights

General

States commonly respond to the terrorist threat by adopting of a range of legislative and administrative measures. It is noteworthy, however, that domestic counter-terrorism measures are not a new phenomenon in Africa. In many countries the colonial governments employed various legislative and administrative measures to deal with what they considered terrorist activities but which the African people fighting for liberation and for their rights considered a just fight. These activities were commonly criminalised through draconian laws prescribed by the colonial powers for their colonies.

The colonial administrations used repressive measures (including declaring states of emergency) to thwart the liberation struggles. In October 1952 the British colonial government in Kenya for example declared a state of emergency in response to the Mau Mau uprising. The emergency remained in effect until January 1960 and saw a number of leaders of the Mau Mau arrested and hanged (Anderson 2005; Elkins 2005).

In South Africa numerous apartheid-era laws curtailed and penalised the activities of the country's liberation movements through a range of criminal sanctions – from restrictions on movement to imprisonment and the death penalty. Under cover of anti-terrorist statutes, such as the Terrorism Act, 1967 and the Internal Security Act, 1982, apartheid state security agents routinely and with impunity abridged the human rights of suspected freedom fighters (branded 'terrorists'),¹² as well as members of their families, through arbitrary arrests, imprisonment without trial, torture and extra-judicial executions.

It is also notable that as parties to the international treaties relating to terrorism as well as to the OAU Convention on Terrorism (1999, art 4), most African states are obliged to take measures to address terrorism. Thus, for instance, the OAU Convention enjoins the states parties to adopt 'any legitimate measures aimed at preventing and combating terrorist acts in accordance with the provisions of (the) Convention and their respective national legislation'.¹³ Nevertheless, in article 22 the Convention cautions that: 'Nothing in this Convention shall be interpreted as derogating from the general principles of international law, in particular the principles of international humanitarian law, as well as the African Charter on Human and Peoples' Rights.'

In similar vein, resolution 1373 adopted by the UN Security Council shortly after the 11 September attacks allows states to take the necessary steps to prevent the commission of terrorist attacks, including stopping the recruitment of members of terrorist groups, and adopting measures to prevent the financing, planning, facilitation and commission of terrorist acts.¹⁴

It is thus clear that international law permits states to take national legislative and administrative measures to combat terrorism, provided these are consistent with international law. However, given that most new anti-terrorism laws in Africa have been introduced under pressure from powerful states it is improbable that they reflect local concerns, including the protection of human rights, which are commonly guaranteed by many national constitutions.

It is also noteworthy that a number of African states have eschewed adopting any new counter-terrorism legislation. For example, in southern Africa, only three (Mauritius,¹⁵ South Africa¹⁶ and Tanzania¹⁷) of the 14 member states of the Southern African Development Community have enacted specific anti-terrorism legislation. The rest assert that their existing criminal laws already cover the conduct referred to as ‘terrorism’.¹⁸

Common characteristics of counter-terrorism legislation

What follows is an overview of the common characteristics of counter-terrorism legislation adopted in selected African countries. The countries in question have been chosen for two main reasons: First, their counter-terrorism legislation is readily accessible and second, their legislation has attracted attention from the UN special rapporteur on terrorism as well as from international human rights organisations such as Amnesty International and Human Rights Watch.

Definition of terrorism

The statutory definition of terrorism in many African countries is problematic: it is generally vague and overly broad. For example section 3(2) of the Prevention of Terrorism Act, 2002 of Mauritius defines an ‘act of terrorism’ as an act which ‘(a) may seriously damage a country or an international organisation; and (b) is intended or can reasonably be regarded as having been intended to seriously intimidate a population; unduly compel a Government or an international organisation to perform or abstain from performing any act; seriously destabilise or destroy the fundamental political, constitutional, economic or social structures of a country or an international organisation; or otherwise influence such government or international organisation’. The section further specifies activities which may constitute terrorism, including attacks upon a person’s life that may cause death, kidnapping, seizure of aircraft, ships or other means of public transport, the manufacture, possession, acquisition or supply of weapons (including nuclear and biochemical weapons), and interference with public utilities the effect of which is to endanger life. It is an offence not only to carry out or threaten an act of terrorism, but also to omit doing anything reasonably necessary to prevent an act of terrorism.

In similar vein, section 7 of Uganda’s Anti-Terrorism Act, 2002 provides that ‘terrorism’ is any act which involves serious violence against a person or serious damage to property,

endangers a person's life (not the life of the person committing the act), or creates a serious risk to the health or safety of the public. Any such acts must be 'designed to influence the Government or to intimidate the public or a section of the public', and must be in pursuance of a 'political, religious, social or economic aim' indiscriminately without due regard to the safety of others or property. The section lists numerous acts which constitute terrorism (section 4 of Tanzania's Prevention of Terrorism Act, 2002 does the same).

Sections 8 and 9 of the Act provides for other terrorist offences including aiding, abetting, financing, harbouring or rendering support to any person, with the knowledge or belief that such support will be used for or in connection with the preparation or commission or instigation of acts of terrorism, and publishing or disseminating materials that promote terrorism. Conviction for any of these offences carries the death penalty. The Act does not provide for any appeal against prescription as a terrorist organisation.

Section 1 of South Africa's Protection of Constitutional Democracy against Terrorist and Related Activities Act, 2004, which creates the offence of terrorism, does not define the term but defines terrorist activity and terrorist-related acts. However, in his recent report the UN special rapporteur on human rights and terrorism has expressed concern about the 'overly broad list of crimes that may be treated as terrorist activity' under the Act (UN 2007b).

Under Egypt's Anti-terrorism Law, 1992, which amongst others amends the country's penal code and code of criminal procedure, terrorism is defined as

[A]ny use of force or violence *or any threat or intimidation* to which the perpetrator resorts in order to carry out an individual or collective criminal plan *aimed at disturbing the peace or jeopardising the safety and security of society* and which is of such a nature as to harm or create fear in persons or imperil their lives, freedoms of security; harm the environment; damage or take possession of communications; *prevent or impede the public authorities in the performance of their work; thwart the application of the Constitution or of laws or regulations* (author's emphasis).

Both the UN Human Rights Committee (2002, par 16) and the special rapporteur on human rights and terrorism have expressed serious concerns about this broad and general definition of terrorism. According to the special rapporteur, the 'broad' definition of terrorism 'seems to allow it to be used against dissidents and members of the opposition' and 'has led to an increase in crimes punishable by the death penalty' (UN 2005).

Algeria's definition focuses on domestic terrorism and the threat it poses to state security. Article 1 of Decree no 93-03 (which amends and supplements Ordinance

no 66.156 of 8 June 1966 and enacts the penal code), defines an act of terrorism as ‘any offence targeting state security, territorial integrity or the stability or normal functioning of institutions through any action seeking to among others spread panic or create a climate of insecurity, disrupt traffic or freedom of movement on roads, damage national symbols, harm the environment or impede the activities of public authorities or institutions.

Critics argue that the broad and vague definitions of terrorism, which are a common feature of anti-terrorism laws, open the concept to abuse.¹⁹ This underscores the need to describe terrorism in precise and unambiguous terms that narrowly define the punishable offence and distinguishes it from conduct that is either not punishable or is subject to other less severe penalties.

Law enforcement powers

Most anti-terrorism legislation confers extensive powers on law enforcement agencies, such as powers to detain terrorist suspects for prolonged periods without trial or access to counsel, to seize or freeze assets, to intercept communications, and to deny asylum to certain suspects. For example, section 27(1) of the Prevention of Terrorism Act, 2000 of Mauritius allows the police to detain ‘terrorism’ suspects without access to legal counsel for 36 hours and gives the government the right to deny them asylum and to return them to countries where they might face human rights risks. Under section 10(6)(b) of the Act, the Minister responsible for national security may prohibit the entry into Mauritius of suspected international terrorists or terrorist groups.

In terms of section 25, the Minister may, for the purposes of preventing or detecting offences or prosecuting of offences under the Act, give directions to service providers for the retention of communication data. The police may obtain a court order authorising a communication service provider to intercept, withhold or disclose information or communications to the police.

Under the Prevention of Terrorism (Special Measures) Regulations, 2003, which give effect to part II, section 10(6) of the Act, the government has the power to freeze the assets and funds of suspected international terrorists and terrorist groups. In terms of regulation 3, the central bank or the financial services commission may give directives to any financial institution under its regulatory control to freeze any account, property or funds held on behalf of any listed terrorist. It is an offence for a national or any person within Mauritius to give financial support directly or indirectly to listed individuals or entities.

Under section 19(5) of the Ugandan Anti-Terrorism Act, 2002 law enforcement officials also have extensive communication interception and surveillance powers,

including powers to monitor bank accounts, e-mails, telephone calls and other electronic communications of suspects.

In terms of Egypt's Emergency Law, 1958 (as amended by Act 50 of 1982), suspects may be detained without charge for up to 30 days. However, there is no limit to the length of detention if a judge decides to uphold the legality of the detention order.

Implementing the measures outlined above may, arguably, bring the law into potential conflict with certain fundamental rights and freedoms. These are dealt with in the discussion on counter-terrorism legislation and human rights later on in the paper.

Sanctions

African domestic counter-terrorism legislation typically provide for penalties that are generally more severe than those under the ordinary penal laws for comparable conduct. Common punishments for terrorist offences include lengthy periods of incarceration (including life imprisonment) and the death penalty. In some cases, imprisonment may be accompanied by heavy fines or forfeiture of assets. For example, section 18 of South Africa's anti-terrorism legislation provides for the imposition of life imprisonment or hefty fines on convicted terrorists. In addition to any such punishment, courts are empowered, under section 19, to issue orders for forfeiture of property reasonably believed to have been used in or in connection with, the commission of an offence.

Under section 7(1) of Uganda's Anti-Terrorism Act, the offence of terrorism carries a mandatory death sentence if the terrorist act directly results in the death of any person. In terms of section 9(2) of the Act a person who publishes or disseminates materials that 'promote terrorism' is 'liable on conviction to suffer death'. Similarly, in terms of section 86 of the Egyptian Penal Code (as amended), life imprisonment and the death penalty are competent punishments for terrorism offences such as leading or financing terrorist groups. Acts of terrorism that result in the death of a person attract the death penalty.

Minimal procedural safeguards

Some anti-terrorism laws, such as section 29(1) of the Prevention of Terrorism Act of Mauritius and section 3 of the Anti-Terrorism Act of Uganda provide for some safeguards, albeit in limited form. Thus, for instance, some statutes prohibit the institution of prosecution for offences related to terrorism without the consent of the relevant national prosecution authority (usually, the director of public prosecutions).

South Africa's anti-terrorism legislation contains the additional requirement that the national director of public prosecutions promptly communicate the outcome of any prosecution to amongst others the UN Secretary-General. This is arguably a safeguard

for the suspect's rights as well as a mechanism for ensuring South Africa's compliance with its international obligations relating to terrorism.

Nevertheless, it is unclear to what extent these safeguards are effective in practice as this is an assessment that can only be made once the anti-terrorism laws have been tested in courts of law.

Counter-terrorism legislation and human rights

The pressure on states to respond to the international terrorist threat since 11 September has resulted in some African states adopting domestic legislative and administrative measures which effectively abridge or threaten to abridge human rights.²⁰ These measures include prolonged detention of suspects, curtailing the right of access to legal representation, removing the right of appeal, seizure of property and placing limits on freedom of expression.

According to Amnesty International (2004) such national legislative responses to terrorism are 'eroding human rights principles, standards and values'. In its report for 2004, Amnesty International states that countries have continued to flout international human rights standards in the name of the 'war on terror', with the consequence that 'thousands [have been subjected to] unlawful detention, unfair trial and torture – often solely because of their ethnic or religious background'.

Terrorism and states' obligations under human rights law

Before examining the impact of counter-terrorism measures on human rights, it is instructive to outline the nature of states' obligations under human rights law as they relate to their duty to ensure the security of persons subject to their jurisdiction.

States bear the primary responsibility for ensuring the security of all persons under their jurisdiction. In this regard, states are at liberty to adopt measures, including emergency measures, to address terrorism and to protect those subject to their jurisdiction. However, these measures must be consistent with international human rights standards. As the UN Working Group on Terrorism (UN 2002a, par 26) has emphasised, international law requires that states adhere to basic human rights standards in their fight against terrorism.²¹

Both the UN General Assembly and the former Commission on Human Rights adopted resolutions underscoring the need to protect human rights and fundamental freedoms while countering terrorism. Thus, for example, General Assembly Resolution 57/219 of 18 December 2002 affirmed that states must ensure that any measure taken to combat terrorism complies with their obligations under international law, in particular, international human rights, refugee and humanitarian law.²²

Significantly, the UN Security Council – the author of Resolution 1373 pursuant to which many of the states adopting anti-terrorism legislation purport to act – has recently reaffirmed ‘the imperative to combat terrorism in all its forms and manifestations by all means’, in accordance with the UN Charter and international law.²³ In 2003, the Security Council declared that ‘states must ensure that measure(s) taken to combat terrorism comply with all their obligations under international law, and should adopt such measures in accordance with international law, in particular international human rights, refugee and humanitarian law’.²⁴

It is notable that resolution 1373 itself expressly calls upon states to ‘take appropriate measures in conformity with the relevant provisions of national and international law, including international standards of human rights, before granting refugee status, for the purpose of ensuring that the asylum seeker has not planned, facilitated or participated in the commission of terrorist acts’ (art 3(f)). In its preamble, the resolution also reaffirms the need to combat by all means, in accordance with the UN Charter, threats to international peace and security (preamble, par 5).²⁵

The imperative to respect human rights in the fight against terrorism is also evident from the statement of former UN Secretary-General, Kofi Annan, to the Security Council on 18 January 2002: ‘[T]here is no trade-off between effective action against terrorism and the protection of human rights ... [W]hile we certainly need vigilance to prevent acts of terrorism, and firmness in condemning and punishing them, it will be self-defeating if we sacrifice other key priorities – such as human rights – in the process’ (UN 2002b:3).

At the regional level, all 53 AU member states are parties to one or more of the core international human rights treaties. In addition, all have ratified the African Charter on Human and People’s Rights (the Human Rights Charter) (OAU 1981),²⁶ 41 are parties to the African Charter on the Rights and Welfare of the Child, 1990, 37 are parties to the 1969 AU Convention Governing Specific Aspects of the Refugee Problem in Africa, 37 have ratified the AU Terrorism Convention, nine (including Algeria and Egypt whose legislation is reviewed in this article) are parties to the Arab Convention for the Suppression of Terrorism, 1998 and two are parties to the Arab Charter on Human Rights, 2004. These treaties not only impose legal obligations on the state parties to respect, protect and implement fundamental rights and freedoms, they also include clear restrictions on the actions that states may take within the context of the fight against terrorism.

Most African states also have fundamental rights guarantees in their constitutions. These constitutions are generally proclaimed to be the ‘supreme law’ of the countries concerned so that any law that is inconsistent with the constitution is void to the extent of the inconsistency.²⁷ Consequently, any anti-terrorism legislative measures adopted by the state have to be consistent with the guarantees of human rights in a supreme constitution.

It is important to note that terrorism may, under certain conditions, lead to a state of emergency. It is also worthy of note that states may suspend certain rights during an emergency that threatens the life of the nation. However, international law imposes strict limitations as well as procedural requirements with respect to such suspensions, or 'derogations'. Thus, for example, under the International Covenant on Civil and Political Rights, 1966 (the Covenant), any derogation measure must be of an exceptional nature, temporary,²⁸ subject to regular review, consistent with the state's other obligations under international law and non-discriminatory. There are also some rights which are non-derogable under any circumstances.²⁹ Under the Covenant, these rights include the right to life; prohibition on torture and related treatment; freedom of thought, conscience and religion; and the principles of precision and of non-retroactivity of criminal law (except where a later law prescribes a less severe penalty).

Specific human rights concerns

As mentioned above, there is hardly any human right that is unaffected by terrorism. While it is not intended to provide an exhaustive treatment of the human rights issues raised by anti-terrorism legislation, an overview of selected human rights may be instructive.

Prohibition on torture and cruel, inhumane or degrading treatment

The prohibition on torture and cruel, inhumane or degrading treatment is, under both the universal and regional human rights systems, absolute and non-derogable under all circumstances.³⁰ In its concluding observations on Egypt's report in 2002, the Human Rights Committee (2002, par 4) stated that while it was aware of the difficulties that the state faced in its prolonged fight against terrorism, 'no exceptional circumstances whatsoever can be invoked as a justification for torture'.

According to the former UN special rapporteur on torture, 'the provisions of some new anti-terrorist legislation at the national level may not provide sufficient legal safeguards as recognised by international human rights law in order to prevent human rights violations', especially those prohibiting torture and other forms of ill-treatment (UN 2002c, par 5). In his statement to the Third Committee of the UN General Assembly, the special rapporteur averred to reported circumventions of the prohibition on torture in the name of countering terrorism. These attempts included the legal arguments of necessity and self-defence; attempts to narrow the scope of the definition of torture and arguments that some harsh methods should not be considered as torture but merely as cruel, inhumane or degrading treatment or punishment; acts of torture and ill-treatment perpetrated against terrorist suspects by private contractors; and the indefinite detention of suspects (including children) without determination of their legal status and without access to legal representation (UN 2004c).

In the African context, there have been reports of torture of terrorist suspects. For example, in 2003 a number of people detained in a facility controlled by the Ugandan government's Joint Anti-Terrorism Task Force were tortured (Human Rights Watch 2003a).³¹ In its annual report for 2004, Amnesty International (2004) stated that, in 2003, torture continued to be widespread in Algeria, particularly in cases which the government described as 'terrorist activities'.

It should be noted that the prohibition against torture is now firmly established as a rule of customary international law and, arguably, has the character of *jus cogens*.³² As the special rapporteur has stated, the definition of torture contained in the Convention against Torture cannot be altered by events (such as terrorism) or in accordance with the will or interest of states (UN 2004c).

Detention without trial

Counter-terrorism laws commonly confer powers of pre-trial and administrative detention upon the state, although the periods of detention vary between states. For example, under the Prevention of Terrorism (Special Measures) Regulations, 2003 of Mauritius, a terrorist suspect can be detained for up to 36 hours without access to anyone other than a police officer or medical officer on request. Egypt's Emergency Act of 1958 permits detention without charge for up to 30 days. According to Bascombe (2004), counter-terrorism laws tend to place emphasis on the detention of suspects and often do not require the presentation of evidence prior to a suspect's detention. This undermines the due process of law.

It is notable, however, that while pre-trial detention is not per se prohibited under international human rights law, there are certain principles to which a state must adhere. These include the right of accused persons to be informed of the charges against them, limits on the length of pre-trial detention and opportunities for detainees to challenge their arrest or detention. In *International Pen and Others (on behalf of Saro-Wiwa) v Nigeria*, the African Commission on Human and Peoples' Rights found that the State Security (Detention of Persons) Act of 1984 and the State Security (Detention of Persons) Amendment Decree, no 14 of 1994, which allowed the Nigerian government to detain people without charge for up to three months and denied them the opportunity to challenge the arrest and detention before a court of law prima facie violated the right not to be arbitrarily arrested or detained which is guaranteed in article 6 of the Human Rights Charter.

Preventive detention may also violate the presumption of innocence. Thus, in *Pagnouille (on behalf of Mazou) v Cameroon*, the African Commission held that the detention of a person on the mere suspicion that they may cause problems constitutes a violation of the detained person's right to be presumed innocent.

Fair trial

The right to a fair trial consists of a range of complementary entitlements or safeguards, including the right to equal treatment, the presumption of innocence, the right to trial by an independent, competent and impartial tribunal, the right of a criminal suspect to be informed of the reason for their detention and the right to seek legal advice.³³ However, anti-terrorist laws often curtail these under the pretext that more detention time is required for the law enforcement officials to complete their investigations. Where it is permitted, the right to counsel is limited to consultation with 'approved' legal practitioners. For example, the Prevention of Terrorism (Denial of Bail) Act, 2002 of Mauritius allows for a deviation from the presumption of innocence provided for in the country's Constitution by providing for the denial of bail to persons alleged to have committed certain offences related to terrorism. The offences include belonging to a proscribed organisation, assisting or participating in a meeting concerned with an act of terrorism, harbouring terrorists or dealing with terrorist property.

In some countries, there is provision for special or military courts to try terrorist offences. Under the Emergency Act of 1958, Egyptian military courts and state security courts have jurisdiction to try civilians accused of terrorism without fair trial guarantees (Human Rights Watch 2003a). The military courts are presided over by military officers appointed by the minister of defence and their decisions are subject to review by other military judges and confirmation by the president, who normally delegates this function to a senior military official. This has prompted the Human Rights Committee to observe that the use of these courts infringes on a defendant's normal right to fair trial before an independent court (Human Rights Committee 2002).

Although not prohibited under international law, the trial of civilians before military courts raises questions concerning, in particular, the independence of these courts. In the *International Pen* case, the African Commission held that the trial of Saro-Wiwa violated article 7(1)(d) of the Human Rights Charter because the composition of the special tribunal, established under the Civil Disturbances (Special Tribunals) Decree, no 2 of 1987, was at the discretion of the executive branch. In the Commission's view, removing cases from the jurisdiction of the ordinary courts and placing them before an extension of the executive branch necessarily compromises the impartiality which is required by the Human Rights Charter.³⁴

Freedom of association and peaceful assembly

These are basic civil rights which are considered an important platform for the exercise of other rights, such as the right to freedom of expression, cultural rights and the right to political participation. They are thus crucial to any functioning democracy. However, they are also rights which have increasingly been curtailed or are under threat from anti-

terrorism legislation as governments move to ban public demonstrations in the name of state security. Such legislation can easily be used to suppress or undermine democratic opposition. In its report for 2003, the UN Working Group on Terrorism expressed the concern that 'The rubric of counter-terrorism can be used to justify acts in support of political agendas, such as the consolidation of political power, elimination of political opponents, inhibition of legitimate dissent and/or suppression of resistance to military occupation' (UN 2002a).

For example, the Ugandan government has been criticised for using the Anti-Terrorism Act to 'repress political dissent and strictly limit freedom of expression' (Kagari 2003). In September 2002, Ugandan radio stations were warned against giving publicity to an exiled political leader whom the government had labelled a terrorist and threatened with prosecution under the Act, in terms of which it is an offence to give publicity to terrorists (Committee to Protect Journalists 2002; Bascombe 2004). Since the 11 September attacks Egypt has arrested hundreds of suspected opponents of the government for alleged membership in the Muslim Brotherhood, a proscribed but non-violent group, and possession of 'suspicious' literature (Human Rights Watch 2003a).

It is important, however, to acknowledge that associations and organisations may be used as a means through which persons organise and undertake terrorist activities, and thus be a means for the destruction of democracy. This makes it 'difficult to draw a line between too much limitation and appropriate restrictions' (UN 2007b, par 9).

Refugees and asylum seekers

Some governments have used anti-terrorism legislation to suppress not only political oppositions but also minority groups and to circumvent their international obligations towards asylum seekers and refugees (Human Rights Watch 20027). For example, Tanzania's Prevention of Terrorism Act, 2002, gives immigration officers the power to arrest any person suspected of being a terrorist or to have been involved in terrorist activities without a warrant. The minister responsible for immigration is empowered to refuse asylum to anyone.

In similar vein, the Prevention of Terrorism Act of Mauritius gives the government the right to extradite persons suspected of committing acts of terrorism or to deny such persons asylum and to return them to countries where they may be at risk of persecution.

Given the proliferation of conflicts on the continent and the attendant flow of refugees and displaced persons, it may be contended that such powers are too extensive and are inconsistent with the well-established international legal principle of *non-refoulement*. This principle refers to the prohibition on sending persons to countries where they

would be at risk of serious human rights abuses such as torture and other ill-treatment, or enforced disappearance.

Privacy

The constitutions of a number of African countries (such as Mauritius (s 9), South Africa (s 14) and Uganda (s 27) guarantee the right to privacy. However, as was seen above, anti-terrorism legislation commonly confers powers on law enforcement agencies that potentially threaten this right, for example by anti-terrorism laws that give the police extensive powers to combat terrorism, including through the use of electronic surveillance to identify terrorists. Such provisions are not unique to African anti-terrorism legislation: The Canadian Anti-Terrorism Act also gives the police extensive powers of surveillance, and in terms of the Anti-Terrorism, Crime and Security Act of the United Kingdom, the Home Secretary has powers to issue a code of conduct for the retention of communications data by communications service providers for national security reasons. As was stated above, the Ugandan Anti-Terrorism Act (s 19(4)) gives law enforcement officials extensive powers to monitor bank accounts and electronic communications of terrorist suspects. The potential for abuse under these provisions is considerable. Thus it has for example been argued that the phrase ‘articles of a kind which could be used in connection with terrorism’ in the Ugandan Anti-Terrorism Act is so ‘vague that it could be used to search for almost any object’ (Bossa & Mulindwa 2004).

The Financial Intelligence and Anti-Money Laundering Regulations of Mauritius also provide for the verification of the ‘true identity of all customers and other persons’ with whom banks, financial institutions and cash dealers conduct business and the Anti-Money Laundering (Miscellaneous Provisions) Act, 2003 (which amends the Financial Intelligence and Anti-Money Laundering Act, 2002) provides for derogation from the banks’ duty of confidentiality to enable them report suspicious transactions. Under section 28(2) of the Prevention of Terrorism Act of Mauritius the authorities have the power to undertake ‘an accurate, continuous and uninterrupted record’ of amongst others the movements of terrorist suspects throughout the period of their detention. A video recording made in terms of this section is admissible in evidence in court notwithstanding the common law rule against hearsay. While it may be argued that the video recording of a detained suspect’s movements or actions is designed as a safeguard against abusive practices such as torture, the prolonged detention itself may, especially where it is solitary, arguably constitute torture or degrading treatment as well as a violation of the right to privacy.

Other human rights concerns

Counter-terrorism measures raise numerous other human rights concerns. According to the UN special rapporteur on religious intolerance, anti-terrorist measures in a number

of states have unduly limited freedom of religion or belief, in violation of international human rights standards (UN 2004a). Responses to terrorism have also led to new forms of racial discrimination and a growing 'acceptability' of the traditional forms of racism where certain cultural or religious groups are viewed as terrorist risks (UN 2004b). This has given rise to new forms of racism that render it more difficult to combat racial discrimination and xenophobia.

Some of the domestic anti-terrorism laws mentioned *prima facie* pose a threat to the rights of the child. For example, while the Uganda Anti-Terrorist Act imposes the sentence of death for the offence of terrorism, it does not expressly stipulate that the sentence does not apply to children who might be involved in such activities.³⁵ In view of the low age of criminal responsibility³⁶ in Uganda, this lacuna is a matter of serious concern (Bossa & Mulindwa 2004).

Conclusion

Acts of terrorism (whether domestic or international) and state measures to counter terrorism have the potential to impact negatively on fundamental rights and freedoms. Of particular concern is the fact that many countries have been pressured to introduce 'anti-terrorism' legislation by powerful countries, without due regard to their local circumstances. This situation not only heightens the likelihood that these countries have not paid much attention to the human rights implications of such legislation but it also increases the risk of abuse by the governments concerned.

It is therefore important that each state should have the freedom to adopt anti-terrorist legislation that not only helps it to address the scourge of terrorism and ensure the security of all persons subject to its jurisdiction, but also enables it to meet its human rights obligations. In sum, national efforts to curb domestic terrorism should reflect local circumstances and take the relevant international and national human rights standards into account.

Notes

- 1 This article is based on a paper presented by the author at a seminar on 'Towards understanding domestic terrorism in Africa', co-hosted by the Institute for Security Studies (ISS) and the Terrorism Studies and Research Program (Cairo University), on 5-6 November 2007 in Accra, Ghana. The seminar presentation will be published by the ISS as part of the seminar report. I am grateful to the ISS for permission to adapt the paper for publication.
- 2 For a historical background, see Bassiouni (1975); Cassese (1989); Murphy (1989); Han (1993); Laqueur (2001); Sinclair (2004); Duffy (2005); Lutz and Lutz (2005); Hoffman (2006); Saul (2006); Botha (2006); Elagab and Elagab (2007); Lumina (2007).
- 3 For example, more than 150 000 native Kenyans were imprisoned under harsh conditions and over 1 090 hanged between 1952 and 1959 during the state of emergency declared by the British colonial

- administration in response to the Mau Mau uprising in Kenya. The uprising began in the early 1950s among the Kikuyu of the Kenyan highlands who had been forcibly dispossessed of their land by British settlers. See Anderson (2005) and Elkins (2005). In similar vein, the apartheid regime in South Africa sentenced many nationalists to lengthy prison terms.
- 4 Terrorism can be domestic or international in character. This paper focuses on domestic terrorism as defined in section two of the paper. It is notable that the underlying causes of terrorism are diverse, with the only commonality being that individuals who are frustrated with the status quo employ a campaign of systematic violence (often against civilian targets) in order to put pressure on the government of the day to succumb to their demands. For a brief useful discussion of the underlying reasons for terrorism in Africa see Botha (2008:10–14).
 - 5 These include the 1996 spate of bomb blasts in Zambia which were blamed on a shadowy group called ‘the Black Mamba’ and left one police officer dead; the October 2004 bomb blasts at Egyptian tourist resorts that killed 28 people; the August 1998 embassy bombings in Kenya and Tanzania which killed hundreds; and the October 2002 Soweto bombings alleged to have been carried out by members of the white supremacist Boeremag organisation in South Africa.
 - 6 Examples are the conflicts in Angola, the Democratic Republic of Congo, Côte d’Ivoire, Liberia, Sierra Leone and Uganda.
 - 7 African countries that have introduced or are in the process of introducing anti-terrorism legislation include Algeria, Egypt, The Gambia, Kenya, Mauritius, Morocco, Namibia, South Africa, Swaziland, Tanzania, and Uganda (see eg Mulama 2004).
 - 8 African countries that have acted under US pressure include Kenya, Malawi, South Africa, Tanzania and Uganda. See Kraxberger (2005); see also Bascombe (2004); Mulama (2004); Lumina (2007); ICLMG (2005).
 - 9 In October 2001, Amnesty International (2001) raised the concern that: ‘In the name of fighting “international terrorism”, governments have rushed to introduce draconian measures that threaten the human rights of their own citizens, immigrants and refugees ... Governments have a duty to ensure the safety of their citizens, but measures taken must not undermine fundamental human rights.’ Common features of the new anti-terror laws are broad or vague definitions of new offences, wide powers of detention without trial, prolonged incommunicado detention (which is known to facilitate torture), intrusions into privacy, and measures which effectively deny or restrict access to asylum or speed up deportation.
 - 10 The UN Working Group on Terrorism (UN 2002, par 13) has identified broad elements of terrorism: ‘Without attempting a comprehensive definition of terrorism, it would be useful to delineate some broad characteristics of the phenomenon. Terrorism is, in most cases, essentially a political act. It is meant to inflict dramatic and deadly injury on civilians and to create an atmosphere of fear, generally for a political or ideological (whether secular or religious) purpose. Terrorism is a criminal act, but it is more than mere criminality.’ For a discussion of the distinction between domestic terrorism and international terrorism, see Botha (2008:8–10).
 - 11 According to the Redress Trust (2006), between 70 and 80 per cent of the LRA’s forces are abducted children.
 - 12 For example, one of the world’s most respected statesmen, Nelson Mandela, was for long considered a terrorist not only by the apartheid regime but by countries such as the US as well.
 - 13 See also article 5 which requires the states parties to co-operate in preventing and combating terrorism ‘in conformity with national legislation and procedures of each state’ and article 6, which recognises the jurisdiction of each state party over certain ‘terrorist acts’.
 - 14 The Security Council has adopted numerous resolutions on terrorism subsequent to resolution 1373. These include resolution 1377 of 12 November 2001 (ministerial declaration on the global effort to combat terrorism), resolution 1456 of 20 January 2003 (declaration by foreign ministers on combating terrorism), resolution 1535 of 26 March 2004 (creation of Counter-Terrorism Committee Executive Directorate, CTED), resolution 1566 of 8 October 2004 (creation of working group to consider measures against individuals, groups and entities other than Al-Qaida/Taliban), resolution 1624 of 14 September 2005 (prohibition of incitement to commit terrorist acts), resolution 1631 of 17 October 2005 (UN co-operation with regional organisations in maintaining international peace and security), and resolution 1805 of 20 March 2008 (extension of mandate of CTED).

- 15 Counter-terrorism legislation in Mauritius include the Prevention of Terrorism Act, 2002, the Financial Intelligence and Anti-Money Laundering Act, 2002, the Prevention of Corruption Act, 2002, the Prevention of Terrorism (Special Measures) Regulations Act, 2003 (as amended), the Financial Intelligence and Anti-Money Laundering Regulations Act, 2003, the Anti-Money Laundering (Miscellaneous Provisions) Act, 2003, and the Convention for the Suppression of Financing of Terrorism Act, 2003.
- 16 Protection of Constitutional Democracy against Terrorist and Related Activities Act, 2004.
- 17 Prevention of Terrorism Act, 2002.
- 18 For instance, in a report to the UN Counter-Terrorism Committee in June 2002, the government of Zambia stated that it has a number of provisions under its Penal Code (Cap 87 of the Laws of Zambia) that can be used to fight terrorism in accordance with Resolution 1373. In similar vein, Algeria treats terrorism as a criminal offence within its Penal Code.
- 19 For example, Amnesty International and other human rights groups have expressed concern that most of the provisions of the Prevention of Terrorism Act, 2002 of Mauritius are too broad and do not meet the international standards of fairness. In particular, Amnesty International (2004) has expressed concern that the term 'acts of terrorism' could be broadly interpreted to undermine fundamental human rights.
- 20 The UN has recognised the threat to human rights posed by anti-terrorism measures, leading to amongst others the appointment of an independent expert on protection of human rights while countering terrorism. See also the Berlin Declaration adopted by the International Commission of Jurists on 28 August 2004.
- 21 The primacy of international human rights law derives from the UN Charter and has been reiterated by various bodies of the organisation. Article 1(3) of the Charter sets human rights as the cornerstone for the achievement of the purposes of the UN. Article 55(c) provides that the UN will encourage 'universal respect for, and observance of, human rights and fundamental freedoms for all, without distinction as to race, sex, language or religion', while article 56 imposes an obligation on UN member states 'to take joint and separate action in co-operation with the Organisation for the achievement of the purposes set forth in article 55'. Clearly, UN member states are obliged to respect human rights, and the pre-eminence of this obligation is confirmed by article 103 of the Charter.
- 22 See also E/CN.4/Res/2003/68 adopted by the Commission on Human Rights at its 59th session on 25 April 2003.
- 23 See UN Security Council resolution 1566 (2004), adopted by the Security Council on 8 October 2004.
- 24 Security Council resolution 1456 (2003), annex. This position has been reaffirmed in subsequent Security Council resolutions on terrorism.
- 25 It is interesting to note, however, that the CTC which is established in terms of resolution 1373 maintains that 'monitoring performance (of states) against other international conventions, including human rights law, is outside the scope' of its mandate.
- 26 The Charter protects a number of fundamental rights and freedoms, including equality before the law (art 3); the right to dignity, and the prohibition of slavery, torture, cruel, inhumane and degrading treatment or punishment (art 5); right to a fair trial, including the right to be presumed innocent (art 7); freedom of expression (art 9); and freedom of association (art 10).
- 27 For example, in terms of section 2 of the Constitution of Mauritius, 1968: 'This Constitution is the supreme law of Mauritius and if any other law is inconsistent with this Constitution, that other law shall, to the extent of the inconsistency, be void.' See also Constitution of South Africa 1996 (s 2) and Constitution of Uganda, 1995 (s 2).
- 28 It is notable that Egypt has been under a state of emergency since the assassination of President Anwar al-Sadat. Egypt justifies its extension of the state of emergency on the grounds that it is necessary in 'order to deal with the phenomenon of terrorism and to protect the security and stability of society'. It further claims that security measures under the emergency have 'largely succeeded in eradicating the phenomenon of terrorism, in spite of its spread throughout all other parts of the world' (Human Rights Committee (2002), par 7).
- 29 It is notable that, unlike the Covenant and the other regional instruments, the Human Rights Charter contains no general derogation.
- 30 See General Comment no 20 on article 7 of the Covenant, 10 March 1992, par 3.

- 31 It is interesting to note that section 21 of Uganda's Anti-Terrorism Act criminalises torture, inhumane and degrading treatment as well as illegal detention by law enforcement officials in furtherance of their powers of interception of communications and surveillance under the Act.
- 32 Rules or principles of international law having a higher status and from which no derogation is permitted.
- 33 See, for example, article 14 of the Covenant (UN 1966); article 7 of the Human Rights Charter (OAU 1981); article 6 of the European Convention on Human Rights. See also General Comment no 13(21) adopted by the Human Rights Committee in 1984, Doc.HRI/GEN/1/Rev.5, 122–126; Hanski and Scheinin (2003:147–200).
- 34 See also the report of Amnesty International (2007) in which the organisation condemns the 2006 sentencing of 12 people in Tunisia to lengthy prison terms on terrorism-related charges after 'unfair' trials.
- 35 In terms of section 7(1) of the Act: 'Subject to this Act, *any person* who engages in or carries out any act of terrorism commits an offence and shall, on conviction – (a) be sentenced to death if the offence directly results in the death of any person; (b) in any other case, be liable to suffer death' (emphasis added). Section 9(2) similarly imposes the death penalty on 'any person' convicted of specified terrorism-related offences.
- 36 Section 88 of the Children Act 2000 (cap 59) provides that the minimum age of criminal responsibility shall be 12 years. While Uganda is entitled a minimum age of criminal responsibility in terms of article 40(3)(a) of the UN Convention on the Rights of the Child, rule 4(1) of the UN Standard Minimum Rules for the Administration of Juvenile Justice, 1985 (the Beijing Rules) recommends that 'the minimum age should not be fixed at too low an age level, bearing in mind the facts of a child's emotional, mental and intellectual maturity'. It is notable that article 37(a) of the Convention on the Rights of the Child prohibits the imposition of the death penalty for offences committed by persons below 18 years of age.

References

- Amnesty International 2007. *Amnesty International Report 2007: The state of the world's human rights*. London: Amnesty International.
- Amnesty International 2004. *Amnesty International Report 2004*. London: Amnesty International. Available at <http://web.amnesty.org/web/web.nsf/print/2004-dza-summary-eng> [accessed 24 November 2004].
- Anderson, D 2005. *Histories of the hanged: the dirty war in Kenya and the end of empire*. New York: Norton.
- Bascombe, D 2004. *An update of anti-terror legislation in the Commonwealth*. Available at http://www.humanrightsinitiative.org/new/anti_terror_legislation_cw2004.pdf [accessed 15 May 2008].
- Bassiouni, M C (ed) 1975. *International terrorism and political crimes*. Springfield Ill: Thomas.
- Bossa, S B and Mulindwa, T 2004. *The Anti-Terrorism Act, 2002 (Uganda): human rights concerns and implications*. Paper prepared for the Terrorism and Human Rights Network of the International Commission of Jurists, 15 September. Available at <http://www.icj.org/news.php?idarticle=3517&lang=en> [accessed 22 September 2005].
- Botha, A 2008. Challenges in understanding terrorism in Africa. In W Okumu and A Botha (eds), *Understanding terrorism in Africa: building bridges and overcoming gaps*. Pretoria: Institute for Security Studies, 6–19.
- Botha, A 2006. *Politics and terrorism: an assessment of the origin and threat of terrorism in Egypt*. ISS Paper 131. Pretoria: Institute for Security Studies.
- Cassese, A 1989. *Terrorism, politics and the law: the Achille Lauro affair*. Cambridge: Polity.
- Committee to Protect Journalists 2002. *Attacks on the press in 2002: Uganda*. Available at <http://www.cpj.org/attacks02/africa02/uganda.html> [accessed 15 May 2008].
- Duffy, H 2005. *The 'war on terror' and the framework of international law*. New York: Cambridge University Press.
- Elagab, O Y and Elagab, J 2007. *International documents relating to terrorism*. 3rd ed. London: Routledge-Cavendish.
- Elkins, C 2005. *Imperial reckoning: the untold story of Britain's gulag in Kenya*. New York: Henry Holt.
- Goredema, C 2003. Initiatives against terrorism in Southern Africa: implications for human rights. *African Security Review*, 12(1):91-100.
- Han, H H (ed) 1993. *Terrorism and political violence*. New York: Oceana.
- Hanski, R and Scheinin, M 2003. *Leading cases of the Human Rights Committee*. Turku/Abo: Institute for Human Rights, Abo Academic University.

- Hoffman, B 2006. *Inside terrorism*. New York: Columbia University Press.
- Human Rights Committee 2003. *Concluding observations of the Human Rights Committee: Egypt*. Doc.CCPR/CO/76/EGY/Add 1, 4 November.
- Human Rights Committee 2002. *Concluding observations of the Human Rights Committee: Egypt*. Doc.CCPR/CO/76/EGY, 28 November.
- Human Rights Watch 2008. Submission to the Human Rights Council on the universal periodic review of France, 5 May. Available at <http://hrw.org/english/docs/2008/04/07/global18556.htm> [accessed 15 May 2008].
- Human Rights Watch 2007. Opportunity in the face of tragedy: Repression in the name of anti-terrorism. Available at <http://www.hrw.org/campaigns/september11/opportunitywatch.htm> [accessed 25 November 2007].
- Human Rights Watch 2003a. *In the name of counter-terrorism: human rights abuses worldwide*. Briefing paper for the 59th session of the United Nations Commission on Human Rights, 25 March.
- Human Rights Watch 2003b. Stolen children: abduction and recruitment in Northern Uganda, March. Available at <http://www.hrw.org/reports/2003/uganda0303> [accessed 28 July 2007].
- ICLMG (International Civil Liberties Monitoring Group) 2005. Brief to the House of Commons sub-committee on public safety and national security of the standing committee on justice, human rights, public safety and emergency preparedness. Submission concerning the review of the Anti-Terrorism Act. Available at http://www.interpares.ca/en/publications/pdf/ICLMG_Brief_on_C-36.pdf [accessed 15 May 2008].
- Kagari, M 2003. Anti-terror bill an affront to human rights. *Daily Nation*, 18 November.
- Kraxberger, B M 2005. The United States and Africa: shifting geopolitics in an 'age of terror'. *Africa Today*, 52(1):47–68.
- Laqueur, W 2001. *A history of terrorism*. New Brunswick, NJ: Transaction.
- Lumina, C 2007. Counter-terrorism legislation and the protection of human rights: a survey of selected international practice. *African Human Rights Law Journal*, 7(1):35–67.
- Lutz, J M and Lutz, B J 2005. *Terrorism: origins and evolution*. New York: Palgrave Macmillan.
- Mulama, J 2004. East Africa: the church slams anti-terror bills. Inter Press Service, 5 February. Available at <http://www.lewrockwell.com/ips/mulama.html> [accessed 13 December 2004].
- Murphy, J 1989. Defining international terrorism: a way out of the quagmire. *Israel Yearbook on Human Rights*, 19:13–37.
- OAU 1999. Convention on the Prevention and Combating of Terrorism. Adopted at the 35th ordinary session of the Summit, held in Algiers on 12–14 July 1999.
- OAU 1981. African (Banjul) Charter on Human and Peoples' Rights. (OAU Doc. CAB/LEG/67/3 rev. 5, 21 I.L.M. 58 (1982)) Adopted by the 18th Assembly of Heads of State and Government held in Nairobi, Kenya, on 27 June 1981.
- Okoth-Obbo, G 2007. Preserving the institution of asylum and refugee protection in the context of counter-terrorism: the problem of terrorist mobility. Keynote speech by G Okoth-Obbo, director, International Protection Services, UNHCHR, to the 5th special meeting of the UN Counter-Terrorism Committee with international, regional and sub-regional organizations on prevention of terrorist mobility and effective border security, held in Nairobi, Kenya, on 31 October. Available at http://www.un.org/sc/ctc/pdf/UNHCHR_keynote.pdf [accessed 15 May 2008].
- Redress Trust 2006. Victims, perpetrators or heroes? Child soldiers before the International Criminal Court, September. Available at http://www.iccnw.org/documents/Redress_childsoldiers_report_Sep06.pdf [accessed 14 August 2007].
- Rudiger, A 2007. Prisoners of terrorism? The impact of anti-terrorism measures on refugees and asylum seekers in Britain. Refugee Council Research Report, February. Available at http://www.refugeecouncil.org.uk/NR/rdonlyres/84F9A962-7C34-4A41-A9A7-2812AC724075/0/prisoners_of_terrorism.pdf [accessed 15 May 2008].
- Saul, B 2006. *Defining terrorism in international law*. Oxford: Oxford University Press.
- Sinclair, A 2004. *An anatomy of terror: a history of terrorism*. London: Pan Books.
- UN (United Nations) 2007a. *Report of the Secretary-General on children and armed conflict in Uganda*. Doc.S/2007/260, 7 May.

- UN 2001a. Resolution 1373 (2001) (Threats to international peace and security caused by terrorist acts). Adopted by the Security Council at its 4385th meeting, on 28 September 2001.
- UN 2001b. Terrorism and human rights: progress report prepared by Ms Kalliopi K Koufa, special rapporteur. Doc.E/CN/Sub.2/2001/31, 27 June.
- UN 2002a. Report of the policy working group on the United Nations and terrorism. Annex to Doc.A/57/273, S/2002/875.
- UN 2002b. Statement of Secretary-General, Kofi Annan, to the Security Council (UN Doc.S/PV.4453), 18 January 2002.
- UN 2002c. Report of the special rapporteur, T van Boven, on the question of torture and other cruel, inhuman or degrading treatment or punishment. Doc.A/57/173, 2 July.
- UN 2004a. Statement by the special rapporteur on freedom of religion or belief, A Jahangir, to the Third Committee of the UN General Assembly. GA/SHC/3798, 3 November. Available at <http://www.un.org/News/Press/docs/2004/gashc3798.doc.htm> [accessed 25 November 2007].
- UN 2004b. Statement of the special rapporteur on mercenaries to the Third Committee of the UN General Assembly. GA/SHC/3798, 3 November. Available at <http://www.un.org/News/Press/docs/2004/gashc3798.doc.htm> [accessed 25 November 2007].
- UN 2004c. Statement of the special rapporteur on torture to the Third Committee of the UN General Assembly. UN Press Release, GA/SHC/3793, 27 October.
- UN 2005. Report of M Scheinin, the special rapporteur, M Scheinin, on the promotion of human rights and fundamental freedoms while countering terrorism. Doc.E/CN.4/2006/98/AddDoc.E/CN.4/2006/98/Add 1, 28 December.
- UN 2007b. Report of the special rapporteur, M Scheinin, on the promotion of human rights and fundamental freedoms while countering terrorism. Doc.A/62/263, 15 August.

Case law

- International Pen, Constitutional Rights Project, Interrights on behalf of Ken Saro-Wiwa Jr & Civil Liberties Organisation* (2000). AHRLR 212 (ACHPR 1998), Communication nos 137/94, 139/94, 154/96 and 161/97, 12th Annual Activity Report 1998-1999.
- Pagnouille (on behalf of Mazou) v Cameroon* (2000) AHRLR 57 (ACHPR 1997).

Legislation

Egypt, Arab Republic of

- Anti-terrorism Law, 1992 (Law 97 of 1992)
- Emergency Law, 1958 (Law 162 of 1958)

Mauritius, Republic of

- Anti-Money Laundering (Miscellaneous Provisions) Act, 2002 (as amended by the Financial Intelligence and Anti-Money Laundering Act, 2003)
- Prevention of Terrorism Act, 2002 (Act 2 of 2002)
- Prevention of Terrorism (Denial of Bail) Act, 2002
- Constitution, 1998

South Africa, Republic of

- Protection of Constitutional Democracy against Terrorist and Related Activities Act, 2004 (Act 33 of 2004)
- Constitution, 1996 (Act 108 of 1996)
- Terrorism Act, 1967 (Act 83 of 1967)
- Internal Security Act, 1982 (Act 74 of 1982)

Tanzania, United Republic of

- Prevention of Terrorism Act, 2002

Uganda, Republic of

- The Anti-Terrorism Act, 2002
- Children Act, 2000
- Constitution, 1995