DOMESTIC TERRORISM IN AFRICA:
DEFINING, ADDRESSING AND UNDERSTANDING ITS IMPACT ON HUMAN SECURITY

Edited by Wafula Okumu and Anneli Botha

5 and 6 November 2007

Terrorism Studies & Research Program

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Introduction

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This report contains some of the papers that were presented at the fourth seminar of the 'Understanding terrorism in Africa' series. The seminar, held under the theme of 'Understanding domestic terrorism in Africa', took place in Accra, Ghana from 5–6 November 2007. Like the previous seminars in the series, participants from different parts of Africa and from other countries outside the continent met for two days to reflect intensely on how domestic terrorism affects Africa's development; the linkages between domestic and transnational terrorism; and strategies that can be used to counter domestic terrorism on the continent.

Participants in the seminar also grappled with the definition of domestic terrorism, and by its conclusion agreed that domestic terrorism comprises terrorist acts usually conducted by local groups within the state for the purpose of overthrowing a government or achieving local political advantage. This form of violence needs more attention, as it is very common and harmful to African non-combatants. In some cases, African states and their militaries respond in kind.

Domestic terrorism has a long history. Early examples occurred during the *Mau Mau* rebellion in Kenya from 1952 to 1959 and the Algerian independence struggle from 1954 to 1962. It was not uncommon for African independence movements and their colonial opponents to resort to tactics that today would only be described as terrorist in nature. African groups that currently use terrorist tactics to achieve their goals include the Lord's Resistance Army (LRA) in northern Uganda, militia and rebel groups in Sudan, the eastern Democratic Republic of the Congo (DRC), Nigeria and Somalia. While some of these groups receive considerable support from the local people, the fact is that their tactics sometimes constitute terrorism and pose a special challenge to African militaries, especially whether to respond in kind.

The forms of domestic terrorist acts seem to cut across various groups that use violence as a tactic. Foday Sankoh's Revolutionary United Front of Sierra Leone specialised in 'short-sleeving', that is cutting off the arms of their victims including infants, ripping open pregnant women's bellies in search of weapons, raping, and senseless orgies of violence induced by cocktails of drugs and exposure to Rambo movies.

Sudan's *Janjaweeds* have committed horrendous acts that have been variously referred to as genocide, war crimes, crimes against humanity, and terrorism against civilian populations. These acts have claimed more than 300 000 civilian lives and displaced 2 million people. John Garang's Sudanese Peoples Liberation Army (SPLA), in its quest to 'liberate Sudan', massacred thousands of women, children and elderly in southern Sudan.

While the Interahamwe of Rwanda allegedly killed about a million Tutsis and moderate Hutus in 100 days in 1994, Jonas Savimbi's *União Nacional para a Independência Total de Angola* (Unita) terrorised the country for 35 years, planting landmines that are still maiming innocent people. In the DRC, Ernest Wamba Dia Wamba's Rally for Congolese Democracy (RCD), Jean-Pierre Bemba's Movement for the Liberation of Congo (MLC), Allied Democratic Forces for the Liberation of Congo (*Alliance des Forces Démocratiques pour la Libération du Congo-Zaire* (AFDL)) and *Mai-Mai* militia have between them, and with the assistance of armies from neighbouring countries, slaughtered over 4 million Congolese. The acts of terror used by these groups have included cannibalism, rape, bodily mutilations, and so on.

These militias and rebel groups have between them killed, maimed and displaced millions of people all over the continent. On 12 October 2007, the Ugandan Daily

Monitor newspaper reported that the total monetary cost of rebel wars in Africa had reached UK£153 billion.

The brutality of domestic terrorism in Africa is astounding. One may ask why it is only transnational terrorism or terrorism against Western interests that draws the attention of the media, researchers and law enforcement. Why have we focused only on international terrorism and the global war on terror, and not on domestic terrorism in Africa? Does it mean only brutal acts that target and claim Western interests and lives qualify to be classified as terrorism? The participants in the seminar felt that the failure to highlight domestic terrorism in Africa has diminished international efforts aimed to combat and prevent terrorism.

The seminar also traced the root causes of domestic terrorism to a number of sources. Among these are the crisis of the post-colonial state that is ineffective in mediating social relations (that is, the incapacity of the African state to engage peacefully in seeking its legitimacy), and elite greed, competition, and manipulation of identities (particularly ethnic and religious). It was also pointed out that although ethnic and religious identities are key factors, they do not on their own cause domestic terrorism. Furthermore, there is a need to reconsider the correlation between poverty and terrorism while cautiously guarding against the development-security nexus level of analysis. Additionally, in identifying perpetrators of atrocities against the civilian population, attention should also be paid to bad leadership that misuses state powers and leads to its failure and consequent violence in society.

It was also stated that the seminar's attempt to highlight domestic terrorism should not be seen as an effort to overlook or underrate the threats of transnational terrorism. Categorisation of terrorism, if based on the acts and root causes, will be useful in solving the problem and will contribute to better strategies at all levels including national, regional and international. At the moment, the participants noted, the African Union and regional organisations such as IGAD mainly focus on international terrorism at the expense of domestic terrorism, but it is the latter that is affecting the African people most.

Even so, several linkages between domestic and transnational terrorism can be made. For instance, both are driven by the same points; one can provide a springboard for the other; domestic terrorism has tendencies to spill-over, and linkages between domestic and transnational terrorism are enhanced by transnational identities, globalisation, the dynamics of international security, Islamisation of counter-terrorist strategies, and the uneven regional implementation of such strategies and measures.

Domestic terrorism was contextualised using African case studies. Reflection on studies from countries such as Kenya, Uganda, Nigeria, Niger, Liberia and Sierra Leone produced very distinct trends. It was noted that relationships develop between local groups in different countries; networks form between African and international groups; rebel and militia groups using violence grow and transform because of uneven development; the 'hidden hand' of the state is present in most cases; states respond in a repressive way; economic terrorism is emerging; there is a low awareness of the existence of the domestic terrorism threat in Africa and internationally; and it is likely that approaches to combating domestic terrorism in Africa could actually further threaten human security.

Africa was compared with other regions of the world in order to see what lessons could be used on this continent to prevent and combat domestic terrorism. In sharing these lessons, participants from outside Africa pointed out that African countries should avoid using other experiences as a 'dos and don'ts' list. Specific lessons that emerged were to use strategies such as amnesties as long as they do not undermine human rights and democracy. African governments should also not overact whenever challenged on issues related to governance and fair distribution of national wealth by alienating or marginalising segments of the population. Government reactions should be well considered and informed by a deep understanding of the populations' grievances.

The participants also came up with a number of key recommendations:

- Continue generating knowledge on terrorism in Africa. This knowledge is necessary and critical for a better understanding of the threat and to design effective strategies and measures to prevent and combat domestic terrorism in Africa.
- Fine-tune the definition of 'domestic terrorism' to align it with (and clearly distinguish it from) other commonly used terms such as insurgency, rebellion, cultism, asymmetrical warfare, and so on.
- Conduct more investigations to clarify the correlation between poverty and terrorism.
- Continue to pay attention to other regions that could have useful lessons for Africa:
  - Recognise terrorism as a tactic for articulating grievances.
  - Foster the political will and create political consensus on counter terrorism measures.
  - Improve governance.
  - Open up the democratic spaces.
  - Debunk myths such as democracy being a panacea for human insecurity. (For instance, ETA was born during a dictatorial era, but it blossomed during the democratic era in Spain; in other words,

terrorism in Spain did not escalate owing to conflict, but during the democratisation phase.)
- ☐ Terrorist suspects and perpetrators are middle class, highly educated and professional.
- ☐ Political reform does not automatically end terrorism.
- ☐ Police reaction should be proportionate, indiscriminate and non-selective.
- ☐ Police reform should create structures that respect the rule of law, human rights and promote democracy – all measures must include absolute prohibitions. Counter terrorism activity cannot be used to sacrifice human rights.
- ☐ Engage in political negotiation when democratic space has been created.

- ■ Encourage general dialogue with genuine representatives of the people. Since the civil society is usually targeted when it assumes the role of challenging the abuse of state power, distrust between civil society organisations (CSO) and governments must be addressed. The population cannot be mobilised for development if adversarial relations exist in this sphere. Organisations must also avoid constantly being in an antagonistic relationship with the state, as this complicates the implementation of counter terrorism measures. The polarisation of civil society into pro- and anti-government factions also complicates matters, although it may play a positive role in a democratic environment.
- ■ Pay attention to the community since these people are the first to be targeted by terrorists. Counter terrorism strategies must be based on communities and they must be key players in the implementation of these.
- ■ Restructure the police and law enforcement structures so that they are able to use intelligence to prevent crime rather than maintain regime security.
- ■ Keep approaches to address domestic terrorism within a broader regional strategy.
- ■ Design a proactive strategy that:
  - ☐ Does not marginalise populations because of their identities
  - ☐ Is based on court-directed investigation
  - ☐ Emphasises partnerships
- ■ Focus political strategies on dialogue and negotiation, and creating a culture of peace and justice values.
- ■ Undertake further research on unpacking the concepts of terrorism, terrorist acts, insurgency, asymmetrical warfare, and so on, in the African context. Such studies should also pay keen attention to key actors, and utilise both case and comparative studies.

- ■ Base law enforcement strategies on understanding the types of threat. This will determine the operational strategies and principles such as intelligence, investigations, long-term monitoring, community involvement and tactics to be used in combating and preventing terrorism.
- ■ Instead of searching far, borrow from the Mauritian judicial and legal measures, which include strategies such as constitutional guarantees and clauses, the creation of social conditions that promote inclusiveness and justice, the preservation of international respect and image in the international community, and adequate guarantees for human rights, accountability, structured discretion, and so forth.
- ■ Finally, encourage the media to play a critical role in ending information poverty, which can, and usually is, exploited by terrorists. The media fraternity needs to focus more on Africa and to rely on African sources of information. In order for the media to be taken seriously, it must give accurate and reliable information, be less reliant on Western sources, and be professional, clean, modernised, and so on.

Although this report does not contain all the papers presented at the seminar, the above summary of the discussions and content of the papers should give the reader a clear picture of the deliberations that took place. The seminar made a significant contribution to the continuing search for an African voice in the global debate on terrorism, and to a deeper understanding of how terrorism affects Africa's socio-political and economic development, and the challenges that the continent faces in combating and preventing terrorism threats.

Categorising domestic terrorism

Terminology associated with political violence and asymmetric warfare

Morten Bøås

INTRODUCTION

In the aftermath of the terrorist attacks of 11 September 2001, the Western world has become increasingly concerned with 'failed states' in the global south, and this concern also has important implications for African as well as international responses to armed insurgency groups on the African continent.[1] The end of the Cold War affected more than just the ideologically encoded geopolitical landscape within which African insurgency groups operated. It may have made leftist ideologies seem irrelevant, but more importantly it meant the end of external backing for numerous armed groups.

However, the end of the Cold War also had other indirect and unforeseen effects on African insurgency groups as it led to the burgeoning of an illicit international market for small arms. The Revolutionary United Front (RUF) in Sierra Leone, the various factions in the Liberian civil war, and the many insurgency groups in eastern Congo, who came to control diamond fields and other mineral rich areas, used this control to access the new international market of small arms.[2]

While it is much too early to make any definitive claims about how the US-led 'war on terror' will affect armed conflicts in sub-Saharan Africa, it is important to recognise the power this discourse exercises over global politics. The 'war on terror' has become the new frame by which policymakers engage with African insurgency groups. This trend will be illustrated in this chapter by brief case studies from the Niger Delta, northern Mali and Somalia. However, before we proceed to these sites, we have to acknowledge that one of the most pronounced ways in which sub-Saharan Africa has been factored into the 'war on terror' is through the US and EU's new concern about 'failed states' as breeding grounds for international terrorism.[3]

The US and EU's interpretation of failed states is closely linked to a view of the modern state system that assumes that all states are essentially alike and function in the same way. States control their borders, have a monopoly on the use of force, and generally supervise the management and regulation of economic, social and political processes in accordance with Western standards;[4] 'failed states', on the other hand, are characterised by an inability to control territory, borders, and internal legal order and security, and lack the capacity or will to provide services to their population, establishing a window of opportunity to armed insurgencies and even international terrorists.[5] States considered to be functioning are perceived as legitimate actors and worthy recipients of Western donor assistance, whereas those unable or unwilling to function according to the template tend to be regarded with some suspicion and/or are assumed to represent a security threat to the Western world.[6] The fear is that in the ungoverned spaces of failed and fragile African states, al-Qaeda or a new local Taliban in-the-making could build up strength and prepare another major attack on the US and other Western countries.

There are many reasons for criticism of Western engagement with Africa within the war-on-terror framework. However, we must also recognise that this newly emerging geopolitical landscape has provided new opportunities and resources for African political elites.[7] In several cases, African leaders have been able to garner favours from Washington in exchange for their support for US foreign policies and the war on terror. The US support for the transitional government in Somalia is one example, the renewed US interest in Mali is another, and the silence from the Western world concerning the inability of the Nigerian government to find a solution to the Niger Delta conflict can also be interpreted in this way.

African leaders have also linked their own struggles against domestic rebels to the context of the war on terror. The Ugandan president, Yoweri Museveni, situated his war with the Lord's Resistance Army (LRA) within the context of the war on terror, and also applied the same rhetoric as a means of dealing with his main opponent, Kizza Besigye, who in 2005 was arrested and charged with treason based on post-2001 inspired anti-terrorist legislation.[8] In Ethiopia, the government has branded the Oromo Liberation Front (OLF) and the Ogaden National Liberation Front (ONLF) as international terrorist organisations and arrested hundreds of opposition leaders on the grounds of combating international terrorism. Clearly enjoying the support of the US, Ethiopia recently received US$91 million because of its strategic importance to America.[9]

In many ways, the 'war on terror' represents a return to Cold War logic, in which useful African allies are supported regardless of domestic human rights and governance shortcomings. The main difference, however, is the lack of opportunities for insurgency groups in this new environment. They seem to be locked in by the war-on-terror framework, making it difficult for them to cultivate external relations, leaving at least some of them with only two options: the warlord politics alternative, or to seek support from exactly the same forces as the war on terror seeks to combat, namely international jihadist movements. If the 'war on terror' agenda is not handled with care it may very well become a self-fulfilling prophecy in places such as northern Mali and Somalia.

CONCEPTUALISING AFRICAN INSURGENCIES[10]

Insurgency groups occupy the centre stage of violent conflict in Africa, but these movements seem to challenge accepted assumptions about warfare and are therefore generally poorly understood by analysts.[11] Currently both mainstream academia and its manifestations in policy interventions tend to be characterised by single-factor explanations. This should be a cause of concern, and this author has been particularly worried about the dominance of what we may call greed-based approaches to African conflicts and insurgency groups. Treating African rebel groups as completely devoid of any kind of political agenda drastically narrows the number of possible policy interventions, and there is a clear tendency that the 'war on terror' discourse even further strengthens this trend. The very simple point to be made is that one can negotiate and attempt to find common ground with armed insurgencies with a political agenda, whereas bandits and terrorists can only be countered by force. Thus, playing the terrorist card in places such as Niger Delta, northern

Mali and Somalia drastically reduces the space of political manoeuvring and strengthens hardliners who want their conflict to be another frontier in the war on terror. If one is repeatedly called a terrorist, one also ends up being treated as such, and therefore finds oneself in a situation where this is the only option one has left. The questions should certainly be asked about how helpful this will be to attempts to find lasting solutions to African conflicts.

There are many reasons for this. One is the lack of knowledge about African conflicts and what they are all about; another may be geopolitical concerns hiding under the cloak of the war on terror, such as access to African oil and other strategic resources. However, it is also caused by the simple fact that contemporary African rebels do not easily fit into established categories of insurgencies. In Clapham the following types of African insurgencies are identified: liberation (anti-colonial and nationalist), separatist, reformist and warlordism.[12] While all these different types of movements still exist to various degrees on the African continent, it is only the latter that is much used or referred to. Underlying issues such as the crisis of the post-colonial state, the crisis of modernity, and a series of questions related to autochthony, belonging and land are ignored, and what we are left with is relatively simple single-factor explanations based on a reading of African conflicts as resource wars.[13] Thus, my argument is that African guerrillas are not devoid of a political agenda, but that current approaches blindfold us. What is needed therefore is a more holistic approach that is historically grounded and integrates multiple levels of analysis, from the local and national to the regional and global. This is the only possible antidote to approaches that depict African guerrillas only as warlord insurgencies and/or satellites of global terror.

THE GLOBAL WAR ON TERROR IN AFRICA: NIGER DELTA, SOMALIA AND NORTHERN MALI

The global war on terror has changed the geopolitical landscape in Africa, creating an increased militarisation of US-Africa relations and recreating Cold War logic 'wherein all issues were deemed secondary to so-called geostrategic concerns'.[14] Ongoing processes in the Niger Delta, Somalia and northern Mali amply illustrate this.

The Niger Delta

The Niger Delta currently comprises a dangerous combination of poverty, marginalisation and underemployment, combined with environmental problems, crime, corruption and local communities who see few benefits from oil production. This has fuelled a militant uprising,

which not only threatens Nigeria's oil production and the country's fragile transition to democracy, but also affects the international oil price.[15]

Nigeria is Africa's largest oil exporter and the eighth largest oil-producing country in the world, but since early 2006 rebel activity in the Niger Delta has disabled the output by as much as 25 per cent.[16] In fact, in April 2008, as a consequence of attacks on oil pipelines in Isaka and Abonema in Rivers state, oil prices crossed US$117 a barrel for the first time.[17] Barely hours after this attack the main insurgency group, the Movement for the Emancipation of the Niger Delta (MEND) put out a statement claiming that since they had been pushed to the background after the Nigerian elections in 2007, they had nothing to lose or protect and would fight to destroy all oil facilities until their demands were met.[18] According to MEND, the new series of attacks (which they called Operation Cyclone) was the insurgency's answer to the illegal government of President Umaru Yar'Adua. Thus, these attacks were meant to effectively dispel the impression that the government had tried to create that peace and security had been restored in the Delta. However, they also were a show of force and a protest against the detention and secret trial of Henry Okah (the alleged MEND leader arrested in Angola). Moreover, as a comment on the increased military cooperation between Abuja and Washington DC, MEND said that this was their way of welcoming the USS Swift which was sailing through the Gulf of Guinea. Clearly having the attention of both US policymakers as well as American oil companies, MEND expressed its readiness to fight US forces if they should try to intervene, while simultaneously asking for peace talks to be led by former President Jimmy Carter. [19]

There is clearly a tendency, both in the international media as well as from oil companies to downplay the socio-economic causes behind the activities of MEND and instead to focus on the piracy tactics that the insurgency employs. Furthermore, the terrorist card, if not played yet, is lurking around the corner. This is, however, not a conflict that can be solved by military means alone, and foreign involvement under the banner of the war on terror could have disastrous effects. After a wave of hostage taking in August 2006, President Obasanjo threatened to crush what he called the criminal elements in the Delta by force. The most tangible result was that hundreds of slum houses were burnt down in Port Harcourt, but not much more. Such heavy-handed tactics have therefore been tried in the past and did not produce the desired outcome then. There is therefore every reason to doubt that they will work now. The growth of the militias, whether defined as armed insurgencies with a political agenda, bandits, or something in-between (e.g. social bandits), are a consequence of local grievances that must be addressed.

The only way forward is through an embedded conflict analysis that investigates the social and economic reason for the existence of the militia groups, their connection to local communities and political elites, and the measures that need to be taken in order to facilitate a more peaceful dialogue between all the stakeholders in this region. MEND is clearly implicated in the patrimonial politics of warlord insurgency, but this does not mean that their grievances and calls for tripartite negotiations should not be taken seriously.

Somalia

This country has been devastated by conflict since 1991 when former president Mohamed Siad Barre was ousted. Amid this history of violence some parts of the country have been more peaceful than others (e.g. Puntland and Somaliland), whereas the worst affected area has been that of the capital of Mogadishu. In fact, the most peaceful time for this part of Somalia was in 2006 when the Union of Islamic Courts (UIC) ruled considerable parts of the country. However, seen as an organisation with al-Qaeda connections and a regime harbouring international terrorists, the UIC was branded as a terrorist organisation and chased out of Mogadishu by an Ethiopian force that clearly had backing from the US. This did not increase security in Somalia or in any way reduce the influence of international jihadists in Somalia[20]. On the contrary, the security situation in Somalia is worse than ever, and the hardliners in the Islamic movement have gained the upper hand. It is hard to imagine a less productive intervention than the one that was carried out in Somalia, and the reasons for this should have been obvious.

The overthrow of long-time Somali leader Siad Barre in 1991 was followed by widespread predation, mass starvation, large-scale refugee flows, failed international intervention, and the ongoing absence of even rudimentary state institutions.[21] Currently, the Somali state exists only *de jure*. The current Transitional Federal Government (TFG) that nominally controls Mogadishu and some other parts of the national territory is not able to do more than barely survive.

Somali post-1991 history is, however, not only a history of anarchy, violence and failed international intervention, but also of existing religious and social/familial (clan-based) structures that have attempted to fill the space left by the government's collapse. For example, Koranic schools, known as duqsi's have taken on a social role in addition to their religious one. The schools are the basic system for religious instruction in Somalia, and their strength depends on the support they receive from local communities and businessmen.

As state structures and institutions deteriorated to the degree that most of them vanished, a system of Sharia-based Islamic courts became the main judicial system, and eventually these courts also began to offer education (together with the dusqsi's) and health care, and act as a local police force. This was the genesis of the UIC. After a while some of the courts began working together, and in 1999 four courts – Ifka, Halan, Circolo and Warshadda and Hararyaale – took control of Mogadishu's main market, forming the ICU one year later. As a reaction to the increasing power of the UIC, a group of Mogadishu-based warlords formed the Alliance for the Restoration of Peace and Counter-Terrorism. In 2006, these groups started to clash, and in June 2006 the UIC declared control of Mogadishu. One month later, the UIC opened Mogadishu International Airport, which had been closed since the UN withdrawal in 1995. The UIC was therefore at least initially popular because it provided stability and predictability.[22]

In the summer and autumn of 2006, with the UIC controlling most of Somalia, the TFG and its forces were pushed close to the Ethiopian border, where they came under the protection of Ethiopian forces. Sporadic skirmishes between the UIC and TFG/Ethiopian forces were reported during this time. Consequently, the UIC declared a 'holy war' against Ethiopia. EU-brokered peace talks were initiated but broke down and civil war started, with proxy involvement by Ethiopia (backing the TFG) and Eritrea (backing the UIC).[23] On 24 December 2006 Ethiopia declared war on the UIC, and by 28 December the Ethiopian forces and their allies in the TFG had retaken Mogadishu. Since then, the remnants of the UIC militias and other clans opposed to the TFG have been engaged in guerrilla warfare against the transitional government and its external supporters. Security is currently an illusion, the humanitarian situation is worse than ever and the Islamic hardliners who see their struggle as part of an international jihad has gained strength.[24] The irony is that this backlash could have been avoided if a more careful reading of the Somali situation had prevailed.

The UIC was much less a cohesive movement than a coalition of ideas and people brought together by circumstances. Each member of the UIC was a Sharia judge in charge of a court in a particular district, and it was up to him to determine how Sharia law should be interpreted and enforced. This means that there were both liberal and fundamentalist factions in the UIC. The most senior judges served on the Supreme Islamic Court of Banadir. Sharif Sheikh Amed, who is generally considered a moderate, chaired this court. One of the more radical members was Sheikh Daihr Awys, who is on the US terrorist list owing to his past leadership of a group believed to have had connections with al-Qaeda. The UIC was obviously split between hardliners and more moderate Islamic groups.[25] However, little was done to take advantage of this, and when the war started the moderates were sidelined in favour of the hardliners. In a war involving the Ethiopian archenemy there was little room for voices of moderation or negotiation among forces that had made up the UIC.

The UIC was formed along the lines of traditional clan-based Islamic courts, with Islam as a politically unifying force. However, the basis of the UIC reflects a power structure that was also, and perhaps equally, dependent upon other factors, including clan politics and Somali nationalism. For the sake of simplicity, its supporters can be said to have been divided into three main groups:[26]

- The al-Shabaab militia, a relatively well-trained militia under the political-spiritual leadership of Sheikh Hassan Turki. The al-Shabaab constituted the core military faction of the UIC and was mainly comprised of fighters from the Hawiye and Ogaden clans.
- Members of the Hawiye clan militia who saw the TFG leadership and their Ethiopian allies as a threat to their political and economic interests in and around Mogadishu.
- Fighters and others who rallied around the courts based on anti-Ethiopian sentiments rooted in the history of Somali nationalism.

What the experience of the UIC shows is that political Islam is a factor in Somali politics, but also that it only emerged as a real force when it combined with the interests and politics of one of the major clans (in this case the Hawiye clans). The exclusion of powerful Hawiye leaders from the TFG made the UIC an interesting alternative for these leaders, their supporters and fighters. The initial military success of the UIC cannot be explained without taking this factor into consideration. That said, political Islam's ability to organise a coherent, effective and relatively well-disciplined militia should also not be neglected (e.g. the al-Shabaab). The organisation also fulfilled important social needs, such as education and security – providing schools for urban society, and law and order for Mogadishu's business class.

Thus, a more sophisticated reading of the current Somali situation should illustrate that a solution cannot be found in warfare conducted under the war-on-terror paradigm as it only strengthens the hardliner position of those who want to see their struggle as part of an international jihad. An alternative approach would have looked at the possibility of bringing the various Somali forces together, as well as the many conflicting interests of such a process. This is particularly important considering the extreme complexity and challenges that the

Somali case represents. In this regard, this author still contends that discussing a new approach to governance in Somalia is timely – one drawing on a combination of religion, clan practices and the many new modes of neighbourhood and village-based governance constructed over the last decade.

Northern Mali

In Mali, the Tuareg rebellion during 1990–1996 aspired to achieve autonomy for Azawad, the northern part of the country. The Tuaregs, a minority in Mali, suffered greatly in the droughts of 1972–1974 and 1984–1985, when much of their livestock was lost. In this period the level of state intervention increased in northern Mali, and the Tuaregs perceived the state as supporting sedentary population groups (such as the Songhays) at their expense. This led to widespread perceptions of marginalisation caused by state intervention in their nomadic way of life.27 The war officially ended on 26 March 1996, and the peace agreement allowed for approximately 7 000 Tuareg rebels to be incorporated into the national army and other government bodies. The about 120,000 Tuaregs living in refugee camps in neighbouring Mauritania, Algeria, Burkina Faso and Niger were also repatriated. Based on these agreements, the Front populaire de libération de l'Azawad and other rebel groups agreed to disarm and demobilise, and again permit free movement across Mali's northern region.28 For a long time Mali was seen as a successful post-conflict country that effectively had solved the underlying causes of conflict.

However, this is not the case anymore, as the benefits of the previous peace agreement failed to materialise, tensions in northern Mali increased and some Tuareg groups took to arms once more. The current rebellion is much smaller in scale, but even potentially more harmful to peace and stability in Mali and the Sahel region as it comes at a time when events in this part of the world are seen as an integral part of the US-led 'war on terror'. Thus, clearly there is a danger that what essentially is a local conflict in northern Mali may be locked into a war-on-terror framework, in which the accusation of al-Qaeda connections becomes a self-fulfilling prophecy, as local insurgencies have nowhere else to turn.

This is particularly dangerous, as connections already exist on a pragmatic business level, but so far without any ideological attachment. What currently exist are separate insurgencies with different objectives. The Tuareg rebellion in Mali (and Niger for that matter) is concerned with local grievances concerning the inadequate state responses to drought and loss of pastoral land. The linkages that do exist are by and large built on cross-border trade and little else, and this is how it should remain.29

The Tuareg lifestyle and their fierce independence do not fit very well with the fundamentalism of the Algeria-led al-Qaeda in Maghreb (AQIM). However, in an entrenched situation where every single action of the Tuareg rebels is interpreted in a war-on-terror framework, this may change. The task of stakeholders and policymakers in this part of the world is therefore to prevent this from happening, and not the opposite. This would promote peace and security in Mali and the Sahel as well as shield this area from the forces of international jihad.

THE FEAR OF 'UNGOVERNED SPACES'

There is every reason to be concerned about the potential spread of international terrorism to Africa. However, as this chapter has pointed out, there is also every reason to be concerned about the kind of antidotes currently employed on the continent. The US-led 'war on terror' and its discourse is not only failing in its objective, but is also counterproductive to the degree that it seems to lead to opposite results: the strengthening of hardliners and creation of an environment where local insurgencies may have nowhere else to turn but to the allies of the international jihad.

The main reason is that the 'war on terror' approach is built on the same flawed assumptions as the greed-based approaches to African conflicts and insurgency groups – treating them as completely devoid of any kind of political agenda. Such an approach not only drastically narrows the number of possible policy interventions, but also easily promotes an approach to the area in conflict as an 'ungoverned space'. As the brief case studies of the Niger Delta, Somalia and northern Mali have attempted to illustrate, this is certainly not the case, but the actors, the politics and the governance structures that do exist can only be grasped by a more holistic approach that is historically grounded and integrates multiple levels of analysis.

No country comes, as close to being an illustration of a 'failed state' as Somalia. However, this country cannot be captured by the term 'ungoverned space'.30 Rather, it is better described as a conflict in which different layers of powers compete for influence as nodal points in complex networks of governance. Unpacking these and finding ways to accommodate moderate forces and strengthening their bargaining situation vis-à-vis hardliners would have been much more likely to result in productive outcomes than the purely military solution that emerged through the 'war on terror' framework. It is difficult to envision a way out of the quagmire that currently exists in Somalia, but in the two other cases discussed – the Niger Delta and northern Mali – there is still time to avoid a similar situation.

As already stated, in both places, the only way forward should be through an embedded conflict analysis that investigates the social and economic reasons for the

existence of the insurgency groups, their connection to local communities and political elites, and the measures that need to be taken in order to facilitate a peaceful dialogue. MEND is clearly an integral part of the social fabric of patrimonialism in the Niger Delta and thereby partly a warlord insurgency. This does not, however, mean that their grievances are not real and that their calls for tripartite negotiations should not be taken seriously. Similarly, the Tuareg rebels in northern Mali may be trading with groups connected to AQIM, but this is in itself only a proof of Sahelian pragmatism and nothing else. These groups' respective struggles are different in almost all possible ways and they do not have anything in common with regard to narrative and ideology. Keeping it this way should be the primary goal for stakeholders and policymakers in this part of the world.

SOME CONCLUDING REMARKS

The consequence of Africa becoming another frontier in the global 'war on terror' is still unclear. However, the evidence so far is not too positive. The places in Africa troubled by war and conflict are in need of external engagement. However, if such engagement means a return to Cold War logic, in which useful African allies are supported regardless of human rights and governance shortcomings and insurgency groups seen only as the vultures of 'ungoverned spaces', the rest of the world has very little to offer. It is important to prevent international terrorist networks from gaining ground on the African continent, but to reach this goal the US and its main allies need to rethink their approach to conflict and insurgency groups in Africa.

NOTES

1   Morten Bøås and Kathleen M Jennings, Insecurity and develop-ment: The rhetoric of the failed state, The European Journal of Development Research 17(3) (2005), 385–395. Morten Bøås and Kathleen M Jennings, Failed states and state failure: Threats or opportunities, Globalizations 4(4) (2007), 475–485.

2   Bøås and Jennings, Failed states and state failure: Threats or opportunities.

3   Kevin C Dunn, MadLib#32: The blank African state: Rethinking the sovereign state in international relations theory, in Kevin C Dunn and Timothy M Shaw (eds), Africa's challenge to interna-tional relations theory, Basingstoke: Palgrave, 2001, 46–63. See also Bøås and Jennings, Insecurity and development: The rhetoric of the failed state, and Bøås and Jennings, Failed states and state failure: Threats or opportunities.

4   Mark Duffield, Global governance and the new wars: The merging of development and security, London: Zed Books, 2001.

5   See Kathleen M Jennings, The war zone as social space: Social research in conflict zones, Oslo: Fafo (working paper), 2007;

Stephan Krasner, The case for shared sovereignty, Journal of Democracy 16(1) (2005), 69–83; White House, The national security strategy of the United States of America, Washington DC: US Government, 2002.

6   See Bøås and Jennings, Failed states and state failure: Threats or opportunities. This tendency is particularly evident in the 2002 US National Security Strategy (White House, The national security strategy of the United States of America), the 2005 USAID paper on failed states (USAID Fragile states strategy, Washington DC: USAID, 2005), and the 2003 European Security Strategy (European Union, A secure Europe in a better world: European security strategy, Brussels: European Union, 2003). Although the explicit emphasis on failed states has been reduced in revised versions of these key documents, this does not imply that such dichotomisation has disappeared, but rather that it has been thoroughly mainstreamed.

7   Raymond W. Copson, The United States in Africa: Bush policy and beyond, London: Zed Books, 2007.

8   Morten Bøås, Mellom fengsel og frihet i Musevenis Uganda, Nordisk Tidsskrift for Menneskerettigheter 25 (1) (2007) 44–57.

9   Abdi Ismail Samatar, Continuity in US foreign policy in Africa: Antithesis of freedom & democracy, Review of African Political Economy 114 (2007), 714–717.

10 This section draws on Morten Bøås and Kevin C Dunn, African guerrilla politics: Raging against the machine?, in Morten Bøås and Kevin C Dunn (eds), African guerrillas: Raging against the machine, Boulder: Lynne Rienner, 2007, 9–37.

11 Important exceptions include the following works: Paul Richards, Fighting for the rain forest: War, youth & resources in Sierra Leone, Oxford: James Currey, 1996; Paul Richards, No peace, no war: An anthropology of contemporary armed conflict, Oxford: James Currey, 2005; Christopher Clapham, African guerrillas, Oxford: James Currey, 1998; William Reno, Warlord politics and African states, Boulder: Lynne Rienner, 1998; and Bøås and Dunn, African guerrilla politics: Raging against the machine?

12 Clapham, African guerrillas.

13 The primary example being Mats Berdal and David M Malone (eds), Greed and grievance: Economic agendas in civil wars, Boulder: Lynne Rienner, 2000.

14 Mvuselelo Ngcoya, The great continental divide: US-Africa rela-tions, Review of African Political Economy, 114 (2007), 713–714.

15 Human Rights Watch, Chop fine: The human rights impact of local government corruption and mismanagement in Rivers state, Nigeria, New York: Human Rights Watch, 2007a. Kenneth Omeje, High stakes and stakeholders: Oil conflict and security in Nigeria, Aldershot: Ashgate, 2006.

16 Violence and conflict in key oil-producing countries have led to a series of record prices since the beginning of 2008 as the market fears that supply will be insufficient to meet the demand from China and other growing economies in Asia. Investors moving into oil and other commodities as a hedge against the weakening dollar also cause part of the increase.

17 Oil reaches $117 for first time, BBC, 21 April 2008; and Militants hit pipelines again, This Day, 22 April 2008.

18 The 2007 Nigerian elections are generally seen as a violent farce and an orgy of corruption and electoral rigging. See European

Union, Declaration by the presidency on behalf of the EU on the elections in Nigeria, Brussels: European Union, 2007, and Human Rights Watch (2008) Politics as War: the Human Rights Impact and Causes of Post-Election Violence in Rivers State, Nigeria, New York: Human Rights Watch.

19 Militants hit pipelines again, This Day, 22 April 2008.

20 Human Rights Watch, Shell-shocked: Civilians under siege in Mogadishu, New York: Human Rights Watch, 2007b; and Amnesty International, Routinely targeted: Attacks on civilians in Somalia, London: Amnesty International, 2008.

21 Ahmed I Samatar, The Somali catastrophe: explanation and implications, in Einar Braathen, Morten Bøås and Gjermund Sæther (eds) Ethnicity Kills? The Politics of War, Peace and Ethnicity in Sub-Saharan Africa, Basingstoke: Macmillan, 2000, 37-67; Lidwien Kapteijns, The disintegration of Somalia: a historiographical essay, Bildhaan – International Journal of Somali Studies, 1 (1) (2001) 11-52.

22 Xan Rice, Mogadishu's miracle: Peace in the world's most lawless city, The Guardian, 16 December 2006, http://www.guardian.co.uk/international/story/0,,1805807,00.html [accessed 20 December 2006].

23 For an excellent account of Ethiopian-Eritrean rivalry, see Tekeste Negash and Kjetil Tronvoll, Brothers at war: Making sense of the Eritrean-Ethiopian war, Oxford: James Currey, 2000. Ethiopia and Eritrea have supported rival Somali militias for a long time.

24 See Amnesty International, Routinely targeted: Attacks on civilians in Somalia; Rob Walker, Meeting Somalia's Islamist insurgents, London: BBC, 2008; and Human Rights Watch, Shell-shocked: Civilians under siege in Mogadishu

25 Xan Rice, Mogadishu's miracle: Peace in the world's most lawless city.

26 See also Alex de Waal, Class and power in stateless Somalia, New York: SSRC, 2007; and Human Rights Watch, Shell-shocked: Civilians under siege in Mogadishu

27 Kåre Lode, Civil society takes responsibility – popular involvement in the peace process in Mali (PRIO-report 5/97), Oslo: PRIO, 1997.

28 Macartan Humpreys and Habaye Ag Mohamed, Senegal and Mali, New Haven: Yale University Press, 2003; Gunvor Berge, In defence of pastoralism: Form and flux among the Tuaregs in northern Mali, PhD thesis, University of Oslo, Oslo, 2002; Mohamed Tiessa-Farma Maïga, Le Mali, de la sécheresse à la rébellion nomade: Chronique et analyse d'un phénomène du countre-développement en Afrique Sahélienne, Paris: Harmattan, 1997; and Kåre Lode, Civil society takes responsibility – popular involvement in the peace process in Mali.

29 Jeremy Keenan, The banana theory of terrorism: Alternative truths and the collapse of the second (Saharan) front in the war on terror, Journal of Contemporary African Studies, 25 (1) (2007), 31–58.

30 Bøås and Jennings, Failed states and state failure: Threats or opportunities.

Challenges in categorising domestic terrorism

Thomas A. Imobighe

INTRODUCTION

Although terrorism has haunted the global political landscape for centuries, never in the entire history of man has it assumed the power and ugliness it displays in the present century. Terrorism has imposed a new strategic climate on the present global system by making every human a potential victim of its various forms. Hardly a day passes without news of some acts of terrorism in one or other trouble spot on our planet. If it is not a car bomb, suicide bombing, hostage taking, plane hijacking, kidnapping or an assassination by an aggrieved person or persons, it is the indiscriminate bombing of selected targets by state authorities or agents. The point is that we are now living in a world that is constantly being traumatised by continuous doses of terrorism. As a result, no one any longer feels completely safe whether at home, at work, walking along the streets or relaxing in a beer parlour. Most worrisome is the fact that despite the world being awash with all sorts of activities to address the problem, terrorism has not abated in any significant manner.

Indeed, the present concern to find an effective answer to the problem has been marred by the lack of a common understanding regarding what really constitutes terrorism and how best to deal with it. In other words, efforts to work out a collective response to deal with the problem have met with never-ending wrangling over the definition of terrorism and a consequently sterile debate over its categorisation. Since the term 'terrorism' has come to mean different things to different people, it is important to explain its multidimensional nature and try to illustrate its true nature.

The main objective of this discourse, therefore, is to carry out a critical analysis of terrorism and, by extension, explain its variant – domestic terrorism – and the

challenges besetting its categorisation. Specifically, the paper tries to do the following:

- Explain the concepts of terrorism and domestic terrorism
- Examine the various modes of categorising the concept of terrorism and, by extension, domestic terrorism
- Examine the challenges involved in trying to categorise the concept
- Consider if there is any useful purpose to be served by such categorisation
- Suggest what might be a more useful endeavour in addressing the problem of domestic terrorism

TERRORISM AND DOMESTIC TERRORISM EXPLAINED

It makes sense to start the discussion with an explanation of terrorism, since domestic terrorism, the theme of this seminar, is an aspect of terrorism. In other words, before one can talk about an aspect of a form, it is important to give one's audience a full picture of the entire form. Besides, distinguishing between terrorism and domestic terrorism entails a form of categorisation, and the challenges of making this distinction is the subject of the present discussion.

Terrorism

Although terrorism has become a daily phenomenon of the global political landscape, getting people to agree on a common definition for the phenomenon has been extremely difficult. One may even say that efforts to define the concept have aroused discord among the members of

the international community. The former UN Secretary General, Kofi Annan,[1] alluded to the paralysis within the UN owing to what he described as the 'protracted debate about what terrorism is – whether States can be guilty of it as well as non-State groups and whether it includes acts of resistance against foreign occupation'. Kofi Annan's proposal of what he felt should be an acceptable definition of the term did not end the wrangling within the international community over what constitutes terrorism. He proposed that terrorism should be seen as any action that is 'intended to cause death or serious bodily harm to civilians or non-combatants, with the purpose of intimidating a population or compelling a government or international organization to do something or not to do something'.[2]

The problem of finding an acceptable definition of terrorism stems from the subjectivity with which most people perceive the concept, and especially the tendency to exclude their own actions from the definition of the term. For instance, in their perception of terrorism, some Western powers, including the US, tend to restrict the term to acts of violence perpetrated by non-state actors to achieve political purposes.[3] They fail to make allowance for those fighting to liberate their territories from foreign occupation and regard the latter as terrorists. In contrast, some third-world countries that sympathise with those involved in liberation struggles would prefer to regard the latter as freedom fighters. It is in this sense that there is much truth in the saying: '(O)ne man's terrorist is another man's freedom fighter.'[4]

To find a basis for an acceptable definition the present writer suggests that four critical elements of terrorism must be investigated. These include the environment of terrorism; the nature of the actions associated with terrorism; the target of terrorist actions and the objectives for such actions.[5] A closer look at these four critical elements will show the following:

- Terrorism occurs in an environment of conflict and discord, and hence it is a product of conflict escalation.
- Terrorism is a violent mode of response to a conflictual relationship.
- The target of terrorism is not limited to the parties directly involved in the conflictual relationship, but includes everybody directly or remotely associated with the principal actors or combatants.
- The objectives of terrorism are varied and not always political.

If we incorporate the above four essential elements into our conceptualisation of the term, we can simply say that terrorism represents 'the indiscriminate and random use of different levels of violence against an opponent or the ancillary interests of such an opponent with whom one

has an adversarial relationship, in order to strike fear (into) the latter and impose one's will on (the opponent) or tailor (the opponent's) action towards a desired goal'.[6]

What this definition has tried to convey is that terrorism has to do with the different shades of low-intensity violence (usually sporadic and at times vicious) that are available to the opposing sides in any form of violent contestation or struggle for power or influence. Hence different groups irrespective of their ideological dispositions, such as freedom fighters, revolutionaries, insurgents, nationalistic or ethnic groups, as well as national armed forces and other state security agents have been known to have used terrorism to redress perceived grievances. So however much we find terrorism abhorrent, we must accept the reality that in our present global system it has become a readily available instrument of struggle between opposing camps in a violent adversarial relationship. As soon as any disagreement or conflict is allowed to escalate into violence, those involved choose from the affordable range of options to respond to the situation 'in an unequal power relationship, (where) the stronger side may not be constrained in terms of the available level of force to be used, (while) the weaker side may be so constrained in terms of its ability to strike directly at the opponent as to resort to the latter's ancillary interests'[7].

This practice of visiting the sins of a target enemy on the latter's relations or associates is what has made many innocent people the victims of terrorism. It is important to note that both state and non-state actors are often guilty of this practice. For instance, very often we witness the mowing down of innocent civilians and the destruction of their habitations in the name of hunting down dissidents, 'rebels' or those guilty of perpetrating real crimes. If we take the above into consideration, we can view terrorism more comprehensively as relating to the 'indiscriminate use of different levels of violence, ranging from hostage taking and assassinations to the use of explosives and bombs for the management of a hostile relationship in which the target is not limited to the main combatants, but inclusive of all those with ancillary relationships with the target enemy and in which the overall aim is to impose one's will on the latter'.[8]

The above definition is useful in that it includes those government agencies who while combating terrorism simultaneously resort to terrorist acts through the indiscriminate bombing of settlements, villages, towns and cities, thereby causing not only military but also civilian casualties. It is necessary to emphasise at this point the need to avoid the couching of official actions that border on terrorism in less culpable terminology simply because they are used by government agencies. Terrorism is terrorism irrespective of its perpetrator.

We must accept that terrorism encompasses a wide range of violent actions, to which opposing sides in a hostile relationship resort in order to force their will on their opponents. And it is as a result of the varied nature of the actions that are adjudged as acts of terrorism that some stakeholders expand its usage to incorporate all sorts of activities to discredit those opposed to their line of thought. The danger in the present trend is that there is now an increasing tendency to use terrorism as a tool to stigmatise those opposed to one as well as to mobilise support against one's opposition. Perhaps, it is to bring some order to the apparent confusion about and abuse of the manner in which terrorism has been conceptualised that the different types of actions seen as acts of terrorism are now being compartmentalised or categorised. Hence we now have such terms as 'state terrorism' as distinct from terrorism perpetrated by different types of non-state actors. In the same manner we can talk of domestic terrorism as distinct from international terrorism. However, before going into the issue of categorisation, let us explain the concept of domestic terrorism.

Domestic terrorism

Domestic terrorism relates to those acts of terrorism that are carried out by persons or local groups within the state that are meant to redress domestic grievances. This is distinct from international terrorism, which relates to terrorist acts by persons or groups that are external to the affected state and whose objective is to advance an extraterritorial cause. It is important to note that the dividing line between domestic and international terrorism might not be as wide as is generally imagined. With the revolution that has taken place in the global information highway, which has greatly facilitated networking between distant diverse groups, the possibility of some linkages between domestic and external terrorist groups cannot be ruled out.

The lack of an acceptable definition of terrorism has also created room for different interpretations of the concept at the domestic level where the label of terrorism has been selectively used by political leaders to target their enemies. Indeed, it is not uncommon to find the power elite in some countries inventing their own terrorists in order to win international sympathy for their ploy to neutralise opposition elements and forcefully hold on to power. They can legitimise their actions by passing self-serving laws to back up their selfish plans. A look at the US Patriot Act will make the picture much clearer. Under this Act, a person is guilty of domestic terrorism if he or she is involved in an act, within the territorial jurisdiction of the US, that is 'dangerous to human life'; that is a 'violation of the criminal laws of a State or the United

States, if the act appears to be intended to: (i) intimidate or coerce a civilian population; (ii) influence the policy of a government by intimidation or coercion; or (iii) to affect the conduct of a government by mass destruction, assassination or kidnapping'.[9] Various sanctions are prescribed in the Act, including the seizure of assets, to deal with any violator of the provisions of the Act.

In this particular case, the definition of domestic terrorism is so broad that it can be used against any protest group whose activities are deemed to be tantamount to intimidating an incumbent government to change or accept a particular policy. In this manner a self-serving anti-terrorism law could be used as a tool for checking the free exercise of the people's right of dissent or protest. For leaders with dictatorial propensities such as one often finds in African countries, an expanded interpretation of domestic terrorism as illustrated by the Patriot Act could serve as a veritable instrument for the suppression of opposition groups.

CATEGORISING TERRORISM

We have made it clear in this discussion that the phenomenon 'terrorism' has defied acceptable universal definition. As has been shown, the term has been used to denote a wide array of negative and violent actions against governments, societies, institutions and even individual persons. Some scholars have attempted to gain better clarification of the term by proposing different categories of terrorism.[10] Generally, however, most of these categorisations have been arbitrary and hardly based on any universal acceptability. Without attempting to be exhaustive, some of the commonly used criteria of categorisation are given below.

- *Goals or motives:* Under this category one can talk of criminal terrorists, those who use terror for private material gain such as kidnapping people for ransom, as against separatist or secessionist terrorists, who want to break away and establish their own independent entity; or revolutionary terrorists, who want to overthrow the existing order and establish a completely new one in its place.
- *Ideological leanings:* This categorisation enables one to talk of acts of terror perpetrated by such groups as Marxist-Leninist and Maoist revolutionaries as opposed to the status quo terrorists, or of acts of terror by ultra leftist as against ultra rightist groups.
- *Official status, position or traits:* Under this form of categorisation, one can have state or establishment terrorism as against non-state terrorism. State or establishment terrorism represents acts of terror perpetrated by government functionaries and agencies; while non-state terrorism represents acts of terrorism

perpetrated by non-state actors opposed to the policies of the state, for example nationalists and guerrilla fighters, liberation fighters, mercenaries and religious fanatics.

- *Operational terrain:* Here one talks of rural as opposed to urban terrorism, as well as domestic and international or transnational terrorism.
- *Instruments used:* Under this category one finds narco-terrorism and bio-terrorism, which relate to acts of terror that make use of various harmful substances such as narcotic substances, chemical, biological and radiological weapons, or weapons of mass destruction. After the Tokyo subway sarin gas attack by Aum Shinrikyo in 1995, the Oklahoma 'fertilizer' bomb also in 1995, and the 2001 anthrax outbreak in the US, there is now a patent fear of the possibility of the world witnessing increasing terrorist use of chemical, biological and radiological weapons.
- *State of the mind:* A good example is psychological terrorism, which represents acts of terror perpetrated by mentally unbalanced persons.[11] This is what one might call violence perpetrated without a rational or definite purpose or motive.

As already stated, the above categorisations are by no means exhaustive. It could be said that there are as many typologies of terrorism as there are analysts. Besides, with the long catalogue of typologies of terrorism, there is bound to be not only mixtures of types, but also borderline situations. For instance, non-state terrorism can fit into virtually all types of terrorism that do not involve state functionaries and agencies. Also political terrorism, which relates to acts of terror perpetrated to achieve a political motive, fits into the category based on the goals or motives of the perpetrators of terrorist acts. Yet the definitions of terrorism of some analysts limit the term to acts of violence perpetrated for political motives. This means that they attribute political motives to all acts of terrorism. A good example is the US government's position, which regards terrorism as representing a 'premeditated, politically motivated violence' perpetrated against non-combatant targets by subnational, groups or clandestine agents, usually intended to influence an audience.[12] Understandably, those who believe that not all acts of terrorism are politically motivated are at liberty to make a distinction between politically motivated ones and all the others.

Even the categorisation based on the goals and motives of the affected terrorists can be stretched to include the ideological category. Similarly, one can also regard what Thornton calls 'enforcement terror' and 'agitational terror' as variants of the category based on the status, position or traits of those involved in terrorist acts.[13]

Thus enforcement terror, which, according to Thornton, is terror used by those in power who wish to suppress challenges to their authority, could simply pass for state or establishment terrorism, while agitational terror, which is terror used by those who want to disrupt the existing order and transplant it with their own, as non-state terrorism. Thornton's delineation in some way resembles May's duality of a 'regime of terror' and 'siege of terror', by which he respectively refers to 'terrorism in the service of the established order' and 'terrorism in the service of revolutionary movements'.[14]

THE CHALLENGE OF CATEGORISING DOMESTIC TERRORISM

Obviously some of the categories of terrorism highlighted above are relevant to domestic terrorism, depending on whether the relevant actions are confined to one particular territory or society and the acts of terror are carried out by local elements or whether such actions are extraterritorial and carried out by groups from outside. Determining which of the above categories fits into the straitjacket of domestic terrorism will be extremely difficult and thus presents a major challenge. This is because many of the categories overlap and fit into both the class of domestic and transnational terrorism. A good example is state or establishment terrorism, which could fall under domestic terrorism as well as transnational terrorism. For instance, if the acts of terror by the state are used to suppress an entirely domestic opposition or to quell unrest that is perpetrated by local groups, like the action the Nigerian government took in Odi in Bayelsa State in 1999, they could be regarded as domestic terrorism. However, it is a different matter if the acts of terror are carried out by a foreign power, like some of the actions of the US forces in Iraq. Even though they qualify as state terrorism, they cannot be regarded as domestic terrorism but are rather transnational terrorism.

Besides this problem of a dual fit of certain types of terrorist activities as both domestic and transnational terrorism, there is the more worrisome question of how the typologies usually adjudged to fall into the category of domestic terrorism can strictly be regarded as domestic terrorism, especially in the African context. One wonders whether, strictly speaking, one can regard acts of terror by such groups as ethnic militias, radical environmentalists, pro-life movements, fanatical faith-based groups, animal rights movement, occultist groups, and even various government agencies as domestic terrorism simply because they operate within the domestic setting. Until one is sure that the respective groups are not linked to any external bodies, one cannot brand them as domestic terrorists. It is difficult to make an absolute judgement on these issues,

especially in Africa, because few of these groups act independently without external support. In other words, owing to Africa's relatively low technological capacity, aggrieved groups who usually take up arms against state authorities invariably depend on external sources for most of the instruments they use to sustain their armed revolt.

Of course there are still other imponderables besetting the categorising of domestic terrorism that arise from the varied interpretation of the concept. For instance, there is the problem of determining where extremism ends and terrorism begins. In a domestic setting, different groups would have their different standards for judging this. In a multi-ethnic society like those of most African countries, there is always the tendency to couch the actions of one's own group, however unpleasant, in more acceptable terminology. A related issue, which is equally problematic especially within a domestic setting, is how to distinguish terrorists from lawful combatants in an armed conflict or civil war. The question arises whether it is proper for the civilian population to be regarded as combatants and be treated as such simply because the real combatants take refuge within their midst?

At this point it might be proper to consider whether it is at all useful to continue the seemingly futile effort of categorising domestic terrorism. While it could be said that categorisation may shed some light on the wide-ranging nature of the problem, to date it has been of little value in identifying exactly what constitutes terrorism or who the terrorists are. In fact, what the plethora of categories and typologies has done is to complicate the divergences in the interpretation of the phenomenon. Just as it has not been possible to arrive at a clear, coherent and globally acceptable definition of the term, so have the efforts at classifying terrorism led to the emergence of innumerable typologies. The present writer agrees wholeheartedly with Ms Kalliopi K. Koufa, who, after sampling some of the categorisation, came to the conclusion that 'there is no common or uniform methodology for all-inclusive identification, classification and appraisal of sub-State terrorism'.15 Perhaps instead of wasting time trying to find an agreeable modality for categorising terrorism we should rather be concerned with how best to deal with the problem of insecurity which terrorism has imposed on the global community. This is a worthwhile challenge that should demand our attention.

TOWARDS A MORE PURPOSEFUL EFFORT AT ADDRESSING DOMESTIC TERRORISM

Instead of wasting time on the semantics of how best to conceptualise terrorism, a matter which has haunted the debates of the international community for decades, we should simply note the various acts that are adjudged to be terrorist acts and develop a comprehensive strategy for addressing them. As noted earlier in this discussion and elsewhere, terrorism (domestic or transnational) is a derivative of conflict. So if we are to find a lasting solution to terrorism, we must do so at the doorstep of conflict. The first task is to establish the proper connection or relationship between conflict and terrorism. While we accept that there is a relationship between the two, we must realise that the relationship is not a direct one in which conflict automatically translates into terrorism. Not every conflict translates into terrorism; it is only a badly managed conflict that escalates into violence which leads to acts of terrorism.

When a conflictual relationship degenerates into open armed hostilities, the parties involved will of necessity choose from the range of options open to them. If the weaker side finds that it cannot deal directly with its stronger opponent, it could decide to concentrate on the peripheral interests of the latter within the limits of its capability. We know that it is difficult to rule out conflict completely from relationships between human beings. However, we can at least try to manage conflictual relationships productively in order to prevent them from escalating into open violence in which terrorism becomes a viable option. What we need to do is rather to divert the huge resources we allocate to militarism at both the individual state and the international level to conflict management to maximise our capacity in this sphere. If we can invest in the techniques of conflict de-escalation and conflict management in an integrated way, we would put a freeze on terrorism and war.

NOTES

1   Kofi Annan, A global strategy for fighting terrorism, *The Guardian* (Lagos), 14 March 2005.

2   Ibid.

3   US Department of State, Patterns of global terrorism, Paper released by the Office of the Coordinator for Counter-Terrorism, 30 April 2003. http://www.state.gov/s/ct/rls/pgtrpt/2002/html/19977.htm (accessed 20 November 2005).

4   D Carlton and C Schaerf (eds), *Contemporary terror: studies in sub-state violence,* London: Macmillan, 1981.

5   T A Imobighe, Rethinking terrorism and counter-terrorism, in T A Imobighe and A N T Eguavoen (eds), *Terrorism and counter-terrorism: an African perspective*, Ibadan: Heinemann, 2006, 18.

6   Ibid.

7   T A Imobighe, Rethinking terrorism and counter-terrorism, 19.

8   T A Imobighe, Rethinking terrorism and counter-terrorism, 20.

9   American Civil Liberties Union (ACLU), How the U.S.A. Patriot Act Redefines Domestic Terrorism,12 June 2002. http://

www.aclu.org/natsec/ emergpowers/14444leg20021206.html (accessed 10 October 2006)

10 T A Imobighe, Rethinking terrorism and counter-terrorism, 14–16.

11 Walter Laqueur, *The new terrorism: fanaticism and the arms of mass destruction*, Oxford: Oxford University Press, 1999, 40 and 82.

12 US Department of State, Patterns of global terrorism

13 Laqueur, *The new terrorism: fanaticism and the arms of mass destruction*, 10.

14 Ibid.

15 Kalliopi K Koufa, Special Rapporteur on Terrorism and Human Rights, Commission on Human Rights, Sub-Commission on the Promotion and Protection of Human Rights, Fifty-fifth Session, E/CN.4/Sub.2/2003/WPI, 8 August 2003.

Transnational and domestic terrorism in Africa

Any linkages?

Andrews Atta-Asamoah

INTRODUCTION

Territory is an important criterion in the categorisation of crimes and offences. According to the UN Convention against Transnational Organised Crime, categorising crimes and offences on the basis of territory is a product of the number of territories involved in the planning, targeting, execution and effects. As specified by article 3(2) of the Convention, an offence is transnational if it is

- Committed in more than one state
- Committed in one state but has a substantial part of its preparation, planning, direction or control taking place in another state
- Committed in one state but involves an organised group that engages in activities in more than one state
- Committed in one state but has substantial effects in another state [1]

This conceptualisation forms the primary basis for the categorisation of acts of terrorism either as domestic or transnational. On this basis, the transnationality of terrorism is defined by the number of territories involved in the planning, targeting, execution and effects.

A terrorist act is considered transnational if more than one territory can be identified with the planning, preparation, targeting, execution and effects of that act. Examples of terrorist acts in Africa's recent history are the 1998 coordinated bombings of the US embassies in Nairobi and Dar es Salam. These bombings, which involved an almost simultaneous detonation of explosives in the two cities, resulted in hundreds of fatalities and injuries to Kenyan, Tanzanian, and American citizens.[2] The transnationality of the incident is indubitable in the sense that its preparation, target selection and effects spanned a number of countries: The Al Qaeda, the prime group whose interest was served, was based in Afghanistan, but with a domestic presence in Kenya and Tanzania which targeted the US embassies killing people from more than one country and creating panic in East Africa and the rest of the world.

On the other hand, any act of terrorism that occurs within the confines of a single state boundary without the involvement of groups with transnational spread and does not have the effects that transcend national boundaries can be considered domestic terrorism. In Africa, acts such as the brutalisation of civilians by state security apparatus and the use of terror tactics by insurgency movements in the many civil wars of the continent can be classified in this category of terrorism.

Since 1997 Africa has experienced about 522 acts of terrorism. Of this number, 73 per cent (381) are domestic, while only about 27 per cent (141) are transnational.[3] Despite the high frequency of domestic terrorism, however, the many counter-terrorism measures and initiatives on the continent primarily concern transnational terrorism rather than domestic terrorism which is the major source of the threat to Africa. This situation has given some credence to arguments that the counter-terrorism agenda in Africa is Western driven, serves the interests of Western actors, and seeks to enhance the safety of Western lives rather than that of Africans. In another sense, it highlights the subjectivity with which states categorise acts of terrorism owing to the lack of a common acceptable definition for the phenomenon.

This paper highlights the practical linkages between domestic and transnational terrorism using the phenomenal metamorphosis of the Salafist Group for Preaching and Combat (GSPC) from a domestic terrorist group to a transnational group as an empirical case.

The overarching argument is that if the overall aim of fighting terrorism is to save the lives of innocent people from the activities of terrorists, then the global counter-terrorist agenda must seek to confront both domestic and transnational terrorism in Africa, since a neglect of domestic terrorism is as heinous as a relegation of international terrorism to the background.

Secondly, the transmutation of the GSPC to the Al Qaeda organisation in the Islamic Maghreb underscores the fact that if domestic acts of terrorism (particularly those emanating from domestic organisations and criminal groups) are not given due attention, international counter-terrorism efforts will not be sustainable and will have little impact on the wider challenge of terrorism to international peace and security.

The paper begins with an analysis of the trends in terrorism incidents in Africa. This is followed by an attempt to split the causes of terrorism into transnational and domestic factors. The paper then discusses the forms of linkages between the two categories and outlines factors that enhance the linkages. It concludes with a critique

of the categorisation of terrorism and provides policy options on the way forward.

TRENDS IN TRANSNATIONAL AND DOMESTIC TERRORISM IN AFRICA

According to the Memorial Institute for the Prevention of Terrorism (MIPT) terrorism incidents database, Africa recorded a total of 522 terrorist incidents between 1997 and 2007. These incidents resulted in 8 477 injuries and 2 614 fatalities. This ranked Africa seventh in terms of number of terrorist incidents around the world and third, only after the Middle East/Persian Gulf and South Asia, on the basis of the number of injuries. Further, the continent ranked fourth regarding fatalities as a result of terrorist incidents (see Tables 1–3).

Within the aggregated 522 incidents, about 141 were transnational and 381 domestic. The number of transnational incidents ranked Africa fifth in terms of the frequency of occurrence of terrorist incidents, second only after the Middle East by the number of injuries, and after

Table 1 Ranking of Africa by number of terrorist incidents (1997–2007)

Rank	Region	Incidents	Injuries	Fatalities
1	Middle East/Persian Gulf	12 745	4 7274	24 659
2	South Asia	4 822	17 917	7 531
3	Western Europe	3 113	1 798	410
4	Latin America & the Caribbean	1 859	2 634	1 688
5	Southeast Asia & Oceania	1 516	5 155	1 591
6	Eastern Europe	1 405	5 000	1 966
7	Africa	522	8 477	2 614
8	East & Central Asia	137	477	183
9	North America	136	2 423	2 998

Source MIPT, 2007[4]

Table 2 Ranking of Africa by injuries recorded through terrorist incidents (1997–2007)

Rank	Region	Incidents	Injuries	Fatalities
1	Middle East/Persian Gulf	12 745	47 274	24 659
2	South Asia	4 822	17 917	7 531
3	Africa	522	8 477	2 614
4	Southeast Asia & Oceania	1 516	5 155	1 591
5	Eastern Europe	1 405	5 000	1 966
6	Latin America & the Caribbean	1 859	2 634	1 688
7	North America	136	2 423	2 998
8	Western Europe	3 113	1 798	410
9	East & Central Asia	137	477	183

Source MIPT, 2007

Table 3 Ranking of Africa by fatalities resulting from incidents of terrorism (1997-2007)

Rank	Region	Incidents	Injuries	Fatalities
1	Middle East/Persian Gulf	12 745	47 274	24 659
2	South Asia	4 822	17 917	7 531
3	North America	136	2 423	2 998
4	Africa	522	8 477	2 614
5	Eastern Europe	1 405	5 000	1 966
6	Latin America & the Caribbean	1 859	2 634	1 688
7	Southeast Asia & Oceania	1 516	5 155	1 591
8	Western Europe	3 113	1 798	410
9	East & Central Asia	137	477	183

Source MIPT, 2007

North America and the Middle East by the number of fatalities recorded through transnational incidents.

The 381 acts of domestic terrorism also placed the continent seventh in terms of the number of recorded domestic incidents, sixth by injury records, and after only the Middle East regarding fatalities.

What is evident from these statistics and rankings is that a single act of domestic terrorism within this period injured an average of six people and resulted in at least four deaths. Similarly, an incident of transnational terrorism produced about 43 injuries and at least five fatalities. A comparison of the two forms of terrorism on the continent implies that transnational incidents over the period have had more fatalities, whereas domestic terrorism has had a high frequency. However, within the broader ambit of insecurity resulting from terrorism these two categories can be treated as equally important in creating insecurity. This is because insecurity associated with terrorism can be practically explained as a product of the frequency of incidents, injury records and fatalities. The high frequency of domestic terrorism thus makes it equally important within the general list of factors that create insecurity on the African continent as the high frequency has a high proclivity in raising the levels of insecurity.

CATEGORISING THE UNDERLYING CAUSES OF TERRORISM

So many factors underlie terrorism in general which are not mutually exclusive of each other. However, against the background of the categorisation of the phenomenon into transnational and domestic, a split of the causes along these lines can be attempted. Within this framework, the causes of terrorism can be discussed either as internal or external to a given state.

In Africa, factors associated with oppressive or authoritarian leadership, fragile states, ethnicity, nationalism,

religion, conflicts and economic circumstances are some of the major internal factors that underlie domestic terrorism. For example, in countries where leadership is authoritarian and suppressive, it is usually characterised by gross human rights violations and political intimidation. As this breeds disgruntled citizens, some of them resort to the use of terror tactics as a means of settling political scores or bringing the attention of the world to their plight.

Even where states are democratic enough to avoid human rights violations which may fuel the use of terror tactics in politics, the inability of the state to govern territories effectively leads to the creation of ungoverned land masses such as in the fragile situations in Somalia and the Sahara Desert. This provides safe havens for terrorist groups, ethnic armies and rebel groups to organise themselves to terrorise citizens. It also provides the opportunity for transnational terrorists to organise and strategise in one territory and to strike in another. Thus, the existence of large unprotected territories and borders in Africa predispose many countries to the threat of terrorism.

In countries where nationalist struggles still persist, it is not uncommon for separatist or ethnic militias to employ terror tactics in their nationalist struggles. In most of the struggles for independence in Africa, many nationalist leaders employed such acts, even though the OAU later excluded the categorisation of such acts as terrorism. In other developments, the existence of marginalised ethnic groups often leads to struggles for the equal control of resources and this sometimes leads to terrorism.

On the other hand, factors such as the transnationality of religion, geographical location, the orientation of a state's foreign policy, the nature and orientation of state alliances with other states, and the lack of uniform implementation of counter-terrorism measures among

countries in a given region are some of the factors that can underlie the emergence and/or existence of transnational terrorist groups.

From GSPC to the Al Qaeda organisation in the Islamic Maghreb: The underlying linkages between domestic and transnational terrorism

Hassan Hattab, a former Armed Islamic Group (GIA) regional commander, founded the GSPC, now known as the Al Qaeda organisation in the Islamic Maghreb, in 1997, as an Islamist militia aimed at overthrowing the Algerian government and instituting an Islamic state. According to the groups's first communiqué titled Al-Jama'a Rahma (Community is a blessing) issued in 1999 by the founder, the group's primary target was the government. It would also try to win the support of the population which it had lost owing to the activities of the GIA.[5] To achieve these objectives the group initiated domestic insurgency campaigns against the government.

However, the relative moderation of Hattab's leadership led to frustration among the group's commanders, which resulted in the removal of Hattab as the emir (leader) of the group in 2004. His position was taken over by Nabil Sahraoui (also known as Abu Ibrahim Mustafa). Ibrahim's leadership of GSPC, which lasted for about one year before he was killed by an Algerian army attack, sought to avoid the moderation of the group's founder and was therefore characterised by more radical initiatives.

After the death of Ibrahim, Abu Mus'ab 'Abd Al-Wadoud (also known as Abdelmalek Droukdal), the current emir, took over the leadership of the group. Since taking over, 'Abd Al-Wadoud has continued the group's departure from the founder's relative moderation and has instituted a more militant line. He has developed the group's relationship with the Al Qaeda further and officially aligned it with that organisation. The alignment, which became official in January 2007, has since transformed the GSPC into the Al Qaeda organisation in the Islamic Maghreb.

Since the beginning of the transformation and especially after officially aligning itself with the Al Qaeda, the GSPC, which began as a domestic terrorist organisation, has declared its intention to attack both Algerian and foreign targets. Its tactics have subsequently included suicide bombings and coordinated remote-controlled detonations. Furthermore, it refers to its actions in Jihadist terms. The group has subsequently been acting beyond the borders of Algeria.

One of its major activities since the beginning of the Iraq debacle has been to recruit and train young North African mujahedeens for combat in Iraq. Enlistment

for combat in Iraq is motivated by several factors, one being that it proves the group's commitment to international Jihad. Furthermore, the combat operations in Iraq provide an avenue for trained fighters to put their combat preparedness to the test. The experience gathered is seen as enriching the group's combat capabilities in pursuing its domestic campaign against the Algerian government.

The group has also been noted for major international terrorist incidents such as the kidnapping of 32 European tourists who were exploring the Sahara Desert in 2003. In June 2005, it was involved in a four-hour gun battle with Mauritanian soldiers at the Lemgheity military base in north-eastern Mauritania, which resulted in the death of about 17 Mauritanian soldiers and the wounding of many others.[6] In another development, a bus transporting employees of the Brown and Root-Condor Corporation, a company linked to the US construction giant Halliburton, came under attack from the group in Algeria in December 2006.[7] About a month after its alignment with Al Qaeda, the group killed about six people and wounded many through the simultaneous explosion of seven car bombs in various areas of the Kabylie region.

Explaining the linkages in the transformation process

With these strikes and operations both within and outside Algeria, the GSPC, which initially started as a domestic organisation concerned with the Algerian government, has extended its operations outside the territories of Algeria. This phenomenal transformation of a domestic terrorist organisation into a transnational one brings to the fore certain important factors.

- Transnational terrorist organisations and terrorists may begin with domestic or local causes or grievances. This is true of even extremists like Osama bin Ladin who begin with grievances in their own countries, but later transform and widen their struggles into a global struggle making themselves global Jihadist leaders.[8]
- With changes in leadership, availability of resources, mobilisation and the existence of a binding ideology, domestic groups are able to internationalise themselves or transform into transnational entities that threaten and operate with a wider target than their initial focus. In the case of the GSPC, each change in emir came with an increase in militancy leading to its eventual official alignment with the Al Qaeda and the formal internationalisation of the group's operations.
- Domestic terrorism provides a springboard to transnational terrorism. This happens in two main ways. The first is that a domestic terrorist group can begin to

collaborate with a transnational one in the selection of targets in that particular country, or that transnational groups may find it conducive to outsource their activities to domestic organisations as a way of avoiding exposure that may lead to a clampdown on their activities. The second highlighted link is that domestic terrorism has the tendency of spilling over into other countries in terms of ideology, tactics and relocation of operatives or through the transformation of the domestic network itself to operate across borders.

MAJOR WAYS OF INTERNATIONALISING DOMESTIC TERRORISM

The process of internationalising the activities of domestic terrorist groups may occur through any of seven major ways:

- The widening of ideological leaning so as to buy into an international ideology as a way of commanding a global/international following and support (As discussed earlier, the GSPC demonstrated this and proved its departure from a focus on Algeria with the recruitment and training of young mujahedeens for combat in Iraq as a way of contributing to the ongoing international Jihad associated with the Iraq imbroglio.)
- Relocation of domestic terrorists to new territories
- Exportation of terrorist skills and know-how
- Collaboration with other networks in target selection and execution of operations internally or externally
- Training and skills acquisition from other networks in different countries
- Financial and logistical support by migrant or diasporan communities
- Provision and/or acquisition of financial, logistical and tactical sponsorship

MAJOR FACTORS ENHANCING THE LINKAGES

Seven major factors enhance the linkages between domestic and transnational terrorism. These are as discussed below:

Globalisation

Globalisation has brought an unrestricted flow of information across state boundaries through the internet, electronic and print media and other forms of information and communication technology. The massive flow of information across borders and particularly through internet video streaming, especially YouTube videos, has led to the emergence of a global 'do-it-yourself' culture in which individuals learn to do things by watching videos posted on the internet. Through this technology, individuals across different territories are able to share information easily even in situations where the 'learner' and the 'teacher' do not know each other. A simple search using phrases like 'how to make a bomb' and 'how to assemble a pistol', for instance, produces millions of search results, some thousands of which are step-by-step how-to-do videos that teach one how to carry out the tasks on one's own. Such modern technologies have made it easier for terrorist organisations to spread their ideologies, tactics and motivations across cultures and boundaries without much restriction. Sometimes this is done through the distribution of video CDs, downloadable video attachments, websites and internet blogs.

The seven car bombs that were simultaneously exploded by the Al Qaeda organisation in the Islamic Maghreb on 13 February 2007 were activated by remote-guidance technology.[9] The group's use of the technology came just about two weeks after Jihadist groups in Iraq had announced that they would use this technology. This lends credence to the theory of the rapidity with which the group may have acquired the technology from Iraq. By sharing their tactics, ideologies and motivations across boundaries, domestic groups are able to internationalise their support and operations thus transforming themselves into transnational groups.

Closely related to tactics, ideology and motivation sharing is the ability of individuals to move freely across boundaries to territories hitherto considered inaccessible. The massive movement of people across boundaries through various types of modern transportation makes it easy for terrorists to relocate and to operate from different territories, to outsource their operations or to employ the training services of Jihadist leaders in other parts of the world.

The 'glocalisation' of terrorism

Current reports on the trends of terrorism indicate a more widespread, diffuse and increasingly home-grown threat from terrorists, particularly radical Jihadists. These people often lack formal operational connections with established terrorist networks such as Al Qaeda and other ideological leaders, but are simply inspired. Examples of this trend include the May 2003 restaurant, hotel and Jewish cultural centre bombings in Morocco; the 2004 attacks on Madrid's trains; the 7 and 21 July 2005 terrorist attacks on London's transit system; and the arrest of 12 men and five juveniles in Ontario, Canada on bombing conspiracy-related charges on 2 June 2006. The emergence of this global home-grown terrorism lends credence to the recent characterisation of terrorism as a 'glocal' phenomenon. Through the

'glocalisation' of terrorism, a domestic group can internationalise itself by sharing tactics and ideas.

Uneven regional implementation of counter-terrorism measures

Terrorism thrives where counter-terrorism legislation and clampdown are lax. As a result when action against terrorist activities are intensified in a given state, domestic terrorist networks relocate to operate in territories where counter-terrorist measures are lax and less of a priority. Consequently when counter-terrorism initiatives are unevenly implemented in regions, the effective clampdown in one country simply leads to the 'exportation' of domestic terrorists into other territories from which they will seek to operate, thereby internationalising them and making them transnational. This is closely related to factors such as the nature of governance and strength of state structures in clamping down on the activities of domestic terrorist activities.

Islamisation of the counter-terrorism agenda

Since the launch of the global war on terror by the US, there appears to be an attempt by certain Jihadist elements to interpret it as a war on Islam. Despite persistent attempts by the US and its allies to dissociate this global war from Islam, the distortion appears to be taking root among certain illiterates and radical Islamists. Consequently it has made it easy for radical Islamists to solicit the support of individuals who buy into the distortion to wage a global Jihad through the use of terrorist tactics against the US and its allies.

Dynamics of the international security situation

The dynamics of the international security environment such as exists currently in Iraq, Afghanistan and the Arab-Israeli conflicts have led to all sorts of orientations throughout the world. It is easy to find many supporters as well as opponents to any of the situations, as well as people who are willing to contribute to one side or the other. This makes it easy to recruit individuals who identify with the situation either through ideology or geography. A classical example is the ease with which the GSPC was able to recruit young mujahedeens from North Africa for training and subsequent deployment into Iraq to fight in support of the ongoing insurgency.

Transnationality of religion

Christianity and Islam are the major religions of the world commanding a following of several millions each.

Each also has certain common principles and beliefs that define membership and assure belongingness. Through commonality of practices and beliefs, members of particular religious groups tend to identify with each other regardless of other cultural differences and nationalities. By identifying with each other, members also share common challenges, threats and problems. As a result of this, a threat to any subgroup within any religion or groups of people associated with the religion is easily identified as a common threat. Given that members of these religions cut across different national boundaries and continents, a threat to any section of that religion in any country or continent is easily considered a common threat to all members of the religion worldwide.

After the 9/11 terrorist attacks in the US, there was jubilation in parts of some African countries. The northern part of Nigeria, for instance, recorded jubilation among certain elements of the Islamic religion. The act of jubilation, in a sense, communicated support for the act of terrorism that had taken place thereby linking the people concerned to the ideological underpinnings of the attack. For the majority of the jubilants, their celebrations were linked to the religious beliefs they shared with the perpetrators of the act and the perceived religious intentions behind the attacks. The demonstration of support, in a way, contributed to the internationalisation of the act. In such situations the transnationality of religion makes it easy for domestic terrorist networks to internationalise their activities simply by buying into or associating with a particular religious leaning. It also helps terrorists to relocate to new territories without being easily detected by security agencies because they are sometimes shielded by people with whom they share a common faith.

Transboundary ethnic groups/minorities

The drawing of state boundaries in Africa did not consider the existence of different ethnic groups. As a result many ethnic groups were lumped together in states without consideration of the differences in culture. In some cases certain ethnic groups were split between two or more different countries. Such situations created the existence of particular ethnic groups across boundaries. In West Africa, for instance, the Ewe ethnic group is found in both Ghana and Togo. Similarly the Tutsis in Burundi, Rwanda and north-eastern Democratic Republic of Congo (DRC) are split by artificial boundaries.

This makes it easy for members of such groups in the different countries to identify with each other and to consider threats to any section as a common threat. Thus, if an act of terrorism or a terrorist network linked to the ethnic group springs up, it is easy for individuals across the borders on both sides to contribute to the aims of

the network simply to identify with the group across the border. Similarly, where a section of such an ethnic group becomes marginalised in the other country, elements in the neighbouring country will be inclined to contribute to any secessionist intensions which sometimes have led to the use of tactics classified as terrorism.

CONCLUSION AND RECOMMENDATIONS

The categorisation of terrorism into domestic and transnational terrorism is based on the notion of territorial fixity which envisages the reality of territorial integrity. Under the forces of globalisation, however, territorial fixity is fast giving way to fluidity. Consequently, an event anywhere is an event everywhere and therefore any terrorist event anywhere is a concern everywhere as the effects transcend state boundaries. This has blurred the practicality of the divide between domestic and transnational terrorism making the categorisation only a theoretical construct without practical substance. However, the categorisation has provided a leeway for the international community to neglect the roots of the threat and to subjectively and selectively deal with some of the challenges instead of confronting all forms of the threat in any form and anywhere.

The transmutation of the GSPC to the Al Qaeda organisation in the Islamic Maghreb, a transnational terrorist group, underscores the fact that, if domestic acts of terrorism, particularly those emanating from domestic groups and criminal groups such as the Mungiki in Kenya and Pagad in South Africa, are not given due collective attention, they could be bought over by transnational groups. By this, transnational groups would simply outsource their operations in certain countries to such domestic groups to execute, or could simply manipulate leadership change which could lead to radicalisation, as was the case in the GSPC.

If such situations occur, then international counter-terrorism efforts will not be sustainable. This is because some of the non-state actors now commonly considered domestic will eventually evolve under the influences of the forces of globalisation and the nature of the international security environment into transnational networks.

It is therefore important for the ongoing international counter-terrorism agenda to be informed by the fact that if the overall aim of fighting terrorism is to save the lives of innocent people from terrorists, then all forms of terrorism (both domestic and transnational) should be confronted with equal commitment and zeal, since the neglect of domestic terrorism in any part of the world, but especially Africa, would be as heinous as the neglect of transnational terrorism. International counter-terrorism efforts should thus confront domestic terrorism with the same urgency as transnational terrorism, since domestic terrorist groups can internationalise their operations to become transnational entities. Under the forces of globalisation, a terrorist incident anywhere is a terrorist incident everywhere.

NOTES

1   UN General Assembly, United Nations Convention against Transnational Organized Crime, resolution adopted by the General Assembly, 8 January 2001, A/RES/55/25, Article 3 (2).

2   About 12 US government employees and family members, 32 Kenyans and 8 Tanzanians. See D MacEachin and J E Nolan, The 1998 terrorist bombings of US embassies in Kenya and Tanzania: Failures of intelligence or policy priorities? Working Group Report, 11(14 March) Institute for the Study of Diplomacy, George Washington University, 2005, 2-5.

3   Data for this analysis is by courtesy of the Memorial Institute for the Prevention of Terrorism (MIPT), See MIPT Terrorism Knowledge Base, terrorist incidents reports, report by region, 2007, http://www.tkb.org/IncidentRegionModule.jsp?regionid=8&pagemode=national&startDate=01/01/1997&endDate=11/04/2007&domInt=1&suiInt=0&filter=0&detail=0&setFilter=1&info1=8 (accessed 04 November 2007)

4   MIPT Terrorism Knowledge Base, terrorist incidents reports, report by region, 2007, http://www.tkb.org/IncidentRegionModule.jsp?regionid=8&pagemode=national&startDate=01/01/1997&endDate=11/04/2007&domInt=1&suiInt=0&filter=0&detail=0&setFilter=1&info1=8 (accessed 04 November 2007)

5   Majallat Al-Jama'a 1, May–June 2004, 23.

6   D Lav, 'The Al-Qaeda Organization in the Islamic Maghreb': The evolving terrorist presence in North Africa, Inquiry and Analysis no 332, the Middle East Media Research Institute, 2007, http://www.memri.org/bin/articles.cgi?Area=ia&ID=IA33207&Page=archives (accessed 15 May 2007).

7   TheMEMRIBlog.org, 'The Salafist Group for Preaching and Combat (GSPC) Claims Responsibility for the Attack on Brown & Root Condor', The MEMRI Blog, December 13, 2006, http://www.thememriblog.org/blog_personal/en/144.htm (accessed 3 November 2007)

8   See A Botha, Relationship between Africa and international terrorism: causes and linkages, Paper prepared for the Conference on Southern African and International terrorism, Dialogue hosted by the Brenthurst Foundation, Tswalu, 25–27 January 2007.

9   See Special Dispatch 1463, MEMRI Islamist Websites Monitor Project 64, 14 January 2007, http://www.memri.org/bin/articles.cgi?Page=archives&Area=sd&ID=SP146307, (accessed 6 June 2007).

Domestic terrorism in Africa

Ontology of an Old War in New Trenches

ОSHITA О. ОSHITA

INTRODUCTION

This paper discusses the ontological foundations of domestic terrorism and its definitional problems. It also links poverty and terrorism, and concludes that good governance, as characterised by multicultural dialogue, inclusiveness, a focus on the developmental needs of the citizens, and poverty alleviation would contribute to a counter-terrorism strategy in Africa.

In a somewhat curious dedication in the *Paradox of loyalty: an African American response to the war on terrorism,* Malveaux and Green write:[1]

> To the victims of terrorism throughout history and all over the world. Especially those Africans whose lives were disrupted by European terrorism. Those Native Americans whose lives were shattered by American terrorism. Those Tulsans whose lives and livelihoods were incinerated by the terrorism of economic envy. Those Blacks and Jews who were lynched in the South and elsewhere. Victims of the Holocaust. Palestinian and Israeli victims of terrorism in the Middle East. Victims of domestic police brutality, yet another form of terrorism. And the individuals in New York, Pennsylvania, and Virginia, [e]specially the children who lost their lives on September 11, 2001.

These words constitute the backdrop to this paper's discussion of (domestic) terrorism, which posits that the insecurity of the contemporary world is a product of different historical forms of terrorism.

The definition of domestic terrorism, its sources and how it can be identified and dealt with resonate with the bigger question of what the term 'terrorism' generally entails for the global community. While there seems to be some degree of agreement that terrorism is a phenomenon of general concern, the vast majority fundamentally disagree on the term's definition. However, most consider terrorism a war in which everywhere is a potential battleground and everyone is a probable target.

Since 9/11, the war against terrorism has been waged vigorously and on fronts too numerous to permit an adequate assessment of its success level. Consequently, nations find it difficult to quantify the human and material costs directly or indirectly attributable to the global war on terror thus far. There does appear to be an emerging consensus that were the resources allocated to the war on terrorism invested in constructive ends (in infrastructure and social engineering sectors in the poor countries of Africa and Asia, for example), America and Europe would have been spared some of the complex challenges that confront them today.

Although domestic terrorism in Africa predates 9/11, African countries are faced with some new security challenges owing to revivalist strands of contemporary domestic and international terrorism. It could be argued that Africa entered a new phase of terrorism with the opening events of the 21st century. The region had been a victim of slave raids, colonialism, and the scramble that partitioned the continent along the lines of the Berlin Conference of 1884–1885. The colonial phase of terrorism was replaced with subdued but steady acts of economic and cultural terrorism that caused a number of intrastate violent conflicts during the Cold War. Alongside the international terrorism, Africa has deep-rooted state terrorism typified by the instrumentalisation of the police, the military, executive, legislative and judicial apparatuses translating into physical, psychological and structural violence.

SEMINAR REPORT

TERRORISM AND THE DEFINITIONAL PROBLEM

Numerous scholars and policymakers have attempted to define and clarify the term 'terrorism'. Young defines terrorism as 'intimidatory in intent. This intent is pursued chiefly through the use of violence, though this need not, of course, consist just in the employment of physical force but may also involve resort to psychological weaponry.'[2]

This characterisation of terrorism covers the direct, or physical, and psychological dimensions. 'Domestic' terrorism is 'home-based' or 'localised' within a specific national boundary. This is not to rule out the huge possibility that what is flagged as 'domestic' might be fundamentally driven by an exogenous agenda. During the Cold War era many African countries acted as ideological proxies for the East and West with the dynamics of those linkages significantly shaping 'domestic' governance.

Recent studies refer to the vulnerability of African countries to 'capture by external forces … networked terrorism'.[3] This is said to be because 'weak', 'failed' and, in some cases, 'failing' African states create a permissive environment for domestic and transnational terrorism.

The latest literature tends to define terrorism with a bias that is ultimately skewed to attacks against Western interests. Definitional constructs are tailor-made with reference to Al Qaeda as the model terrorist organisation. As Booth and Dunne rightly observe:[4] 'One of the paradoxes of the twentieth century [was] that those states which have most closely self-identified with the path of the Enlightenment have committed acts of barbarism that no modern terrorist group has yet been able to match.'

Terrorism has introduced some sharp contradictions into the neo-liberal marketplace. These include the increasing influence of the state in spheres previously left to the individual. The American response demonstrates this in such anti-libertarian legislations as the Patriot Act.

The UN Security Council Resolution 1373 of 2001 defines terrorism as essentially international in dimension. According to this definition, acts within the domestic space fall short of being listed as terrorism. However, prior to the Security Council Resolution 1373, there was the UN General Assembly Resolution 54/110 of 9 December, 1999, which described terrorism as 'criminal acts intended or calculated to provoke a state of terror in the general public, a group of persons or particular person for political purposes'.[5] One of the problems with this definition is the connection of an act to a political motive as both a necessary and sufficient condition for terrorism. What this means is that no premeditated and organised acts intended to cause grave harm and damage would qualify as terrorism unless there was a discernible

political agenda. However, today's reality seems to indicate that non-political concerns, such as the global economic order that contributes to poverty, remain fundamental to the causes of terrorism. At national and subnational levels this is demonstrated in attacks on innocent persons by armed bandits in search of resources to more internationalised attacks on Western diplomats. In Nigeria, for example, the taking of hostages for ransom in the Niger Delta meets the criteria of criminality and terrorism depending on whose interest is the focus of the analysis.

There is also the question of who creates the criteria used to classify terrorism. A number of analyses of terrorism draw attention to the inextricable moral trappings that make defining terrorism profoundly difficult.[6] Writing on the problems of defining terrorism in Volume One of the *Encyclopaedia of world terrorism*, Schmid noted that there was no generally accepted definition of terrorism.[7] Also lamenting the absence of legal consensus on what terrorism means, Cilliers notes: 'Most recent legal texts avoid trying to describe "terrorism" but rather define a terrorist act or deed, and, sometimes, provide a separate description of what would constitute a terrorist person, group or entities.'

Jeffrey Ross observes that the relativity in the conceptualisation of the meaning of terrorism became 'even more demanding in the wake of the events of September 11, 2001'.[8] This confusion over the definition of terrorism continues to cast a moral and semantic veil over what the issues are or what they should be. Consequently, some scholars are therefore content with describing terrorist activities rather than attempting a definition of terrorism.[9] Thus, efforts to develop an analytically useful definition of terrorism have always yielded disappointingly compromised intrusions of arbitrary personal, cultural or ideological prejudices. Walter quotes Spencer describing this conceptual knot as betraying a 'political bias'.[10] According to Walter, since the French Revolution, 'terrorist' has been an epithet to label or fasten on a political enemy, resulting in Burke's view that if you scratch an ideologue you will find a terrorist.

Booth and Dunne, while arguing that terrorism is an act and not an ideology, frown at the denial of Western states that terrorism can be committed by the state.[11] '*All* states deny specific accusations of terrorism although *many* routinely use torture, a particular form of terror against individuals.'[12] The authors note that the 'bias of terror has always been "against people and in favour of governments". According to them, terrorism is

> a method of political action that uses violence (or deliberately produces fear) against civilians and civilian infrastructure in order to *influence behaviour, to inflict*

punishment or to exact revenge. For the perpetrators, the point is to make the target group afraid of today, afraid of tomorrow, and afraid of each other (my emphasis).

This definition raises some questions – why and for what purposes do the perpetrators of a terrorist act want to influence behaviour; why do they want to inflict punishment on others, and what is it that prompts the desire to exact revenge? With reference to the United States' global war on terror, Booth and Dunne suggest a constellation of reasons that might have caused 'the widespread feeling of injustice perpetrated by Western states against Islamic states'.[13]

A number of scholars have resorted to definition by elimination. These scholars prefer to say what terrorism is not, rather than what it is. For example, Hoffman and Claridge suggest that 'terrorism [should] be defined by the nature of the act not by the identity of the perpetrator or the nature of the cause'.[14] White, while contending that terrorism is a value-laden and deeply heterogeneous phenomenon, avers that

> no definition or approach to American terrorism is generally accepted and the practical implications are very real. The lack of a social or legal definition creates problems … American police and security agencies literally do not know what terrorism is … Agencies charged with countering domestic terrorism often have no idea what they are looking for.[15]

What all these conflicting definitions indicate is that terrorism has become a concept heavy with the underpinnings of morality, culture, religion, identity, politics, economics, ideology and geography. In the peculiar case of Africa, the historical imperatives of the continent suggest that a complete picture of what terrorism is can begin to emerge only when the region's colonial past and her post-colonial present are interfaced with the conflicting features of terrorism.

Odera Oruka defines terrorism as 'the intentional infliction of suffering or loss on one party by another party with no authority or legitimacy to do so, or which appears to have authority or legitimacy but has in fact deprived the sufferer of the minimum ethical consent necessary to recognise such authority or legitimacy'.[16]

In this context, Oruka sees terrorism beginning where 'punishment cannot legitimately be recognised or tolerated as punishment'[17]. He illustrates this by using the white minority regime in apartheid South Africa, where Nelson Mandela and the liberation fighters were labelled terrorists by a regime which lacked the minimum ethical consent of the majority population. Oruka distinguishes terrorism from punishment using a further distinction

of the notions of 'legitimate authority' and 'minimum ethical consent'. Someone with de jure authority has no claim to authority if the minimum ethical consent of the subjects is withdrawn, in which case any loss or suffering inflicted on the presumed subjects qualifies as terrorism rather than punishment. Thus, while punishment presupposes the exercise of legitimate authority with an ethical basis for acting in such a manner, terrorism is the illegitimate infliction of violence.

Ross, on the other hand, argues that drug trafficking and the illegal sale of arms, legal documents (e.g. travel passports) and currencies to finance terrorist groups are 'not by themselves a terrorist act without the inclusion of the element of premeditated violence', whereas '[t]aking a hostage for ransom in order to finance terrorist activity, on the other hand, is a terrorist act because it involves violence'.[18] We shall spare ourselves the burden of inquiring into the prima facie connection between the activities of criminal gangs and terrorists.[19] Many agree that terrorism is better defined by focusing on the methods employed than the motives of terrorists. [20]

The 1999 OAU Convention on the Prevention and Combating of Terrorism held in Algiers grappled with what constitutes a 'terrorist act'. According to the Convention, a 'terrorist act' is,

- any act which is a violation of the criminal laws of a State Party and which may endanger the life, physical integrity or freedom of, or cause serious injury or death to, any person, any number or group of persons or causes or may cause damage to public or private property, natural resources, environmental or cultural heritage and is calculated or intended to:
  - □ intimidate, put in fear, force coerce or induce any government, body, institution, the general public or any segment thereof, to do or abstain from doing any act, or to adopt or abandon a particular standpoint, or to act according to certain principles; or
  - □ disrupt any public service, the delivery of any essential service to the public or to create a public emergency; or
  - □ create general insurrection in a State.
- any promotion, sponsoring, contribution to, command, aid, incitement, encouragement, attempt, threat, conspiracy, organising, or procurement of any person, with the intent to commit any act referred to in paragraph (a) (i) to (iii).[21]

As with the definitions of terrorism by other supranational organisations, it is unclear how individuals or groups can hold their own government liable for state terrorism in a domestic context. The 1999 Algiers Convention significantly expanded the 1992 OAU heads of state and

government Declaration against Extremism and the Code of Conduct for Inter-African Relations adopted at the 30th Ordinary Assembly in Tunis in 1994, which rejected fanaticism and all forms of extremism. The OAU definition of terrorism provides a useful guide, although for our purposes in this paper Oruka's definition shall form the anchor of our analysis of domestic terrorism.

AN OVERVIEW OF DOMESTIC TERRORISM IN AFRICA

The prognosis for the rise of (domestic) terrorism in Africa must take into account the role of colonial administrations. The entry of the colonial establishment into Africa saw the coloniser aligning with local rulers as they set up trade centres in places where it would serve their strategic mercantilist interests. In the process they unleashed terror in the form of a systematically organised slavery. Indeed, some scholars[22] contend that slavery could not have been possible without accompanying dose of terror. To succeed, the colonial machine moved in with its dominant military power to enforce the imperial destiny on the colonies in those areas where resistance was either anticipated or encountered. Terrorism was a key strategy of conquest in which natives were forced by invaders to submit to an authority other than the one they would normally recognise. The imperial authority was illegitimate because the colonisers did not have the minimum ethical consent of their victims. Arguably, colonialism remains the most brutal form of terrorism in history, with deep roots in the economic and political agenda of the global north.

Cilliers aptly observes that writing on terrorism has been mostly focused on 'the international dimensions or manifestations of terrorism' although 'sub-national terror and even state terror has been a long-standing feature of Africa'.[23] Cilliers adds that 'Africa is the continent most afflicted by terrorism – albeit not yet by international terrorism'. African scholars have used historical data to demonstrate how deeply entrenched terrorism has been in Africa since colonialism, the slave trade and exploitation of raw materials.[24] Often under the sanctimonious flag of proselytising the native pagan, Western and Arab colonialism terrorised Africa.

To safeguard their new political 'empires', African leaders at the 1964 OAU meeting in Cairo, Egypt, legitimised the arbitrary colonial divisions of the continent based on the Berlin Conference of 1884–1885. Ever since, post-colonial African leaders have taken steps to jealously secure the boundary demarcations handed to them by the colonial masters with little interest in the inhabitants of their borderlands. Many have ruled not for their impoverished populations, but to satisfy the consumerist needs of their international clientele. African leaders have adopted

reforms and policies aimed at competing in a global economy where African nations are weak. The resulting mass protests by the citizens are usually crushed using instruments of the state, such as the police and the military. This scenario characterised the protests against the International Monetary Fund (IMF) and the Structural Adjustment Programme (SAP) in Nigeria under former military president Ibrahim Babangida in the mid-1980s. Acts of state terror inflicted on the population were driven by the need to institutionalise international political-economic regimes.

One must distinguish between state and non-state terrorism. State terrorism occurs when the state uses its public security agencies – the police, army, paramilitary organisations, the judiciary and legislature – to inflict undeserved pain or punishment on its citizens or a particular section of the population. In this context, state terrorism in Africa can be divided into the subcategories of direct and indirect terrorism. Direct state terrorism occurs when publicly funded agencies are used directly to inflict pain. Indirect state terrorism, on the other hand, occurs when the state sponsors militants as proxies and equips them for the purpose of inflicting pain and violence on individuals or groups, with the aim of extracting loyalty or conformity.

State terrorism, whether direct or indirect, can be international or domestic in dimension and could be counterproductive in the long run. In the case of the US counter-offensive on the USSR in Afghanistan, the facilities built by the US became 'terrorist training [infrastructure] for a new international guerilla brotherhood with global ramifications'.[25] Non-state terrorism is precipitated by forces outside of the government, but may be provoked by state action or inaction. In Africa, with the increasing privatisation of security and the growing challenge to the state monopoly on violence posed by organised criminal groups, a new and disturbing scenario is gradually unfolding. This is further complicated, particularly in the case of Nigeria, by poverty, unemployment, the proliferation of small arms and light weapons, the tensions over ownership and management of resources, ethnic militias and armed militant movements, especially in the Niger Delta.

LINKING POVERTY AND TERRORISM?

The Strategic Conflict Assessment of Nigeria flags poverty and youth unemployment as key factors driving conflict in Nigeria.[26] Other factors are the elite's politicisation of the struggle for access to resources and ethnic politics. While debates and other public discussions continue to link poverty and terrorism, academic research on this question has been ongoing. The horrendous material conditions of the majority and the inadequacy of substantive

principles of justice in many African countries often result in different dimensions of domestic terrorism.

Walter Laqueur states that poverty and youth unemployment create a social and psychological climate in which Islamism and various populist and sectarian groups flourish, providing some of the foot soldiers for violence in internal conflicts.[27] In Africa, what Laqueur refers to as internal conflicts are domestic terrorism events perpetrated by state and non-state actors. He rejects a causal connection of poverty and terrorism. Alberto Abadie submits that 'terrorist risk is not significantly higher for poorer countries, once the effects of other country-specific characteristics such as the level of political freedom are taken into account'.[28] Abadie's study also indicates that

> countries in some intermediate range of political freedom are shown to be more prone to terrorism than countries with high levels of political freedom or countries with highly authoritarian regimes … transitions from an authoritarian regime to a democracy may be accompanied by temporary increases in terrorism … geographic factors are important to sustain terrorist activities.

The view that the level of economic prosperity has a causal relation to terrorism has been articulated in studies by Alesina, Kahn and Weiner, Collier and Hoeffer and Sergenti.[29] On the other hand, Abadie and Gardeazabal and Sandler and Enders observe that the 'correlation between terrorism and national income cannot be interpreted as a measure of the magnitude of the effect of economic variables on terrorism'.[30] [31]It could be argued that Abadie's use of a dataset from an international risk rating agency to study the linkages between terrorism and economic and political variables does not capture domestic realities in Africa. Although risk ratings are used by international investors to evaluate specific types of country risks, many international investors would work with corrupt and autocratic leaders in Africa to entrench their business interests even when this intensifies state terrorism. Abadie, however, admits that terrorist risk ratings have obvious limitations because they provide only a summary of an intrinsically complex phenomenon.[32] What is true for international terrorism is not necessarily true with regard to domestic state and non-state terrorism in Africa. Using data from the US Department of State on transnational terrorist attacks, other studies by Krueger and Laitin deny that poverty generates terrorism.[33] The State Department data cover only acts of *international* terrorism, usually referring to acts involving American or Western citizens and interests, not citizens or property in Africa. General Colin Powell admitted errors and omissions in the construction of this data (see Eggen).[34]

If we agree that domestic terrorism is differentiable from international terrorism, then we cannot but admit that the variables that influence the two phenomena are different. 'The identity of the determinants of international terrorism is not necessarily informative about the identity of the determinants of domestic terrorism.'[35] We can begin to appreciate the seriousness of the challenge of domestic terrorism when we realise that of the 1 776 terrorism events recorded in 2003 in the MIPT Terrorism Knowledge Base, 1 536 were events of domestic terrorism and only 240 met the criteria of international terrorism.[36] The global dataset on terrorism has understandably focused on international terrorism narrowly defined according to Western interests (see Krueger and Laitin)[37].

Western scholars tend to deny the connection between poverty and terrorism, particularly in Africa and Asia. The perception is that if such a connection was conceded, it would throw the burden of responsibility for reconstructing poor nations on the West. In other words, it is believed that to prove the causal linkage of poverty and terrorism would indirectly strengthen the case for more development aid for poor countries in Africa and Asia. Yet, to deny the link between the economic situation of a country and *international* terrorism does not prove that no such link exists between poverty and domestic terrorism in Africa.

Analyses of international terrorism in America and Europe show that perpetrators are largely from the middle class thus proving the case against the correlation of poverty and terrorism. However, such analyses fail to recognise that the talents and skills required to effect a terrorist operation in America or Europe can only be found in middle-class persons who have personal experience of life in the metropolitan West. Thus, without appropriate contextualisation Laqueur concludes that 'the carriers of international terrorism operating in Europe and America hail not from the poor, downtrodden, and unemployed but are usually of middle-class origin'.[38] Besides, it could be argued that poverty transcends material deficiency to mental property. Someone who does not have the right amount of information on a particular domain of human experience is *mentally poor* in that specific context. Therefore, a middle-class person who is materially well off may at the same time be mentally poor. It is, therefore, hardly factual to conclude that terrorists are not poor people and do not come from poor societies.

UNDERSTANDING THE ROOT CAUSES OF TERRORISM

In the past domestic terrorism used rudimentary and imprecise weaponry. The terrorist recruit today has the opportunity of attending two to six years of fully funded

training in camps around the world, with practical instruction in weapons manipulation, political indoctrination and ambush strategy, and the possibility of procuring an array of automatic weapons. Perhaps, the greatest advantage to a terrorist is a sanctuary within his target or across respected international borders close to the same.

The solution to the problem of terrorism lies in an inclusive global dialogue, rather than in the prevailing 'end of discussion' mindset which rules out the possibility of dialogue with perceived terrorists and their accomplices. The abandonment of dialogue as a way to resolve the problem of terrorism comes at the time when dialogue is most needed and when the outright defeat of either party (terrorist or counter-terrorist) is nowhere in sight. As Cilliers observes: '[Any] research on domestic terrorism leads, inevitably, to an approach that the international community seeks to avoid: a discussion on the "root causes" of terror.'[39] Communication is a powerful tool in the mediation of conflicts and just as peace increases proportionately to the volume of unimpeded communication, violence increases in proportion to the decrease in communication.

A discussion of the root causes of domestic terrorism in Africa almost always implicates international capital with its bases in the global north and the local elite with which it fraternises. It could be argued that the current problems with international terrorism are some of the logical outcomes of colonialist adventures around the world, including the Cold War crisis. Thus, if 9/11 had not happened when it did; inevitably some other global crisis would have occurred to stem the bipolar ideological excesses that had been mobilised across the world from colonialism through the Cold War eras. Therefore, that the challenge of terrorism has assumed the proportions it has today need not surprise students of political economy and history. The surprise lies in the sidelining of dialogue in favour of mainstream counter-terrorism approaches by the strategists in the global war on terrorism. This dominant Desert Storm style approach to the fight against terrorism has far reaching implications, including the difficulty of determining the practical success of the fight in subduing terrorism as the cases of Iraq and Afghanistan indicate.

TERRORISM: THE SCENARIO IN AFRICA

Africa's vulnerability to terrorism has been attributed to a critical thread that links Islamic militancy in the continent to North Africa.[40] Algeria, whose fighters were trained by US forces against pro-Soviet forces in Afghanistan during the 1980s, is one such enclave of terrorism. At the end of the Afghanistan war in 1989, the Algerian veterans returned home well equipped to exploit

domestic conditions in intra-Islamic religious politics. These Islamists were to constitute the strategic and tactical nervous system of Al Qaeda and similar militant groups across North Africa.[41]

One fact that is often ignored is that the origin of terrorism everywhere is almost always traceable to a specific (real or perceived) condition of injustice, inequity or unjust socioeconomic or political relations. 'All terrorism, including international terrorism, has domestic roots and is originally fuelled and driven by domestic injustices in a particular country or region.'[42] Many scholars agree that the emergence of terrorism is contingent on the prevailing political-economic conditions in particular societies.[43] In this context, Osama Bin Laden is a product of the conditions that prevailed in Saudi Arabia and the experiences acquired from the anti-Soviet war in Afghanistan. Scholars believe that most extremist groups are primarily organised around localised interests, although they might develop links with movements in other countries over time. Militant groups of every persuasion thrive in situations that provide convenient links to already existing conflicts, hence 'virtually all [terrorist groups] are products of particular states or internal and/or regional conflicts'.[44]

In many African countries that have had histories of military rule, dialogue and debates had been rare. In Nigeria, the decision of the federal government, under President Musa Ya'Ardua, to dialogue with the militants in the oil-rich Niger Delta is a happy departure worthy of commendation. This is the only way to tackle the root causes of the Niger Delta conflict, which revolve around decades of injustice, inequity, abandonment, deprivation and environmental degradation. If the failures of past regimes created extremist elements, then it is the duty of successive governments to rectify the situation by fulfilling their part of the social contract with the people. International counter-terrorism efforts will only worsen unless world leaders formally review their strategies, especially regarding the promotion of a democratic ethos, dialogue and inclusion.

In 1998 the United Nations Economic Commission for Africa (UNECA) reported that

> close to 50 percent of the population [in Africa] live in absolute poverty. This percentage is expected to increase at the beginning of the next millennium and to prevent that, African countries will need … to create 17 million new jobs each year [just] to stabilise the unemployment rate at the current level.

The tone of the report betrayed well-founded pessimism about the likely prospects of African countries substantively improving their economies by the turn of the new

century. In Nigeria, a relatively stable and economically endowed polity, the 2007 rate of unemployment has increased far beyond the digits of the last nine years. Similarly, a survey of eight out of 22 African countries (including Nigeria) published in 2006 showed poverty rates higher than 50 per cent, with the mean difference between incidence rates in urban and rural areas during 1995–2000 looking even bleaker.[45] No doubt, poverty and unemployment are conditions that reinforce vulnerability to terrorism.

John Saul voices the disappointment in the post-independence states of southern Africa when he laments that

> the positive implications of the removal of formal white minority rule have been muted for most people in the region: extreme socio-economic inequality, desperate poverty, and disease (AIDS most notably) remain the lot of the vast majority of the population. Unfortunately, the broader goals that emerged in the course of the liberation struggles – defined around the proposed empowerment and projected transformation of the impoverished state of the mass of the population of the region – have proven extremely difficult to realise. Even the sense of common regional identity that might have been expected to surface from the shared region-wide struggle that was once the war for Southern Africa has been offset, if not entirely effaced, by many of the same kinds of xenophobia and inter-state rivalries that mark the rest of the continent.[46]

Saul's critique describes conditions that are permissive of domestic terrorism in the southern African region, where the spirit of unity that propelled struggles against some of the most viciously racist and colonial regimes was failing the population. Saul's prognosis is that since the last liberation has failed, the next liberation to which (southern) Africans are most likely to be potential recruits will draw inspiration from further north and will result in 'a struggle against the savage terms of Africa's present incorporation into the global economy and the wounding domestic and political patterns accompanying it'.[47]. A dangerous synergy already rearing its head in Africa exists between armed criminality and terrorism, both domestic and international.

A most unsettled picture comes from North Africa. Algeria, for example, is the third largest contributor of foot soldiers to international terrorism after Saudi Arabia and Yemen, and this has important ramifications for the future prospects of domestic terrorism in Africa.[48] Dr Zawahiri, an Egyptian citizen, is Bin Laden's second in command in Al Qaeda. Moreover, nationals of Algeria and Egypt shared membership of Islamist cells as veterans of the war against the Soviet invasion of Afghanistan.[49]

This is significant for any domestic counter-terrorism strategies being contemplated within the peace and security architecture of the African continent at the national, interstate, subregional and regional levels. Anyone with an understanding of the history of ideological and religious militancy that was deployed particularly during the Soviet battle over Afghanistan would not have been surprised by the latter-day terrorist bombings in Kenya, Tanzania, Algeria, Egypt and the Sudan. The seeds of terrorism had been sown in Africa and, whereas good governance could have cured them, bad governance watered them to maturity.

Many African governments lack the administrative capacity and political will to drive through their own development agenda. They are what Myrdal refers to as the 'soft state'.[50] It becomes difficult for African countries to cope with the challenges of domestic and international terrorism. Since the events of 9/11, the logic has been that, if America, with all its sophistication, suffered such devastating attacks at home, then everywhere is unsafe. Citizens of African countries have very genuine worries about the global implications of terrorism and the possible development of local variations of the Al Qaeda model.

TWO CASE SCENARIOS OF DOMESTIC TERRORISM IN NIGERIA

Below are two notorious cases of domestic terrorism that occurred in Nigeria in 1999 and 2001 under the rule of President Olusegun Obasanjo.

Case 1: Odi (Bayelsa State, Nigeria)

The invasion of the sleepy community of Odi at about 2h00 on 20 November 1999 was a consequence of an earlier clash between the youth and government officials in Yenagoa, the capital of Bayelsa State, in the Niger Delta region. The government had ordered the police and other security personnel to raid the Yenagoa Black Market, believed to have been the base of the restless youth in the town. After the foray, which aimed at flushing out the agitated youth, the Ijaw Youth Council (IYC) reported that 100 Ijaws, including women and children, had been shot by the security personnel deployed to 'quell the riots at the Yenagoa Black Market'.[51] On their part, the Bayelsa State government and the Nigeria Police Force issued press statements denying the claim of the IYC. While the trading of claims and counter-claims persisted, a number of the youth who survived the raid moved to Odi (four of them were said to be indigenes of Odi) and formed a gang called Asawana Boys. These boys terrorised the Odi community and perpetrated armed criminality on commuters along the Warri-Port Harcourt highway.

The failure of the government and security actors involved to manage the misunderstanding peacefully culminated in the arrest, torture and death of eight policemen by the Asawana Boys.[52] The police had gone after the gang in Odi without the knowledge of the *amadaowei* (the clan chief) of Odi and against the advice of the police mobile force (PMF) team they met at the junction leading to Odi. The governor of Bayelsa State at the time, Chief Diepreye S Alameiseigha, was given a 14-day ultimatum to apprehend the gang that murdered the policemen. However, seven days into the ultimatum, a detachment of the military moved in and sacked Odi, then the second largest settlement in Bayelsa State, on 20 November 1999.[53] The sophistication of the attack and the ambush strategies used smacks of domestic terrorism perpetrated by the state against its own people.[54] While referring to the killing of policemen at Odi, Alameiseigha states:

> This was an act involving just a few gangsters and not the whole Odi community. The federal government's response was a mess. It launched an attack on the Odi community, but in the end, not a single member of the gang was captured or a single firearm recovered.[55]

Another of the respondents at Odi had this to say: 'The case of Odi was a case when the government of the country, instead of protecting its own people, went to war against them.[56]

It is an understatement to say that the state demonstrated poor conflict management skills. Analyses of the tensions and violence in the Niger Delta put the root causes at the doorstep of the government (national, state and local) and the economic actors in the region, mainly the multinational oil companies. Just as we can explain the state's reliance on the reactive/power model of conflict regulation as fallout from the prolonged military rule in Nigeria, one is equally bothered by the persistent incapacity of state institutions to proactively engage with conflict situations before they erupt into violence.

Case 2: Zaki Biam and Gbeji (Benue State, Nigeria)

Vaase, a Tiv settlement, remains a flashpoint in the conflicts between the Tiv and Jukuns of Benue and Taraba states. On 10 October 2001, 19 soldiers from the 23rd Armoured Brigade, Yola, Adamawa State, were abducted and driven 50 kilometres to Zaki Biam where they were handed over to the police. However, in the tension that built up subsequently, the soldiers were forcefully taken away from the police station and later killed by people believed to be Tiv militia. The Zaki Biam community was later quoted as being alarmed at the news of the killing of

19 soldiers by a group of Tiv militia. The federal government announced that soldiers sent to keep the peace in the restless Benue-Taraba axis of north-central Nigeria had been killed. Speaking about the military reinforcement after the death of the 19 soldiers, a respondent, Dennis Gbeji, was quoted as saying:

> The soldiers appeared in Gbeji town in a convoy of four armoured cars and nine personnel carriers. They told the villagers that they were on a peace mission at the instance of the State Governor, George Akume. The villagers hosted their guests; the town elders prepared foods [sic] and bought drinks for the soldiers and even gave them tubers of yam. After the entertainment, the Major who led the team appealed to the Gbeji people to cooperate with his men who will be assigned to the village for peace-keeping operations. Before he left for Zaki Biam, the local government headquarters, he demanded to know when the village's market day was.[57]

On 22 October 2001, the Gbeji Market Day, the same day the bodies of the 19 soldiers were buried, the military invaded seven villages (Gbeji, Vaase, Ayiine, Ugba, Sankera, Kyado and Zaki Biam), traversing Ukum, Katsina-Ala and Logo local government areas. The events here can be classified under domestic non-state and state terrorism, which might have arisen owing to the failure of all parties effectively to engage in peaceful means to resolve conflict.

Building the capacities of state institutions and civil society is one of the key elements in strengthening governance as a counter-terrorism strategy. African states have not only lacked the strategic capacities, but have also been bedevilled by the breakdown of traditional ethical defence systems in public and private life. Obviously, given the above examples from Nigeria, there is much that is wrong with the state system in Africa. Cilliers aptly characterises the prevailing condition of the African state system thus:[58] '[W]ithout a functioning, nationally recognised central government, failed and weak African states provide a safe haven and facilitating environment for domestic and international terrorism alike.'

Cilliers therefore suggests a reconstruction of the African state system to meet the fundamental requirements of statehood. He submits that by so doing Africa as well as America and Europe will be safe for their citizens.

CONCLUSION AND RECOMMENDATIONS

Botha presents a table of the status of international conventions in Africa since 1999, indicating that African countries have done very well in signing, but much less well in ratifying, the Algiers Convention of 1999, the International Convention for the Suppression of the

Financing of Terrorism (September 1999) and the UN Convention against Trans-national Crime (November 2000).[59] Botha's analysis shows, for example, that only one of the eight African countries surveyed had ratified the 1999 OAU Convention on Combating Terrorism, while the other seven had merely signed it. Yet, even where all the Conventions have been fully signed and ratified, there remain gaps between the rituals of ratifying Conventions and commitment to implementation in practice. Thus, while many African governments may ratify international instruments, they have particularly low scores in terms of practical commitment of resources to the development of necessary human and institutional capacities for their implementation.

Domestic terrorism is no less a critical issue in the US, although the impression is given that international terrorism is the problem and nothing else. According to the Encyclopaedia of World Terrorism, 1996–2002,

> Al-Qaeda is simply a new sub-species of international terrorism, albeit the most lethal of any kind thus far. But national or local terrorism is nasty and threatening in its own right. Indeed, the 'new terrorism' is not confined to the extreme fringe of Islam. American far-right terrorism characterised by the concept of 'leaderless resistance' also uses religion to justify violent actions. American domestic terrorism poses a direct threat to domestic stability and a challenge to state and federal law enforcement agencies. Indeed, 80 percent of all terrorism is domestically based, and much of it still involves politically motivated national liberation struggles. These conflicts are largely confined within national borders and generally do not directly threaten other nation-states. [60]

If national discourses are ongoing on the domestic front and aimed at addressing the reasons why 'normal' people become terrorists, then the 'no room for discussion' approach at the international level begins to break down. We must free ourselves from the collective guilt of double standards, which is, in itself, tantamount to a terrorist strategy. Cooperation among governments and national law enforcement agencies is crucial to eliminating the threat of terrorism. Unfortunately, the Trans Sahara Counter-terrorism Initiative, the US government security partnership with African governments, tends to ignore the domestic sources of terrorism in Africa. By focusing exclusively on identification, and publicising and countering foreign sources of terrorism and religious extremism, it undermines the realities of the developmental challenges in African countries.

We have argued that terrorism, domestic or international, is not limited to manifest violence. It can be hidden in the interstices of the political, economic and institutional structures of the state, resonating as subtle intimidation, similar to Galtung's notion of structural violence.[61] Thus, terrorism has at least three accompanying elements: 'the act or threat of violence, the emotional reaction, and the social effects'.[62] As already argued, domestic terrorism permeates the historical contexts of the typical systems of the political power structures in Africa, existing within the emerging forms of neo-liberal market democracies. These fledgling democracies in Africa tend to focus more on market liberalisation than on building institutional capacities for the deepening of democracy. The cheap and easy access to weapons of mass destruction in the emerging market of the 21st century presents the picture of a future seriously threatened by both state and non-state terrorists.

Undoubtedly, the inability of governments in Africa to tackle poverty, disease and ignorance, the exclusion of vital segments of the population in the decision-making process, and the tendency to flaunt power unjustly are incendiary factors of domestic terrorism. The backlash can take many different forms, including armed criminality as a form of economic terrorism seeking to express itself.[63] With human security as the standard index of good governance, we look forward to inclusion and freedom from want as positive indicators of democratisation. Unless the individual is secure (by which we mean physically and socially protected) within the state, national security remains a worthless phrase. Cilliers aptly observes that 'state security, in most of Africa, is not threatened by conventional threats of armed attack by other countries, but by more insidious measures, many of which are determined by the very weakness of the state and its absence of control over its own territory'. [64]

That the new wars have been intrastate in nature has been well articulated by scholars.[65] The implication is that good governance, epitomised by inclusiveness and the fulfilment of the felt needs of the population, is the cornerstone for the prevention of the majority of the common sources of domestic terrorism in Africa. This includes ensuring the rule of law and deepening democracy in the decision-making processes for purposes of fair and equitable participation. These, in themselves, constitute measures against the emergence of a restive and oppositional consciousness within the polity.

Africa must address the issue of the 'weak' or 'soft' state, which, according to Mentan, includes characteristics such as devastated agricultural and rural sectors; poorly maintained and dilapidated infrastructure; overinflated and worthless currency; the absence of well-integrated and viable economies; the lack of gainful participation in international trade and global affairs; high rates of unemployment, especially among historically vulnerable groups (e.g. women and youth); high rates of

HIV/AIDS; high levels of corruption and public malfeasance; the general absence of the rule of law; proliferation of small arms and light weapons, and contested governments.[66] Given this scenario, democracy can only blossom if every well-meaning government in Africa establishes credible processes for dialogue through which policies for the application of state resources to address the aforementioned challenges could evolve. As long as these are neglected, the seeds of domestic terrorism will remain firm and constantly threaten the foundations of the state.

Resources could be saved in the long term by building the capacity of existing institutions to cope with local problems, rather than seeking the intervention of international consultants with little knowledge of local conditions. Some frequently ignored dimensions of the African challenge were articulated by the British government when it noted:[67]

> [A]s well as action directly in support of African efforts, the international community also needs to address in a sustained way weaknesses in global governance that can exacerbate the causes of conflict in Africa, including the terms of economic exchange between Africa and the West; the weaknesses of international mechanisms for dealing with conflict in Africa; the exploitation of mineral/natural resources; and proliferation of small arms and light weapons.

Apart from the perennial failure of governance in Africa, international development partners hardly view as serious the sources of the weapons used in violent conflicts in Africa. Thus, the issue of the origin of small arms and light weapons must address the business motives of the manufacturers of these weapons, since it is their proliferation that makes the use of dialogue and conversation unattractive.

When development partners collaborate with African governments without being critical of the structurally oppressive and violent state institutions, they unwittingly aggravate existing tensions and eventually aid the escalation of conflict. An instructive example is Rwanda before the 1994 genocide. Rwanda remained development partners' best practice model for development aid up to the 1994 genocide.[68] The development community deployed donor funds during the years of incremental build up of enemy images, stereotypes, and structural exclusion, which resulted in the domestic terrorism that produced one of the worst failures of national and supra-national governance in human history.[69] The development actors failed to see the deteriorating intergroup relationships, the collapse of ethics and its replacement with primordial stereotypes and prejudice.

One of the useful models for counter-terrorism is multitrack diplomacy in which human and material resources are networked to collectively deal with the sources and threats of terrorism in a strong government-civil society partnership. Based on the principles of multitrack diplomacy, the government-civil society collaboration incorporates the local populations of individual states, as well as those of proximate African countries. Such a framework would allow for the construction of national and transnational spaces for useful security and intelligence exchanges among individuals, groups, civil society, professionals and the government on a mutual basis. This is important because most setbacks in the developmental sociology of African countries arise from government insistence on a top-down, paternalistic approach that utterly dismisses civil society input, which is sometimes wrongly construed as political opposition.

There is a need to plan for and engage with the peace, security and development nexus as a strategy for monitoring the sources of domestic and transnational terrorism. It is within the peace-security-development nexus that African governments can develop a strategy that is demand-driven – using the people's understanding of these concepts and not the understanding which bureaucrats and the government ascribe to them. The danger always lies in paternalistic bureaucrats and political leaders who make decisions for the majority of the population in a supply-driven manner that undermines the rich and diverse sensibilities of the people. This is precisely where a paradigm shift is urgently required. Indeed, as Booth put it, African governments and their development partners are to be reminded that 'we are living in a world of rapid transformation, in which old power structures will disappear, new associations will arise, complex interdependence will evolve, new problems and opportunities will open up'.[70]

It is a priori unlikely that international security cooperation against terrorism (e.g. the Trans Sahara Counter-terrorism Initiative) will have much hope without addressing the epistemic and political origins of the development failures that have undermined human security conditions in Africa, as differentiated from the constantly negotiated security of governments.

With respect to conflicts in the oil-rich Niger Delta, '[s]tate policies must be altered, without which the real genesis of minority agitation for equity is not at the beginning, which is past, but at the end, which is yet to come'.[71] It is helpful to note that the means used today have consequences for the ends reached tomorrow. In a global arena that is severely stressed by the tensions of terrorism, strategic engagement with antagonistic forces remains an option for national governments to ensure stability, continuity and regime potency in the face of inherited structural injustices,

inequities and real or perceived marginalisation. Porteous sums the critical challenge facing us as

> not to let the so-called 'global war on terror', undermine the progress that Africa has made in the past few years towards resolving conflicts. The huge cost of the war in Iraq and its aftermath should not be allowed to divert attention, money and expertise away from the job of post-conflict reconstruction in Africa.[72]

In the aftermath of 9/11, the skewing of American and Western agendas in favour of 'counter-terrorism, military control and oil security' at the expense of human security, social justice, political and economic inclusion, corporate responsibility, transparency and accountability is considered by many observers as a disservice to the people of Africa. Promoting these latter values can strengthen collective security, peace and development thereby minimising those conditions that could engender terrorism in Africa.

We cannot ignore the fact that owing to a tragic combination of poverty, ignorance and injustice, ascribable to local and international factors, the world does not seem to be working for a countless number of its inhabitants. Other terror-inducing conditions include the disparity between the rich and poor as accentuated by a

> profit-led globalisation, the buccaneering behaviour of global corporations, the voracious consumption of Western societies, the marginalisation of the 'majority world', failed states, human rights abuses, cycles of economic boom and bust, … Western support for tyranny while ritualistically declaring its commitment to democracy, increasing numbers of desperate refugees, societies crippled by debt…[73]

Added to these is the perception of the West as holding exclusive claim to insights, as opposed to the promotion of an in-depth cross-cultural dialogue.

It could be argued that terrorists understand killing innocent people to be bad – indeed, very bad – but might have been denied an alternative way of expressing their discontent. It is therefore within the remit of the state as a key actor to halt the drift towards terrorism, domestic or international. In their introduction to *Worlds in collision*, Booth and Dunne opine that 'terrorism is an abomination and must be countered, but poverty is the world's biggest killer'.[74] Again, Mark Twain, the great American author, while reflecting on Europe of the 1790s reminds us of two kinds of terrorism: terrorism that brought 'the horror of swift death' and terrorism that resulted in 'lifelong death from hunger, cold, insult, cruelty and heartbreak'. The African colonial experience reflects Twain's two

descriptions of terrorism. To meet the challenges of domestic and/or international terrorism in Africa, counter-terrorism measures should focus on empowering people and strengthening institutions for transparency, equity, accountability and good governance to assuage the material and ideological concerns of the people.

NOTES

1   Julianne Malveaux and Reginna A. Green, *Paradox of loyalty: an African American response to the war on terrorism,* Chicago: Third World Press, 2002.

2   Robert Fall Young, Revolutionary terrorism, crime and morality, *Social Theory and Practice*, 4(3) (1977), 288.

3   *Encyclopaedia of world terrorism 1996–2002*, Armonk, New York: M. E. Sharpe Inc, 2003; Jakkie Cilliers, Terrorism and Africa, *African Security Review* 12 (4) (2003); Tatah Mentan, *Dilemmas of weak states and trans-national terrorism in the twenty-first century,* Aldershot: Ashgate, 2004.

4   Ken Booth and Tim Dunne, *Worlds in collision: terror and the future of global order*, New York: Palgrave Macmillan, 2002.

5   Cilliers, Terrorism and Africa, 93.

6   See *Encyclopaedia of world terrorism 1996–200 and* USIP 2004: Special Report 113.

7   See Alex P. Schmid, *Encyclopaedia of world terrorism 1996*, Armonk, New York: M E Sharpe Inc, 1998.

8   Jeffrey Ian Ross, *Encyclopaedia of world terrorism*, *1996–2002*. 12.

9   Thomas H Mitchell, Defining the problem, in David Charters (ed), *Democratic responses to international terrorism,* Ardsley, New York: Trans-national, 1991, 9–16; Jonathan White, *Terrorism: an introduction,* Pacific Grove, CA: Brooks/Cole, 1991; Bruce Hoffman and David Claridge, Terror and political violence, *The Randt-St. Andrews Chronology of International Terrorism and Noteworthy Domestic Incidents 1996,* 10(2) (1998), 135–180; Ross, *Encyclopaedia of world terrorism,* 1996–2002.

10 Eugene Victor Walter, *Terror and resistance,* New York: Oxford University Press, 1969, 4.

11 Booth and Dunne, *Worlds in collision: terror and the future of global order,* 8.

12 Ibid.

13 Booth and Dunne, *Worlds in collision: terror and the future of global order,* 9–10.

14 Hoffman and Claridge, Terror and political violence.

15 White, *Terrorism: an introduction*.

16 H Odera Oruka, *Punishment and terrorism in Africa.* Nairobi: Kenya Literature Bureau, 1985, 47.

17 Ibid.

18 Ross, *Encyclopaedia of world terrorism, 1996–2002,* 15.

19 On 9 March 2004, George Tenet, Director of the US Central Intelligence Agency (CIA) gave evidence before the Armed Forces Committee of the US Senate acknowledging that no connection had yet been established between drug trafficking

and transnational terrorism, http://www.odci.gov/cia/public_affairs/speeches/2004/tenet_testimony_03092004.html (accessed 13 July 2007).

20 Booth and Dunne, *Worlds in collision: terror and the future of global order;* Paul Rogers, Political violence and global order, in Ken Booth and Tim Dunne (eds), *Worlds in collision: terror and the future of global order.*

21 This Convention was adopted with effect from 14 July 1999. See http://untreaty.un.org/English/Terrorism/oau_e.pdf (accessed 13 July 2007).

22 See Eugene Victor Walter, *Terror and Resistance,* New York: Oxford University Press, 1969.

23 Cilliers, Terrorism and Africa, 93.

24 Frantz Fanon, *The wretched of the earth,* New York: Grove Press, 1963; Walter Rodney, *How Europe underdeveloped Africa,* Dar-es-Salam: Bogle-L'Ouverture Publications, 1973; Chinweizu, *The West and the rest of us: white predators, black slaves and the African elite*, New York: Random House, 1975; Claude Ake**,** *A political economy of Africa,* London: Longman, 1981.

25 Cilliers, Terrorism and Africa, 94.

26 Strategic Conflict Assessment of Nigeria (2003) was the first such assessment of Peace and Conflict dynamics conducted in and by an African country. The funding for the study was provided by UNDP, World Bank, DfID, and USAID.

27 W Laqueur, The Terrorism to Come, *Policy Review*, Palo Alto, CA: Hoover Institution, Stanford University, August and September, 2004] http://www.printthis.clickability.com/pt/cpt?action=cpt&title=The+Terror (accessed 29 November, 2007).

28 Alberto Abadie, Poverty, political freedom and the roots of terrorism, 2004, 2, http://209.85.135.104/search?q=cacheLvuk-OFo96klJ:ksghome.harvard (accessed 29 November, 2007).

29 A Alesina, S Ozler, N Roubini and P d Swagel, Political instability and economic growth, *Journal of Economic Growth,* 1 (1996), 189–211; J Kahn and T. Weiner 2002. World leaders rethinking strategy on aid to poor, *The New York Times,* 18 March 2002, sec. A (1) 3; P Collier and A. Hoeffler, Greed and grievance in civil war, *Oxford Economic Papers* 56 (2004), 563–595.

30 A Abadie, and J. Gardeazabal, The economic cost of conflict: a case study of the Basque country, *American Economic Review* 93 (1) (2003), 113–131, March; T. Sandler and W. Enders, Transnational terrorism: an economic analysis, in H W Richardson, P Gordon and J E Moore II (eds), *The economic impact of terrorist attacks,* Cheltenham: Edward Elgar Publishing, 2006.

31 Abadie, Poverty, political freedom and the roots of terrorism, 4.

32 Abadie, Poverty, political freedom and the roots of terrorism, 5.

33 A B Krueger and D D Laitin, Faulty terror report card, *The Washington Post***,** 17 May 2004.

34 D Eggen, Powel calls report 'A big mistake', *The Washington Post,* 14 June 2004, A13.

35 Abadie, Poverty, political freedom and the roots of terrorism, 4.

36 Abadie, Poverty, political freedom and the roots of terrorism, 3

37 Krueger and Laitin, Faulty terror report card.

38 W Laqueur, The terrorism to come, 2.

39 Cilliers, Terrorism and Africa, 95.

40 Cilliers, Terrorism and Africa; Mentan, *Dilemmas of weak states and trans-national terrorism in the twenty-first century.*

41 Montasser Al-Zayyat, *The road to Al-Qaeda: The story of bin Ladin's right-hand man*, London: Pluto Press, 2004.

42 Cilliers, Terrorism and Africa, 95.

43 Cilliers, Terrorism and Africa; Anneli Botha, African commitments to combating organised crime and terrorism: a review of eight NEPAD countries, *A Monograph for the African Human Security Initiative*, 2005 http://www.iss.co.za/pubs/Other/ahsi/Goredema_Botha/Contents.html (accessed 21 July 2007); Mentan, *Dilemmas of weak states and trans-national terrorism in the twenty-first century*; Al-Zayyat, *The road to Al-Qaeda: The story of bin Ladin's right-hand man.*

44 Botha, African commitments to combating organised crime and terrorism: a review of eight NEPAD countries.

45 Janvier D Nkurunzia, Generating rural employment in Africa to fight poverty. Paper presented at the ECOSOC high-level segment, New York, 2006. http://www.un.org/docs/ecosoc/meetings/2006/forum/statements/Nkurunzia.pdf (accessed 7 July 2007).

46 John Saul (2005:6) [Not in refs]

47 (Saul 2005:6)

48 Cilliers, Terrorism and Africa, 96.

49 Al-Zayyat, *The road to Al-Qaeda*.

50 G Myrdal, Asian drama: an inquiry into the poverty of nations. New York: Pantheon, 1968.

51 Centre for Law Enforcement Education (CLEEN) and World Organisation Against Torture (OMCT), *Hope betrayed? A report on impunity and state-sponsored violence in Nigeria,* 2002, 73, http:// www.kabissa.org/cleen (accessed 1 November 2007).

52 CLEEN and OMCT, *Hope betrayed? A report on impunity and state-sponsored violence in Nigeria*, 75.

53 CLEEN and OMCT, *Hope betrayed? A report on impunity and state-sponsored violence in Nigeria.*

54 CLEEN and OMCT, *Hope betrayed? A report on impunity and state-sponsored violence in Nigeria*, 79.

55 Diepreye Alameiseigha, quoted in *New African* December 2004, 435, 17.

56 CLEEN and OMCT, *Hope betrayed? A report on impunity and state-sponsored violence in Nigeria*, 71.

57 CLEEN and OMCT, *Hope betrayed? A report on impunity and state-sponsored violence in Nigeria*, 155–157.

58 Cilliers, Terrorism and Africa, 102.

59 Botha, African commitments to combating organised crime and terrorism: a review of eight NEPAD countries, 73.

60 *Encyclopaedia of World Terrorism 1996–2002*, xvi.

61 Walter. *Terror and resistance.*

62 Walter. *Terror and resistance*, 5.

63 Walter. *Terror and resistance*, 19.

64 Cilliers, Terrorism and Africa, 11.

65 M Kaldor, Old *wars and new wars: organised violence in a global era,* Cambridge: Polity Press, 2001; P Wallestein and M Sollenberg, Armed conflicts, *Journal of Peace Research,* 36.

66 Mentan, *Dilemmas of weak states and trans-national terrorism in the twenty-first century*, 20.

67 See UK Conflict Prevention Initiative, Foreign and Commonwealth Office, http://www.fco.gov.uk/servlet/ Front?pagename (accessed 21 July 2007).

68 See Peter Uvin, Aiding Violence: The Development Enterprise in Rwanda, Connecticut: Kumarian Press, 1998.

69 (See Uvin 1998, Aimable Twagilimana, The Debris of Ham: Ethnicity, Regionalism, and the 1994 Rwanda Genocide, Maryland: University Press of America, 2003.

70 Anneli Botha, African Commitments to Combating Organised Crime and Terrorism: A Review of eight NEPAD Countries,

A Monograph for the African Human Security Initiative, 2005; http://www.iss.co.za/pubs/Other/ahsi/Goredema_Botha/ Contents.html. [Accessed 21 July 2007, See also Booth and Dunne, 2002.

71 O O Oshita, Ken Saro-Wiwa and the trajectory of minority predicament in Nigeria, in Onookome Okome (ed), *Before I am hanged: Ken Saro-Wiwa: literature, politics and dissent,* Trenton, NJ: Africa World Press, 2000, 43.

72 Tom Porteous, Resolving conflicts in Africa, *Crimes of War Project,* 2004, http//www.crimesofwar.org/Africa-mag/afr-contrib.html (accessed 21 July 2007).

73 Booth and Dunne, *Worlds in collision: terror and the future of global order*, 5–6.

74 Booth and Dunne, *Worlds in collision: terror and the future of global order.*

Threats and incidents of domestic terrorism: Reasons, experiences and lessons

A historical overview of domestic terrorism in Nigeria

Bukola Adeyemi Oyeniyi

INTRODUCTION

As is common in most contentious public debates, terrorism means different things to different people. Some have interpreted it to mean 'a method of political violence that is subsumed under conspiracy, together with mutinies, *coups d'état*, political assassinations, and small-scale guerrilla wars'.[1] Some also have interpreted it to mean an 'attempt to achieve political ends by creating a climate of fear through bombing, assassination, kidnapping and seizure of aircraft,' or the 'undermining [of] confidence in a state's ability to protect its citizens or to gain publicity for a cause'.[2] However, in this paper, I shall limit myself to the definition adopted by the African Union (AU), which considers terrorism as 'any act which is a violation of the criminal laws of a State Party and which may endanger the life, physical integrity or freedom of, or cause serious injury or death to, any person, any number or group of persons or causes or may cause damage to public or private property, natural resources, environmental or cultural heritage'.[3] Conceived in this way, terrorism can therefore be carried out by states, state actors, non-state actors, groups or individuals in the attainment of specific objectives or valued ideals.

The peculiar African historical experiences have skewed our understanding of what constituted terrorism and also raised some questions, which the AU definition, above, has addressed. Hence, I shall ignore the considerable debates among scholars and politicians on what constitutes terrorism, especially in relation to Africa's turbulent journey of independence, which, in some cases, involved the deployment of revolutionary wars and, in others, radical nationalism. Domestic terrorism, as far as this paper is concerned, refers to any act of terrorism that is confined to national boundaries and does not

include targets or agents from abroad. The use of terror, not only by local actors in state-civil relations but also by the Nigerian state against the citizens, forms part of domestic terrorism, especially when state actors (police, the military, etc.) have recourse to acts of terror against their own nationals.

My aim in this paper is mainly to provide a brief analytical account of the growth, development and metamorphosis of the different terror-utilising groups in Nigeria, as well as show how the Nigerian state has interfaced with its citizens in a complex web of violence. Also, the paper aims to bring to the fore a dangerous dimension discernible from the current situations in Nigeria which involved local terrorist groups and their involvements with global actors, a development that I titled as 'glocalization' of terrorism in this paper

HISTORICISING DOMESTIC TERRORISM IN NIGERIA

Domestic terrorism has had an uneven growth in Nigeria. It manifests in civil-government relations as well as in interrelationships between the different ethnic nationalities making up present-day Nigeria. In civil-government relations, it is characterised by the use of force, brutality towards the people and the deployment of (hard) power to suppress civil resistance to state policies. In civil relations, it manifests as ethnic nationalism and militancy.

Dragged down by the need for legitimacy and acceptability, colonial rule in Nigeria depended on the use of force and the deployment of terror to enforce its policies, laws and orders. The *Oke-Ogun* uprising of 1921 demonstrated this aptly. The *Oke-Ogun* uprising, presented in colonial records as anti-tax riots, was a resistance effort by Yoruba peoples along the Ogun River in present-day

Oyo and Ogun states against the imposition of an alien culture that, among other things, mandated the building of pit latrines in homes. Within the context of the Yoruba cultural milieu during the period, defecating in the house was not only regarded as unhygienic and dirty, it was also considered as having negative spiritual implications. As such, this colonial health policy was vehemently opposed. Ignorant of the cultural and spiritual implications of the policy, the colonial administration, rather than educating (or being educated by) the people, invoked subtle diplomacy by resorting to native agency through the *Alaafin*, the great king in Oyo, whose power and prestige in Yorubaland had waned considerably during the period. Politically, bringing *Oke-Ogun* under the Alaafin at a time Oyo had lost control over the Yoruba nation to Ibadan would automatically put *Oke-Ogun* in the way of Ibadan, who had recently destroyed Ijaye. *Oke-Ogun* therefore resisted the health policy and *Alaafin*'s intervention, in order not to irk Ibadan.

Colonial rule, ignorant of the implications of the policy for *Oke-Ogun*, considered this opposition intransigence against colonial administration. At the height of the impasse, the colonial government engaged the local people in a three-year orgy of violence that cost 10 000 lives. Surprise attacks, guerrilla-style bush actions and unprecedented terror were unleashed to break the resistance of people who were fighting not only a war of cultural preservation, but also a war to maintain their socioeconomic and political relevance in Yorubaland. Today, Nigerian domestic terrorism is rooted in the state-sanctioned terrorism of its colonial period.

In post-colonial Nigeria, domestic terrorism manifests itself as ethnic nationalism and militancy. Historically, groups agitating for the 'parochial' interests of a particular group abounded in pre-colonial Nigeria.[4] Age-grades, i.e. an age grade is a social category based on age, members of which perform important functions in pre-colonial Africa, many other groups and bodies performing roles akin to those of modern law enforcement agencies, civil society groups, vigilante groups and other groups agitated for particular ethnic objectives before colonial rule. Examples of these include the *Ndinche*, the *Modewa* (Ile-Ife), *Aguren (Ijebu* and *Egba)*, *Eso*, *Akoda* and *Ilari* (Oyo), and so on. These were community men and women whose functions ranged from guarding towns, maintaining roads, markets, rivers and public utilities as well as arresting and bringing suspected criminals to the community council or displaying criminals to the villagers before handing them over to the elders, priests, emirs, chiefs and *obas*. Aside from these roles and functions, these groups also served to agitate for group interests and rights in intergroup relations.

These groups were not only recognised as integral parts of their different societies, but were accorded rights and respect due their roles as protectors and enforcers of the law. Although later discarded, colonial administrators used these bodies in law enforcement, collection of taxes and levies, and in existing community development projects. Following the development of colonial police and other state apparatus, the age grades and others lost their positions and prestige to more institutionalised police and civil service systems, which were later inherited by African states at independence. Although their influence waned with colonialism, since independence the lobbying of these groups for local interests has remained an integral part of national developments over the years.

If the age grades and other community-based bodies constituted the earliest groups performing civic roles and defending group interests in pre-colonial and, to some extent, early colonial periods, then ethnic associations, like the Calabar Improvement League, *Owerri Divisional Union*, *Igbira Progressive Union*, *Urhobo Renascent Convention*, *Naze Family Meeting*, *Ngwa Clan Union*, *Ijo Rivers People's League, Ijo Tribe Union*, and so on, were the core groups performing civic roles and defending the group interests in the colonial and, to some extent, post-independence periods. These associations, known by a variety of names, were based on kinship affinity and had a presence in every part of Nigeria, including the northern region, Fernando Po, and the Gold Coast.

Coleman noted that, as colonial administration opened up the economy and people began moving from one area to the other in search of colonial jobs, strong loyalty and obligation to the kinship group and the town or village developed and changed into ethnic associations. The associations were therefore the 'organizational expression of strong feeling of loyalty and obligation to the kinship group and the town or village where the lineage is localized'.[5] These associations were first organised in the new urban areas, and later made their presence felt in their respective home countries through various projects like road construction; building and maintaining schools, clinics and health centres; awards of scholarships to deserving and indigent pupils and students, and so on.

Aside from being the nuclei around which the earliest political parties were founded, these associations helped, especially in the urban centres, to foster group identity, unity and solidarity. Not only did they export development, enlightenment, modernity and civilisation to their homelands, they also linked their respective homelands with the various urban centres where their members were located. Consequently, they were widely accepted, encouraged and sometimes financed by their various societies and governments.

As a general rule, the impetus and the initiatives behind the formation of these associations came from the educated elements 'abroad', although membership normally was open to all literate members of the community. This criterion – literacy – distinguished them from clandestine associations. The associations functioned in the areas of mutual aid, protection for members in the urban centres, acceleration of the acculturation process and as reintegration centres for members in private employment, as opposed those in the colonial service. Extraneous deviant behaviours were confined to clandestine groups like the *Awopa*, *Osugbo* or *Ogboni*, and so forth. *Awopa*, *Osugbo* or *Ogboni* were secret societies whose memberships and group activities were, and still remain, clandestine.[6] However, prior to colonial rule, the *Ogboni* was a traditional organisation whose membership, sometimes clandestine, included the *Obas, Baales* and the foremost chiefs in the Egba division, as well as in towns like *Ogbomoso* and *Osogbo*.[7] The *Ogboni*, while it lasted, served to check and balance in traditional style the activities of *Obas* and *Baales* against arbitrary rule. It was the last court of appeal and the only court saddled with responsibilities for taking decisions on capital punishment.[8] During the colonial era and well into the independence period, the *Ogboni* and other groups, like the *Awopa*, became known for killing, looting, armed robbery, perversion of justice and so on. Since then, however, attempts to reform the *Ogboni* have failed to remove this stigma from the organisation. In spite of numerous noble contributions by many ethnic organisations during the period, associations like the notorious *Awopa* and others rained terror on Lagos and other suburban centres during the First Republic and later independence. At first, their activities were limited to the urban centres where the community was large enough to conceal them and their activities.

The outbreak of the Nigerian civil war between 1967 and 1970 and the fragmentation of the nation into 12 states checked the influence of a second wave of ethnically based groups and their involvement, directly or indirectly, in government and administration. This does not mean that the various groups were prevented from contributing in one way or the other to the development of their environment, but that their active involvement and government support was reduced following the civil war.

The third wave deals with ethnic nationalism and militancy. The factors underlying the origin, growth and development of the third wave were not unconnected to the economic recession of the 1970s occasioned by falling commodity prices, OPEC price increases, Cold War politics, trade barriers, civil conflict, and frontline struggles with apartheid South Africa. Owing to the combination of these factors, the government's ability to fund development projects dwindled greatly and development initiatives originating from different communities before this period were abandoned. The situation was further compounded by the debt crisis of the early 1980s.

Over the following decade, nearly all the states north of the Limpopo turned to the World Bank and the IMF for temporary or long-term economic relief. In turn, the World Bank and IMF demanded that these states submit to a variety of structural adjustment programmes (SAP), such as privatisation, economic liberalisation and deregulation. With growing numbers of job cuts, declining regulated wage labour, and rising unemployment, the involvement of the different governments with the various ethnic groups reduced further, as the neo-liberal policies of the World Bank and the IMF forced the governments to reduce expenditure on social welfare. The impact of these policies ranged from job cuts, high inflation rates and unemployment to a burgeoning informal sector.

Military dictatorship, especially under Generals Babangida, Abacha and Abubakar, not only stifled opposition, but also introduced favouritism and a double standard in government appointments and the allocation of developmental projects to certain areas. The economic downturn and rising inflation rates made crime and criminal activities rampant. Amid all this, General Babangida annulled the 1993 presidential election, which was believed to have been won by Chief M K O Abiola. This trend, coupled with high levels of delinquency and a lack of equipment and training for law enforcement personnel, engendered situations whereby crime control and community policing were no longer the exclusive preserves of the state as enshrined in the Nigerian Criminal Procedure.

The police were overwhelmed, which led to the formation of ethnic-based agitation and vigilante groups. Examples of these include the notorious *O'Odua Peoples' Congress* (OPC) (in the south-west), and the *Arewa Youth Consultative Forum* (AYCF) (in the north). In the eastern part of Nigeria there is a plethora of groups agitating for one thing or the other on behalf of their people. In this particular region, oil and gas exploration has caused environmental degradation, and institutional responses to the peoples' agitation for improved environmental use has continually fallen on deaf ears. This has led to the development of many organisations agitating for purely parochial interests on behalf of their people. The groups and associations range from the Movement for the Actualisation for the *Sovereign State of Biafra* (MASSOB) to the *Anambra State Vigilante Service*, *Abia State Vigilante Service, Imo State Vigilante Service*, *Niger-Delta Volunteers Force*, *Ogoni Youth, Ijaw Youth, Bakassi Boys, Egbesu Boys, Onitsha Traders Organisation* and *Mambilla Militia Group*, also known as (aka) *Ashana-No-Case-To-Answer*.[9]

These ethnic-based rights defenders and vigilante groups soon became the protectors of society. An unanticipated twist soon emerged in which these groups were accusing the police of complicity with criminals or direct armed robbery, and the deliberate 'leasing' of official uniforms, arms and ammunition to criminals who, in turn, paid the police from the proceeds of their exploits. The police, in turn, have denounced these groups and associations as being masterminds of crime and criminality in Nigeria. To many Nigerians, however, vigilante groups are more effective than the police and, therefore, more trustworthy.

It must be stated that the traditional concept of vigilantes, which exclusively refers to armed voluntary citizen groups created in local communities to assist the police in confronting common criminality and social violence by arresting suspected criminals and delinquents and handing them over to the police, was recognised by the law. The Nigerian law recognises the rights of 'any private person arresting any other person without a warrant…without unnecessary delay to make over the person so arrested to a police officer, or in absence of a police officer …[to] take such person to the nearest police station'. [10]

While the ethnic-based rights defenders focus on socio-cultural, political and economic issues, vigilante groups concentrate on fighting crime and criminality in their various zones and regions. In most cases, no clear boundary separates the two and members of one are often members of the other. Although political and economic repression have been cited as reasons underlying the forming of these associations, the reason behind the forming of vigilante groups also revolves around the establishment of special anti-crime squads by the military governments in the late 1980s and throughout the 1990s. Members of these special squads included the police, soldiers and armed civilians. Initially, the squads demonstrated a willingness to combat crime and criminality, but their increasing cruelty to the people eroded popular respect and faith in them and they thus became unpopular and infamous.

Following the demise of military rule in Nigeria in 1999, these special squads were dismantled without any effort to demilitarise and debrief the civilians who served in them. These men formed the core of today's vigilante groups as well as the ethnically-based rights-defending groups. While the police and other uniformed services that are constitutionally responsible for policing and protecting the state have accused these groups of crime and criminality, the groups have variously accused the police of being allies to criminals and partners in crime. Somewhere in this crossfire of claims and counter-claims, the community, which the two groups claim to be

protecting, has on many occasions been held hostage by them both and endured police brutality.

Dozens of these armed groups routinely perform the functions of the police and sometimes prevent the police from discharging their lawful functions. Without doubt, the activities of these associations and groups are clear usurpations of police functions and in clear negation of the constitutional provisions. [11]

In the eastern part of Nigeria, the *Bakassi Boys*, which began modestly through the activities of some groups of shoemakers at Ariaria market in Aba Town (Abia state), has today evolved into a complex organisation that has a presence in almost all states in eastern Nigeria. At its inception, the *Bakassi Boys* was an organised armed vigilante group that aimed to confront criminals in and around the Ariaria market. As a result of its bravery and sheer bravado, it soon generated an aura of mysticism, as its members were feared for their cruelty to suspected criminals. Nevertheless, it was admired, respected and tolerated for its effectiveness in curbing crime and criminality. Its effectiveness and the popular belief that members have magical power that protect them from bullets made it imperative for Anambra and Imo to 'invite' the *Bakassi Boys* to both states. [12] By 2001, newspaper reports were replete with stories of the inhuman treatment, extrajudicial killings and human rights violations perpetrated by the *Bakassi Boys* in Abia state. In fact, 25 deaths were recorded on 30 October 2001, reportedly the work of the *Bakassi Boys* because of late payment of rent. On 25 January 2002 at *Umuleri* community, 11 suspected armed robbers were summarily executed by the *Bakassi Boys*. As a result of its alleged nefarious activities, the mobile police raided five operations bases of the *Bakassi Boys* and liberated 46 prisoners being held in different cells. [13]

Irrespective of the claims of controlling crime and criminality, the activities of the *Bakassi Boys* (Abia) included arson, kidnapping, extrajudicial killings, looting, unlawful detention and disappearances. The police, and sometimes the communities, are in no doubt that these groups are more of a menace than a partner in curbing crime and criminality or fighting for ethnic goals. In February 2001, for example, Mr Gilbert Okoye, the leader of the Anambra state *Bakassi Boys*, was arrested and questioned by the police over the murder of Ezeodumegwu Okonkwo, the chairperson of the All People's Party (APP), the main opposition party in Anambra state. [14] Like Ezeodumegwu Okonkwo, Odi Okaka Oquosa, an artist and a religious leader, was arrested and tortured by the *Bakassi Boys* in Onitsha on 19 October 2000. His offence was that he had been paying regular visits to the chairperson of the *Bakassi Boys* in Onitsha to persuade him to order his boys to stop the human rights violations they had allegedly committed. He was severely beaten for three

days and eventually released through the intervention of his relatives. [15]

The Civil Liberties Organization (CLO) estimated the number of extrajudicial executions committed by the *Bakassi Boys* in Anambra state at over 2 000 between April 2000 and January 2002. Its report also stated that thousands who had been treated cruelly, inhumanly or in a degrading way or tortured by the *Bakassi Boys* of Anambra state had either lost their lives from injuries sustained or been stigmatised as criminals. Between 4 January and 15 March 2002 alone, an estimated 105 people were extrajudicially executed by the vigilante service in Onitsha and its environs.[16]

In response to these widespread criminal activities, the Anambra state governor, Chinwoke Mbadinoju, imposed a code of conduct on the *Anambra Vigilante Service* (AVS), requiring the group to hand over suspected criminals to the police. However, this was hardly observed. After this, the AVS was alleged to have set up detention camps in Onitsha main market and other locations in the state. In these camps, different degrees of torture and inhuman and degrading treatment were meted out to suspected criminals. Frequently, gruesome decapitations, dismemberments and incinerations of victims were reported.[17] Between 15 and 31 July 2000, witnesses stated that over 30 people were killed and their bodies dismembered with machetes and set ablaze in various locations in and around Onitsha. Eddy Okeke, a religious leader from Nawgu, Anambra state, was reported to have been beaten, kicked, whipped, mutilated and decapitated in the presence of thousands of villagers on 9 November 2000. His hapless body was later doused with petrol and set ablaze. He was allegedly 'found guilty' by the vigilante group of aiding and abetting armed robbers.

On 9 May 2001, the *Bakassi Boys* announced the execution of 36 alleged robbers in Onitsha after having detained and tortured them for weeks in 'Chukin Mansion', the headquarters of the group in Onitsha market.[18] On 9 July 2001, the *Bakassi Boys,* ignoring the police request that the suspect be handed over, drove Okwudili Ndiwe, aka *Derico,* a notorious alleged criminal, to a popular market in Onitsha where his head was severed. On 11 August, eye-witnesses stated that eight people were dismembered and set ablaze in public at Lagos Motor Park, Sokoto Road, Upper Iweka, and other locations near Onitsha. Another 20 people were killed in similar circumstances in Nnewi and Okija between 25 and 30 November 2001.

As noted by the CLO, most of these killings were done with active connivance or collaboration of the federal police and the Anambra State Vigilante Service. In fact, more than 40 bodies were said to have been dumped in the Niger River in the presence of the police.[19] In Imo, one of the states that 'invited' the *Bakassi Boys,* the CLO reported

that on 3 January 2001, the *Bakassi Boys* publicly executed an alleged criminal in front of the St. Paul's Catholic Church, near Owerri main market. The victim was killed with machetes and the body was set ablaze. On the same day, another person was executed and incinerated in Oshishi (wood market) by the *Bakassi Boys* in Owerri.

Also in January 2001, over a dozen suspected criminals met a similar fate at the hands of the *Bakassi Boys* in Owerri. By February, when the Nigerian police raided the bases of the *Bakassi Boys,* 46 members of the group and some suspected criminals held in illegal detention centres were arrested. As noted by the police commissioner, the *Bakassi Boys* created illegal detention camps and were killing innocent people on the streets without proper investigation and were carrying unregistered arms. The arrested members were said to have since been released on bail. On 29 July 2002, *Agence France Press* reported that the *Bakassi Boys* took machetes to four suspected armed robbers along the Owerri-Port Harcourt road. Their bodies were said to have been set ablaze.[20] In another development, on 10 April 2000, V.O. (m), 20 years old, O. Ok. (m), 13 years old, O.O. (m), 32 years old, Ch.b. (m), 19 years old, Ch.Ch (m), 24 years old and Ch.O. (m), 22 years old were reported by Civil Liberty Organization to have been killed in Inland Town, near Onitsha by a combined group of members of the federal police and Anambra State vigilantes; their bodies were later dumped in the River Niger. The real names of the victims are deliberately suppressed for security of their families. The same story was told in all the states in which the Bakassi Boys operated.

The *Mambilla* militia group, a.k.a *Ashana-No-Case-To-Answer* reportedly killed more than 100 Fulani herdsmen in Taraba state between 1 and 12 January 2002. The Fulanis were accused of settling on land that belonged to the *Mambilla.*[21] Another prominent group is the *Movement for the Actualisation of the Sovereign State of Biafra* (MASSOB). The group seeks to revive the secessionist state created in the south-east in 1967 by the Ibo ethnic group and defeated after three years of civil war in 1970. Besides the MASSOB, there is also the *Egbesu Boys of Africa,* founded in the early 1990s to demand the development of the oil-rich Niger Delta region and campaign for the interests of the Ijaw ethnic group. There is also the Movement for the Survival of the Ogoni People (MOSOP), which began its operations in the late 1980s. All these groups are ethnic-specific in their agitations and demands. At some point or other, they have been accused of heinous crime, but their activities were not as violent as those of the *Bakassi Boys* and the *O'Odua People's Congress* (OPC).

In the southwest, the activities of the OPC are akin to those of the *Bakassi Boys.* The group, which was initially founded in 1995 by Dr Frederick Fasheun, was conceived

as a movement to promote Yoruba cultural values and heritage, and to campaign for greater autonomy for the south-western region of Nigeria. Under Fasheun, many educated Yoruba men and women associated with the OPC and the activities of the group were controlled to a point. However, in the prevailing political landscape, especially with the continual incarceration of Chief M K O Abiola, the youths considered Dr Fasheun, an educated man, as too slow and to be pursuing the fight in a traditional Western way. Therefore, the youths, ostensibly acting with youthful exuberance and sheer adventurism, broke way under a barely literate youngster, Ganiyu Adams, and took centre stage. They soon began playing an important role in the fight for the actualisation of the 12 June 1993 electoral mandate of the late Chief M K O Abiola. The group, especially the breakaway faction, soon became known for intra-group fighting, arson, inhuman treatment, extrajudicial killings, and other horrendous activities. The police have repeatedly alleged that the group has been the mastermind of heinous crimes like stealing and armed robbery, and of being behind ethnically motivated killings like the Yoruba-Hausa conflicts in Lagos, Ibadan, Sagamu and so on. Today, OPC is the most prominent ethnic-based vigilante movement in Nigeria. Its trademarks have shifted from the dreams of its founding father to include arson, robbery, extrajudicial killing, torture, and other inhuman and degrading treatments.

On 20 February 2001, two policemen and three members of the OPC were killed in clashes between the police and OPC in Ikotun Egbe in Lagos after the police tried to disperse a gathering of the OPC that was considered illegal. On 10 August 2001, one alleged robber, Saheed

Akanbi, was set ablaze by the OPC in the Agege area of Lagos state.[22] Akanni Arikuyeri was killed and nailed to a wooden cross on 15 August 2001 by the OPC in the Idi-Oro area of Lagos. The alleged offence of this middle-age man was that he had killed several members of the OPC and policemen who had attempted to stop his robberies. In a similar vein, between 1 and 13 January 2002, 36 people were killed in clashes between the OPC and the guards of *Owo*'s palace at Olowo. As a result of these multiple killings, Ganiyu Adams was declared wanted by the police.[23] Over the years members of the OPC and the leaders, Dr Fasheun and Ganiyu Adams, have been arrested and detained ten times for these and many other activities. Only once were they brought to trial.

Table 1 captures in summary the terror-related deaths and destruction perpetrated by the various groups between 1999 and 2005 in Nigeria. The data is based on reports by the *Nigerian Tribune, The Guardian, The Comet, Punch*, the *New Nigeria, The Nation, National Mirror*, and *The Vanguard*. To arrive at the figures, especially where there were inconsistencies, the author used the official figures confirmed by the police and, where applicable, medical personnel.

While the figures in themselves may not adequately represent the true state of matters in Nigeria, they nevertheless, despite being a summary, capture the widespread nature of domestic terrorism in the country. In addition, in efforts to be accurate, the author has had to compare the different figures reported by the different newspapers on the various incidences. In most cases the study has found the figures are sometimes exaggerated and at other times understated. In most government media the figures

Table 1 Groups and causality rate, 1999 to 2005

Group	Region	1999	2000	2001	2002	2003	2004	2005	Total no. of deaths
OPC	South-west	1,800	620	350	420	230	110	105	3 635
Bakassi Boys (Anambra)	South-east	900	820	920	450	620	910	805	5 425
Bakassi Boys (Abia)	South-east	800	900	960	833	800	920	400	5 613
Bakassi Boys (Imo)	South-east	600	680	520	642	350	250	190	3 232
Arewa Youth Consultative Forum	Northern Nigeria	120	700	320	110	125	180	125	1 680
Mambilla	Middle belt	80	210	78	96	102	89	54	709
NDVF	Niger Delta	200	350	500	350	200	180	300	2 080
Ijaw Youths or *Egbesu Boys*	Niger Delta	300	700	560	183	230	120	70	2 163
MASSOB	Eastern Nigeria	50	300	230	180	217	80	122	1 179
Total		4 850	5 280	4 438	3 264	2 874	2 839	2 171	25 716

Source:[24]

re sometimes underplayed, while in the private media they are sometimes exaggerated to catch attention. The author's approach to this problem has been to combine the various figures and find the average. The advantage of doing this is that it allows for the eradication of all exaggerated values, while at the same time reducing the nuisance value associated with underreporting.

In spite of this the figures may not adequately represent the complete picture of domestic terrorism in Nigeria, but rather provide a fairly dependable reflection of the situation. Other issues that the table does not cover include state terrorism, the number of people killed by the police and/or soldiers, as well as the economic worth of property destroyed. The table also ignores religion-related crises, especially that related to the *Sharia* riots in northern Nigeria, as well as the reprisal attacks in other areas. In the same vein, the events have not been itemised for reasons of space and relevance.

With over 25 000 killed in terror-related circumstances over a seven-year period, domestic terrorism in Nigeria deserves more than the ad hoc attention it is currently accorded by the government in Nigeria.

OFFICIAL RESPONSES TO DOMESTIC TERRORISM IN NIGERIA

Evidence abounds to demonstrate that the activities of these groups enjoy tacit or actual endorsement of the state. In fact, some states have increased the profile of these groups by openly endorsing armed vigilante groups, either as the most reliable force in the fight against crime and criminality, or as a critical part in the campaign. Such actions have proven popular among a population often dismayed by the poor police record in curbing crime and criminality. It is must be noted that national and international human rights organisations, the Nigerian press, the Nigerian Bar Association and individuals have alleged that these groups carry out extrajudicial executions, illegal detention and other acts of inhuman treatment for and with the direct support of politicians or political office holders. No government has addressed this!

In so far the nation's constitution empowers only the Nigeria Police Force to perform policing functions, the usurpation of police functions by vigilante groups is an aberration that must not be allowed, regardless of the circumstances. In Anambra, Imo, Abia, Ebonyi, Edo and Enugu states Bills were initiated and passed by state assemblies establishing vigilante services in these states. Consequently, governors in these states have openly supported the establishment, activities and modus operandi of these 'illegal' associations or groups. In August 2001, Governor Lucky Igbinedion of Edo state publicly announced a Bill establishing a vigilante group in the state.

On 10 June 2002, the Ebonyi state governor also publicly announced that he would soon sign into law a Bill establishing the *Bakassi Boys*. The Bill has already been passed by the state assembly. On 25 June 2001, Governor Tinubu of Lagos state announced plans to turn the OPC into the state security service in a ceremony at the commissioning of the statue of Mrs Kudirat Abiola, the slain wife of M K O Abiola. 26 July 2001 witnessed a situation whereby the state released and discharged unconditionally more than 100 OPC members the Nigerian police had accused of criminal activities ranging from armed robbery to arson.

In this atmosphere of tacit and/or explicit official approval of vigilante and ethnic militarism, it is puzzling to note that the federal government still acknowledges the rights of individuals to fair hearing, fair trial and rights to life. The laws in Nigeria recognise the fact that anyone who is deprived of his rights shall have the right to take proceedings before a court, in order that the court may decide without any delay whether such deprivation is lawful or not. As enshrined in all international conventions entered into by the nation, everyone charged with a criminal offence shall have the right to be regarded as innocent until proven guilty by a court of competent jurisdiction. Therefore it is unlawful for any state governor to set in motion machineries for setting up and passing into law a Bill which creates bodies and sponsors groups whose activities are in clear violation of peoples' fundamental rights and the laws of the Federal Republic of Nigeria.

Piqued by the activities of these associations and groups, President Obasanjo sought parliamentary approval on 10 April 2002 to outlaw certain armed groups and associations in Nigeria. Among other things, the Bill seeks to prohibits any

> group of persons, association of individuals or quasi-military group to retain, organise, train, or equip any person or group of persons for the purpose of enabling the group of persons or association of individuals to use or display physical force or coercion in order to promote any political objective or interest; ethnic or cultural interest; social, occupational or religious interest.[25]

A major criticism against the Bill deals with its ambiguous and unclear stance on parallel organizations usurping police functions or any armed organisations allegedly created to curb crime and criminality. The Bill is a good start to controlling and curbing ethnic and vigilante militarism in Nigeria, but it is, nevertheless, silent on which groups or associations qualify for proscription and which not. The establishment and endorsement of vigilante groups by legal statutes on the one hand, and on the other a (federal) law calling for the proscription

of these associations and groups create conflict for law enforcement and foster an environment where crime and terrorism can thrive.

LOCAL AND 'GLOCAL' ACTORS IN DOMESTIC TERRORISM IN NIGERIA

From the above it is clear that domestic terrorism, either by the state against the civil populace or by groups within the state against the government, has increased at an uneven pace. Table 2 aptly portrays the growth and development of groups agitating only for group interests and deploying terror to achieve their goals.

Undoubtedly, the growth and development of the above associations demonstrate a gradual and steady erosion of values. It can be argued that the indigenous groups in the first period originated from cultural affiliation; their acceptance, legitimacy and overall performances originated in the cultural milieus that produced them. The groups of the second period, although not successors to the first, also attained legitimacy and a wide level of acceptance owing, primarily, to the newfound political independence. The third period groups, obviously the most dangerous, owe more to recent state failures, and as such, display all the characteristics

described by the African Union in its definition of terrorism.

While domestic terrorism involving non-state organisations appears to be descending into anarchy, especially with the activities of the various ethnically-based groups that claim to be defending the rights of certain people, the case of state terrorism is no different. As stated earlier, colonial rule routinely deployed terror to achieve socioeconomic and political objectives. Post-colonial African states inherited this rule-by-force approach, which was strongest during the military era. Earlier in Nigeria's history, political assassinations, political trials, ethnic hatred and civil war dominated the landscape and the various governments ruled the country using terror. Each outdid the other, and no one regime was different from any other. During the economic recession in the 1980s, government policies, particularly those of Generals Babangida and Abacha, were implemented through state terrorism aimed at forcing unpopular policies on the citizens. Scores of people were summarily tried, jailed or executed for agitating for a better life for their people. The *Newswatch* editor, Mr Dele Giwa, met his untimely death via a parcel bomb. Many other civilians were sent to prison under one guise or the other. State repression soon developed a culture

Table 2 Domestic terror landscape in Nigeria through time

Groups	Period	Aims and objectives	Modus operandi	Remarks
Ndinche, Modewa, Aguren, Eso, Akoda, Ilari, etc.	To 1860	Community policing, development works and general purposes.	Communal efforts with the people. Non-defiant group, as members represented their families in the overall state administration.	Non-terrorist. Non-defiant group, as members represented their families in the overall state administration.
Calabar Improvement League, Owerri Divisional Union, Igbira Progressive Union, Urhobo Renascent Convention, Naze Family Meeting, Ngwa Clan Union, Ijo Rivers People's League, Ijo Tribe Union, etc	1861 to 1967	Community development, regrouping centres, identity groups and first set of political parties in Nigeria.	Competitive communal efforts, first in diasporas, later transferred home.	Non-terrorist, but deviant groups existed like the Awopa, Ogboni, etc. Defiants used cover of darkness and were unsophisticated in their approaches.
O'Odua Peoples' Congress, Arewa Youth Consultative Forum, Movement for the Actualisation for the Sovereign State of Biafra, Anambra State Vigilante Service, Abia State Vigilante Service, Imo State Vigilante Service, Niger Delta Volunteers Force, Ogoni Youth, Ijaw Youth, Bakassi Boys, Egbesu Boys, Onitsha Traders Organisation, Mambilla Militia Group, aka Ashana-No-Case-To-Answer, etc.	1980 to present	Vigilante services only. More talk about fighting for group interests and objectives, but more often they unleash mayhem even against the people they claim to be defending.	Arson, looting, extrajudicial killings, pipeline vandalisation, hostage taking, reprisal killings, etc.	They qualify as terrorist groups.

of violence among the people and state-civil relations assumed a tone of mutual suspicion and distrust. In that kind of environment, legitimacy and acceptability ranked low in the government's estimation. Changes of government were made either through *coups d'état* or rigged elections, in which only the deployment of terror could assure success and bestow 'legitimacy'; the more terror was used on the people, the more 'acceptable and legal' the hold of government. Under General Abacha, state terror reached new heights. Voices of opposition were either killed or silenced. Nigerians left the country in droves and the nation soon attained pariah status.

The return to civil rule in 1999 opened up new opportunities for Nigerians. Among other things, it opened up the opportunity for constructive engagement between the various groups, the state and the civil populace. However, there is evidence to suggest that the civilian government of Olusegun Obasanjo, instead of engaging the populace in constructive debate, has continued the rule-by-force style and increased the use of terror by deploying soldiers to attack unarmed civilians in Odi, Jesse and other parts of the country. This government stance, especially on issues of resource control and true federalism, has spawned a new, hitherto unanticipated, development in civil responses to state terrorism.

Now broad-based alliances have been formed between the former ethnic militia groups and clandestine organisations inside and outside the country. These clandestine organisations outside the country are described in this paper as 'glocal' groups. Conditions that can encourage domestic terrorists to become 'glocal' terrorists include the rare opportunity to extort natural resources, donations from diasporas, and financial assistance from hostile governments. Klare, cited by Paul Collier and Anke Hoffman, provides a good discussion of natural resource extortion, such as diamonds in West Africa, timber in Cambodia, and cocaine in Colombia.[26] Where natural resources are the core factor in a nation's GDP, access to and control of such resources by domestic terrorists will provide support for such groups, giving them the opportunity to avail them the resources to contest government's monopoly of violence and to finance other terrorist activities. However, if natural resources are sufficiently abundant, such as crude oil as in the case of Nigeria or Saudi Arabia, government may be well-financed as to be able to control armed rebellion relating competition over scarce resources. Further, primary commodities are also associated with other characteristics that may foster rebellion, such as poor public service provision, corruption and economic mismanagement. Therefore, the risk of an increase in conflict may arise as a result of rebels responding to such instances of poor governance rather than to financial opportunities.

A second external factor is financing and support from diasporas. As the example of the Tamil Tigers with a diasporic community in North America illustrates, the extent and type of support rebel groups enjoy from their diasporas is exogenous to rebel activities. Support from diasporas may come in different forms: money to support activities at home, supplying materials, organising training for members, and so on. In Nigeria, there is evidence that many of the groups canvassing for group rights have enjoyed tremendous support from kin outside Nigeria. In the case of the Maitasine Riots in the north, Sudanese and Libyans contributed resources and trained many Nigerians in and outside the country prior to the mayhem. In the same vein, evidence links the post-11 September terrorist attack demonstration in the northern part of the country with groups in the Middle East. Currently, many youths in the Niger Delta area are recruited every day for training in Cameroon, Equatorial Guinea, and so on. This level of support comes not only from the diasporas, but also from sympathetic groups and governments all over the world.

A third source of external support is hostile governments. While it can be said that the Cold War is over, one cannot say that its legacies have been completely destroyed. For example, the government of the former Southern Rhodesia fully supported the RENAMO rebellion in Mozambique. Just as the USSR and the US supported opposing countries during the Cold War, the willingness of today's foreign governments to finance terror activities against incumbent governments in other parts of the world comes from that Cold War legacy.

Although there is considerable debate around the poverty-terror theory, it remains indisputable that the low cost of recruiting rebels relates to the income forgone by these men. Rebellions often occur when foregone income is unusually low. If one takes the Russian civil war as a good example, the Reds and Whites, both rebel armies, had four million desertions (the obverse of the recruitment problem) and this occurred mostly in the summer. The implication here is that the recruits, being peasant farmers, considered the income foregone as much higher at harvest time than at planting.

Hence, three factors explain the nexus between poverty and terrorism: mean income per capita, male secondary schooling, and the growth rate of the economy. It is, however, also true that low per capita income, especially in the face of unequal wealth distribution and no opportunity, can foster apathy. Poverty amid plenty has created pockets of disaffection, especially among youths who regard the political class as not only corrupt, but also closing all opportunities for their advancement. The second factor is low secondary school enrolment among males – the group from whom rebels recruit. Generally, a lack of opportunity

for advancement coupled with low educational development facilitates recruitment into terror networks. The third issue is the growth rate of the economy: the lower the rate of growth, the higher the probability of unconstitutional political change. Taken together, the three issues contribute to the foregoing of an unusually low income. Therefore, low income can also be interpreted as an objective economic grievance able to foster terrorism.

Another, often neglected fact is that conflict-specific capital (such as military equipment) is unusually cheap. The accumulation of weapon stocks, skills and organisational capital gradually depreciates under good government and appreciates in an environment of conflict. Protracted conflicts have wreaked havoc in most countries in the West African subregion, hence weapon stocks, skills and organisational capital are not lacking in the subregion. The easy procurement of these vital tools facilitates terrorism anywhere in the subregion.

Another dimension is the poor military capability of a weak government. Armed robbers and insurgents in the Niger Delta have shown up the lack of military preparedness of the Nigerian military. Obsolete weapons have filled the government arsenals while rebels and robbers have paraded with sophisticated military hardware. Another unambiguous indicator is the terrain in the Niger Delta. Just as forests and mountains provide rebels in northern Nigeria with a safe haven, the creeks and waterways of the Niger Delta provide a safe haven for insurgents there.

In a recent newspaper interview, the leader of the Niger Delta Volunteers Force, Alhaji Asari Dokubo, hinted at linkages between his organisation and others in South Africa and Equatorial Guinea. His contacts with these organisations helped him to defray the debt incurred in procuring arms for his men, as well as facilitated the continual coordination of his group while he was in detention in Abuja. He claimed to have maintained regular and unfettered contacts with these groups and paid a massive 137 million naira for arms while in custody.[27] He purchased a facility in South Africa during the Earth Summit and, when he was detained in Abuja and the cost of procuring arms for his group reached an astronomical figure, he used his links in South Africa to dispose of the facility and the proceeds to reorganise his group and procure arms.

There is also a new dimension that involves state interference. Instead of addressing the fundamental causes of the problem, the state in Nigeria is now playing one group against the other. According to Dokubo, Jomo Gbomo, who earlier in the year had invited the international TV broadcaster CNN to witness the failure of the Nigerian state to provide security to its people and friends, was actually a tool of some government officials who were using him to try to destroy the Niger Delta Volunteers

Force. Similar situations have been reported in Oyo, Osun and Anambra states.

If Nigeria's experience in peacekeeping operations in Liberia and Sierra Leone is anything to go by, playing one group against the other only increases terrorism. In fact, one factor that transforms global terrorism into 'glocal' terrorism is the need of groups to outwit each other. The current trend reveals that domestic terrorism is gradually feeding into existing transnational terrorist networks. From the *Maitasine Riots* to the numerous cases recorded in the southwest, Niger Delta and the Middle Belt, it has become clearer that nationals from different countries are now participating in and transforming the face of domestic terrorism.

The globalisation of terrorism presents a dichotomous and asymmetric view of the 'global' and the 'local'. The global expansion of terror and gradual erosion of spatial constraints creates a new space which is slowly replacing the earlier conception of domestic terrorism as an expression of ethnic nationalism. The local, that is ethnic nationalism or domestic terrorism, is gradually losing its usefulness and adjusting to global imperatives. The global is becoming more efficient, whole, powerful and transformative in relation to the local, which has become deficient, fragmented, weak and vulnerable. Viewed in this way, the global is a force, while the local is its field of play.

There is also a power differential embedded in the global-local binary, in which the global is the superior power and the local is subjugated and relatively powerless. This presents a worrying development: the local content of domestic terrorism could yield place to the entrenchment of global terrorism in Nigeria. However, it must be emphasised that both the local and the global are mutually constituted. This realisation that global phenomena are simultaneously local and involve processes of both globalisation and localisation has given rise to the 'glocal' and the 'glocalisation' of terrorism. It must be understood that global terrorist networks emerge from local realities and are embedded in particular situations. They are shaped by situation-specific cultures, experiences and configurations of social relations. Furthermore, former ethnic militia groups may engage in transnational networks to pursue local goals, as much as to fight against global ideologies. Likewise, the strategies of social movements to defend local cultures and practices may include an alignment with transnational networks, or glocalisation, that enables them to produce the local by enacting a politics of the global.

As Figure 1 shows, local terrorism in Nigeria, which originally arose from discontent among different groups with the state, now feeds transnational terrorism, while transnational terrorism, in turn, feeds local terrorism. This may involve diasporas sending money and/or arms, leveraging ideological support for the groups through

demonstrations, solidarity messages, and so on. All these have the potential of validating a group's grievances and serve as needed resources to develop inner dynamics that may not only motivate the group, but also ensure a ready supply of recruits.

When grievances are left unattended by the state and state terrorism increases, the chances are that the anger of the groups also will increase. When this happens, groups tend to operate outside their immediate territory, especially when state terrorism aims at fighting groups at their geographical bases. The emerging scenario encourages groups to outsource resources, not only to ensure their survival, but also to gain superior tactics or weaponry. When domestic terrorist groups outsource funding, arms and training, it invariably increases the chances of involvement with pre-existing transnational terrorist cells, and, in turn, feeding these cells with recruits, who later return home to train the local group.

Invariably, the more a state adopts terror as a weapon to counter terrorism, the more local terrorist groups seek to outdo the state in the use of terror. The more local groups seek to increase their terror potentials, the more they interact with transnational terrorist networks.

Figure I Domestic and transnational terrorism

Local or domestic terrorism

The local in the global (Glocal terrorism)

Trans-national or global terrorism

← Domestic terrorism's reaching out.

◄--- Transnational terrorism's reaching out.

▨ Domestic terrorism.

☐ Domestic and transnational terrorism.

▨ Transnational terrorism.
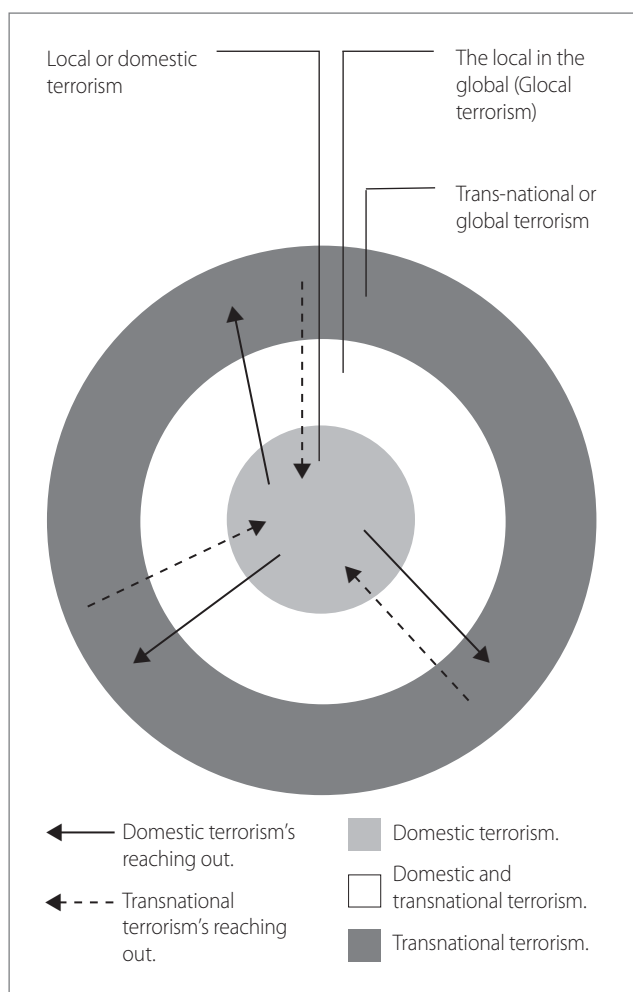
Following this model, domestic terrorism in Nigeria undoubtedly possesses the internal dynamics which enable it to increase its terror potentials and enter the existing transnational terrorist network. Can the government of Nigeria forestall the transformation of 'glocal' to global terrorism? Any student of history would doubt the ability of any Nigerian government to avert a 11 September 2001 type of terrorist attack in Nigeria. The current response regime to domestic terrorism is ad hoc and will remain so unless Nigeria's government demonstrates a better understanding of the problem of terrorism in its country.

Agitation for an improved quality of life in the Niger Delta region and against its population's suppression and marginalisation by the Nigerian state and transnational oil companies reached a fevered state when Isaac Adaka Boro, a young undergraduate Major in the Nigerian Army, led a 12-day revolution in 1966. Ever since, the Niger Delta issue has never lacked militant leaders. The Nigerian government's response to the environmental, socioeconomic and political neglect of this area has been grossly insufficient. By the time of Kenule Beeson Saro-Wiwa, it had become a matter of life or death for the Niger Delta people.

Today, numerous key actors, each with their own well-armed groups, prowl the area. The recent spate of kidnappings, hostage takings and deaths made the 'local-glocal' factor in the analysis more pressing. Local groups in the area now feed into larger, sometimes, global networks. Just as it took a protracted period of repeated injustices by the Nigerian state to create this anarchic situation in the Niger Delta, it will require concerted positive efforts to redress the situation. One fears that, given the Nigerian government's antics since independence, the kind of positive action that could prevent local militia groups from colluding with global terrorist networks may be lacking and the nation may be heading towards a repeat of the 1966 and 1970 episodes in the eastern part of the country. However, one doubts that the government could match the force of groups in the Niger Delta, as militia groups in that area appear better prepared than the Nigerian state for any eruption of hostilities. The present trend in Nigeria suggests that it may already be in the abyss of global terrorism. Undoubtedly, ethnic militarism in Nigeria has deployed terror to achieve group goals and objectives. The key challenge facing the Nigerian state is the absence of strong institutions capable of addressing the phenomenon of terrorism through political and economic empowerment, social justice, development, creative institutional designs and capacity building. These values, if they could be instituted in earnest, would undermine the root causes of terrorism, and guarantee stability and security in the long term.

NOTES

1   Ted Robert Gurr, *Why men rebel,* Princeton, CA; Princeton University Press, 1970, 11.

2   Chris Cook, *A dictionary of historical terms,* 3rd ed, Basingstoke, England: Anthony Rowe Ltd, 1998, 346.

3   Organisation of African Unity, *OAU Convention on the Prevention and Combating of Terrorism*, OAU: Ethiopia, Addis Abba, 1999.

4   My use of 'parochial' here should be taken with caution. It is used without its pejorative meaning; hence readers should beware.

5   J S Coleman, *Nationalism and Development in Africa: Selected essay*, USA, California: University of California Press, 2001, 15.

6   Secret societies are societies whose members, objectives, and modus operandi are closed to non-initiates and members are placed under oath not to disclose not only membership but also other organisational identity and functions. Many such associations, clubs, bodies and cults abound in Nigeria.

7   B. A. Oyeniyi, Problems of inter-group relations in Nigeria: Origin and causes of Ife-Modakeke conflict, in O Akinwumi, O O Okpeh and J Gwamna (eds), *Inter-group relations in Nigeria during the 19th and 20th centuries,* Markudi, Nigeria: Aboki Publishers, 2006, 711–735.

8   Ibid.

9   Amnesty International, Nigeria: Vigilante violence in the south and southeast in *Amnesty International Index*: AFR 44/014/2002, New York, USA: United Nation's Publication, 2002.

10 Federal Government of Nigeria, *Nigerian Criminal Procedure Act, 1999,* (Act 17 of 1999), section 14(1).

11 Federal Government of Nigeria, *The Constitution of the Federal Republic of Nigeria 1999* (Act II of 1999), article 214 (1): Establishment of [the] Nigeria Police Force: 'There shall be a Police force for Nigeria, which shall be known as the Nigeria Police Force, and subject to the provisions of this section, no other force shall be established for the Federation or any part thereof. All police units, including members of Special Forces, such as the Mobile Police, report to the Inspector General of the Nigerian Police Force, whose headquarters are in Abuja.'

12 For further information on the Bakassi Boys, see Human Rights Watch, The Bakassi Boys: The legitimation of murder and torture, New York, USA: United Nation's Publication, 2002.

13 Oral Interview with detainees, March 2nd, 2002.

14 Amnesty International, Nigeria: Vigilante violence in the south and southeast in *Amnesty International Index*: AFR 44/014/2002, New York, USA: United Nation's Publication, 2001.

15 Ibid, (New York, USA: Amnesty International), 2001.

16 Ibid, (New York, USA: Amnesty International), 2001

17 Ibid, (New York, USA: Amnesty International), 2001

18 Agence France Presse, *Des miliciens volontaires Nigérians exécutent 36 voleurs presumes*, 30 May 2001.

19 On 10 April 2002, an Amnesty International delegation witnessed members of the Anambra State Vigilante Service (AVS) trying to set alight a man inside the compound of the Government House of Anambra state, some 100 metres away from the state governor's own office. The armed men were surrounding a man, apparently some 50 years of age. The man was on his knees, his arms tied behind his back and his face disfigured by recent beatings. He was bleeding profusely. Members of the vigilante service were shouting at the man, apparently insulting him. Then one of them poured petrol over the man's body with the clear intention of setting him on fire. When they realised that strangers were watching the scene, they bundled their victim into a van, loaded the vehicle with machetes and guns, and drove away. The government of Anambra state refused to give an explanation for the incident and inform Amnesty International about the identity of the suspect and the treatment he received from the vigilante group after this incident.

20 Agence France Press, Vigilantes kill four suspected robbers in Nigeria, 31 July 2002.

21 Isiaku Rabiu, Mambilla Kill Hundreds in Taraba, *Post Express*, 29 September 2001, 7, 8 and 9.

22 Detention by vigilance groups illegal, say police, *The Guardian* (Nigeria), 10 February 2001, 2 & 5.

23 Reports of reprisal killings must be investigated, *Amnesty International Index*: AFR 22/006/2001, New York, USA: United Nation's Publication, 2001.

24 The data from which this table was generated was collated from news reports as published by *The Nigerian Tribune, The Guardian, The Comet, Punch, The New Nigeria, The Nation, National Mirror,* and *The Vanguard* between 1999 and 2005.

25 The Prohibition of Certain Associations Bill, 2002.

26 Paul Collier and Anke Hoffman, *Understanding Civil War,* New York: World Bank, 2006, 14.

27 Asari explodes: I paid N137 million for arms while in custody, 27 October –2 November 2007, *News Star*.

The politics of combating domestic terrorism in Nigeria

Olajide O. Akanji

INTRODUCTION

While terrorism was not a major issue in the past, its present-day widespread use has generated unprecedented efforts to understand it. The terrorist acts of 11 September 2001 transformed the general global attitude towards terrorism, and were a major factor in causing both local and international communities to agree about the need to address it. Terrorism is now an international security issue which has united the United States and its partners across Europe, Africa and Asia in mobilising their resources to combat it. However, together with the attention focused on international terrorism, experts have also begun to consider terrorist activities at the domestic level. This has resulted from the realisation that domestic terrorism is not only pervasive, but is also as dangerous and devastating as international terrorism.

Africa has had its share of terrorism and is still under serious and persistent threats from both within and outside its borders. Certain countries on the continent, such as Libya, Sudan, and Algeria, are considered terrorist havens owing to their long history of 'harbouring' and 'encouraging' groups whose activities fall within the domain of terrorism.[1] Other countries, such as Kenya, Tanzania, Uganda and Nigeria, are not essentially terrorist havens, but have been and still are very susceptible to terrorism. Internal and external factors make Nigeria both prone to domestic terrorism and a haven for its perpetrators.

Nigeria's political history is replete with acts of terror perpetrated by individuals, groups and organisations that are either indigenous or foreign to the country. European colonial activities among the different groups now constituting Nigeria set the stage for protracted ethnic and subethnic conflicts, political violence, sectarian violence and a series of intermittent violent agitations. There are two main epicentres of terror activities in Nigeria: the Niger Delta area of southern Nigeria and the whole of northern Nigeria.

These two areas are diametrically opposed in many ways. They share nothing in common in ethnographical composition, religious inclination, historical and cultural background or natural resource endowment. However, the one issue they have in common is a history of violent conflict. The violence in the oil-rich Niger Delta is essentially aimed at intimidating the Nigerian government into addressing what is considered the state-orchestrated marginalisation and repression of the interests of the people of that region. The terror in that area includes regular petroleum pipeline vandalisation, hostage taking and kidnapping of local and foreign oil workers, as well as relatives of former and serving government officials, and the creation of an environment of fear and general insecurity. Since 1999 there has been a revival and resurgence of radical Islam under the cover of *Sharia*, which has resulted in the emergence of a Taliban-styled group in the north of the country.

It is imperative, however, to delineate clearly between the periods when activism in the Niger Delta area could be considered legitimate and when it changed into terrorist activities. Similarly, the introduction of a *Sharia* legal system in some states in northern Nigeria is not to be construed as a terrorist act, but rather as a platform on which terror activities are perpetrated by some religious fundamentalists. In view of the danger these activities hold for the Nigerian state, successive Nigerian governments have adopted different counter-terrorism strategies. This paper is an interrogation and examination of how the Nigerian state has responded politically to terrorist activities within its boundaries since the first strains of such activities were noticed.

The paper is divided into four interrelated parts. The first section deals with the conceptual crisis created by the phenomenon of terrorism and attempts to provide a

conceptual framework on which the analysis carried out in the paper will be based. Following this are two sections addressing the nature of activities that are considered domestic terrorism in Nigeria. In this category, both the activities of the Niger Delta militants and the religious fundamentalist movements in northern Nigeria are examined. The last section analyses Nigeria's responses to these terrorist attacks.

DOMESTIC TERRORISM: A FRAMEWORK OF ANALYSIS

The term 'terrorism' does not lend itself to easy and universal definition. More than anything else the conceptual crisis surrounding the phenomenon has necessitated a rigorous multifaceted analysis by scholars. Often the word 'terrorism' is used without giving any serious thought to its actual meaning. A web of activities is used to denote terrorism. These include assassinations, kidnapping, hostage taking, bombing and any acts that intimidate or coerce the state into a particular course of action. According to Makinda, the meaning of terrorism has historical associations, and the activities it describes may stem from political, religious, social, cultural, economic or environmental factors.[2] Botha refers to terrorism as 'violent acts against a civilian population by state and non-state actors'.[3] Botha quotes Ganor's definition of terrorism as 'the intentional use of, or threat to use, violence against civilians or against civilian targets, in order to attain political aims'.[4] In Kegley's view, 'terrorism is a strategy consciously perpetrated to outrage the sensibilities of others.'[5] According to Jenkins, terrorism can be described as 'violence or threat of violence calculated to create an atmosphere of fear and alarm –in a word, to terrorise –and thereby bring about some social or political change'.[6]

The United Nations has several resolutions relating to terrorism. For example, the UN Security Council Resolution 1373 (2001) declares that activities of terrorism involve 'acts, methods, and practices of terrorism which are contrary to the purposes and principles of the United Nations'. The UN Security Council Resolution 1566 (2004), however defines terrorism as

> criminal acts, including against civilians, committed with the intent to cause death or serious bodily injury, or taking of hostages, with the purpose to provoke a state of terror in the general public or in a group of persons or particular persons, intimidate a population or compel a government or an international organisation to do or to abstain from doing any act.

Other attempts to define or explain the concept include the definition of the term by the Convention for the Creation of an International Criminal Court 1937, which sees terrorism

as 'criminal acts directed against a state and intended to or calculated to create a state of terror in the minds of particular persons, or a group of persons or the general public'. The United States National Security Strategy also attempts a definition of terrorism by describing it as 'premeditated politically motivated violence against innocents'.[7] The US Department of Defense considers terrorism as the 'calculated use of unlawful violence to inculcate fears, intended to coerce or intimidate governments or societies in pursuit of goals that are generally political, religious, or ideological'.[8]

The difficulty in defining terrorism has led to the cliché that one man's terrorist is another man's freedom fighter. According to Jenkins, this phrase implies that there can be no objective definition of terrorism.[9] Attempts to resolve the difficulty have also resulted in the unbundling of the phenomenon into four categories on the basis of the nature and targets of the acts. The four categories are

- domestic terrorism (terrorism involving the nationals of only one state)
- international terrorism (terrorism conducted by people controlled by a sovereign state)
- transnational terrorism (terrorism practised by autonomous non-state actors, but not necessarily with the support of sympathetic states)
- state terrorism (terrorism practised by a state within its own borders, such as the genocide performed by Nazi Germany)[10]

Botha's categorisation of terrorism differs slightly from the above as it identifies only two broad categories: domestic terrorism (both state and domestic terrorism acts confined to national boundaries which does not include targets or agents from abroad); and international or transnational terrorism (terrorism involving acts that are instigated by a state party with clear international consequences).

Domestic terrorism as conceptualised in this paper refers to acts of terror committed within the boundaries of a sovereign state against civilians, the government, and public and private properties in a bid to coerce or intimidate the government and people of that state. The strength of this approach is the fact that it does not regard all acts of violence within a state as domestic terrorism, but rather only calculated acts of violence targeted at individuals or the state which result in a flagrant violation of individual or collective rights and humanitarian law, and create an atmosphere of fear and panic. This approach, however, presents two problems: its silence regarding what constitutes terrorist acts and who the perpetrators are.

It is, however, easy to address the former because it is accepted by the AU Convention on the Prevention and Combating of Terrorism that an act of terror is any act to intimidate, put in fear, force, coerce or induce any

government, body, institution, the general public or any segment thereof, to do or abstain from doing any act, or to adopt or abandon a particular standpoint or to act according to certain principles; or disrupt any public service, the delivery of any essential service to the public or create a public emergency; or any promotion, sponsoring, contribution to, command, aid, incitement, encouragement, attempt, threats, conspiracy, organising, or procurement of any person, with the intent to commit any act referred to in paragraph (a) (i-iii).[11]

This paper extends the above definition of terrorist acts to any act which has the capacity to intimidate, coerce or create panic in individuals, groups, communities or governments as constituting terrorist acts. Such acts would then include, but not be limited to, *coups d'etat*, unconstitutional annulments of democratic elections, pipeline vandalism, politically motivated kidnappings, hostage taking, attacks on strategic oil installations, bombing/destruction of public utilities, premeditated attacks on political office holders and their relatives, attacks on military and police personnel, or the threats of any of the above.

Attempts to define terrorists will pose many difficulties in view of the nature of Nigeria's political landscape. This is due to the fact that, apart from private groups that commit terrorist acts, the Nigerian state, through its security operatives and the machinery of government, can also be said to perpetrate acts of terror against the Nigerian people. The Nigerian state, particularly during the long years of military rule and even during colonial and post-independence civilian administrations, carried out terrorist activities against Nigerian civilians. The killing of female civilians by security operatives of the colonial government during the popular Aba Women's Protest of 1929 was one of the numerous acts of terror perpetrated by the colonial government. In the same vein, the use of a parcel bomb to kill Dele Giwa during the regime of General Badamosi Babangida in the late 1980s was an act of terror allegedly committed by the government of Babangida to coerce and silence opposition. Likewise, the five-year rule of the late General Sanni Abacha can aptly be described as a reign of terror. During his term from 1993 to 1998, Nigerians were constantly threatened by the military government. Political assassinations included those of Sir Alfred Rilwane and Alhaja Kudirate Abiola, wife of the presumed winner of the annulled 12 June 1993 election, the Ogoni human rights activist Ken Saro-Wiwa and many unarmed civilians, as well as the attempted assassinations of Chief Felix Ibru and Pa Abraham Adesanya. There was also a general crackdown on members of the opposition, including the National Democratic Coalition (NADECO), human rights groups like the Committee for the Defense of Human Rights (CDHR), student unions and labour unions.

Some Nigerians have responded to state terrorism by employing terrorist acts against the Nigerian state.

In the Niger Delta, groups have emerged to try to force the Nigerian state to correct the perceived injustices of political marginalisation, economic disempowerment and environmental degradation caused by the oil drilling of multinational companies. However, terrorist activities in the north, which are exemplified in the activities of religious fundamentalists such as the 'Nigerian Taliban' and the Maitatsine, should not be seen as reciprocal responses to state terrorism, although the working framework of this analysis nonetheless covers these activities. In Nigeria both the state and certain individuals or groups engage in domestic terrorism.

TERRORISM IN THE NIGER DELTA

The Niger Delta occupies a strategic place in the politico-economic history of Nigeria. First, the area is the economic lifeline of the Nigerian state, producing the crude oil on which Nigeria's economy has rested since the 1960s. Second, the area has become a globally recognised hotbed of violence and militancy. This may be explained by the fact that, in spite of producing the bulk of the nation's wealth, the area is largely undeveloped, and suffers from a history of state neglect and myriad environmental problems. Incessant oil spillages and gas flaring continue to threaten the traditional economic activities of fishing and farming and have deprived the inhabitants of their main sources of livelihood. This has driven the people of the Niger Delta area to militant agitation for fair treatment from both the Nigerian state and the multinational oil companies operating in the area. While the agitations in the area have recently assumed frightening dimensions, it is pertinent to note that the idea of summarily regarding the Niger Delta crisis as terrorism amounts to ignorance of historical facts. It is imperative first to determine when agitations in the area could have been considered legitimate and then when, how and why they became acts of terrorism.

Historically speaking, the Niger Delta crisis dates back to the colonial history of the people of the area. In the 19th century, the British imperial government began a system of state repression against the people of the area with the forceful removal from power of some of the traditional rulers. The likes of King Jaja of Opobo, Nana Olomu of Itsekiri and William Dappa Pepple of Bonny were dethroned because they opposed attempts by the British to subjugate their people. The colonial history of the area was also marred by popular agitations for internal self-determination from 1957 to 1958. One example was the demand for the formation of the Calabar-Ogoja River state by the of Niger Deltan minority in then eastern Nigeria, who feared domination by the Hausa-Fulani, Yoruba and Ibo ethnic nationalities. Although this demand was not granted, it ushered in a new era of popular political

agitation. The Niger Delta slipped into political brigandage and activism as oppression and marginalisation by the dominant ethnic groups, who held the reins of government, were realised sooner than expected. During the twilight of colonialism in Nigeria, the British colonial government gradually disengaged. Self-government was introduced and three autonomous regions were created between 1947 and 1954. This period saw the introduction of revenue-sharing arrangements, particularly in the 1951 McPherson Constitution. The arrangement was fully consolidated under the 1954 Lyttleton Constitution, in which regions were allowed to manage their own resources and fiscal federalism commenced. At independence, in 1960, the Nigerian state continued with the colonial federal fiscal policy, which was partly based on the principle of deriva-tion. The 1963 Republican Constitution also gave content to the federal fiscal policy by codifying the revenue-sharing formula based on the principles of derivation, distributable pools and independent revenue.

However, the military incursion into the body polity of Nigeria and its dictatorial style of government reversed the arrangement, which had not generated any serious crisis since its institution because each region had control over its own resources and contributed only a specific quota to the federal purse which was used by the central (federal) government. Each region had the time to concentrate its attention on developing its own economic resources. The northern region was known chiefly for groundnut and cotton production, the western region for cocoa production and the eastern region, which, until 1967, comprised the Ibo and numerous ethnic groups of the Niger Delta, was noted for palm oil and timber production.

The military decree, Decree 13 of 1969, changed the fiscal policy from one of derivation to one of central control. The change of fiscal policy was considered a targeted attack on the Niger Delta, which had just become the economic hotbed of the Nigerian state owing to the discovery, in commercial quantity, of crude oil in the area around 1957 and 1958. The change in fiscal policy by the government has over the years attracted much debate. Supporters of the idea have argued that the change was necessary and informed by the civil war raging between the federal government and the eastern regional govern-ment. The opponents have argued that the government should have reverted back to the old fiscal system after the end of the civil war in 1970. This school has also contended that the state changed the fiscal policy because of the discovery of crude oil to ensure that the region did not surpass the other regions, particularly the northern region, in economic and social development.

The perceived injustice of the fiscal policy change was further exacerbated by the tight fiscal control developed and maintained by the federal government, which sidelined the other two tiers of government (state and local governments), and the environmental degradation caused by oil exploration in the area. Several efforts made by the Niger Deltans to convince successive governments and multinational oil companies of the negative economic and environmental implications of oil explorations in the area were ignored. Thus, opposition to the activities of oil companies and their Nigerian cronies kept mounting all through the 1970s and on into the 1990s.

During this period, agitation by the people of the Niger Delta was legitimate and a lawful reaction to government neglect and marginalisation. Agitation can be traced to 2 February 1966, when the late Isaac Adaka Borro, Samuel Owonaru and others declared the independence of the Republic of the Niger Delta. The movements that were subsequently formed cannot be classified as terrorist. The *Movement for the Survival of Ogoni People* (MOSOP) was formed in August 1990 and issued a proclamation which became known as the Ogoni Bill of Rights (OBR) and which sought the fair distribution of the economic resources and the right of the Ogoni people to control the Ogoniland environment. Another group, the *Movement for the Survival of the Izon Ethnic Nationality* (MOSIEND), was formed in 1999 and also sought control of natural resources in the Niger Delta. Similarly, the *Ijaw Youth Council* (IYC), an umbrella body for all the clans of the Ijaw nation, issued the Kaiama Declaration of 1998. This is perhaps the strongest statement seeking resource control in the Niger Delta. Despite its seemingly confrontational strategies (which included *Operation Climate Change*, *Operation Lunch*, *Operation Reach Out* and *Operation Warfare*), the Kaiama Declaration was justified because it was only a reaction to years of state oppression. Some examples of this oppression include the Babaginda regime's destruction of the Umuechem community, an oil-producing community in the Niger Delta, in October 1989; the Abacha regime's execution of Ken Saro-Wiwa in 1995; the Obasanjo ad-ministration's destruction of the Odi community through a military operation in 2000; the area's pervasive poverty, unemployment, political marginalisation, absence of social safety nets and the deadly environmental implications of oil spillages and gas flaring. It was ultimately the Nigerian state's failure to initiate constructive dialogue and measures that addressed the plight of the Niger Delta peoples that drove opposition groups to resort to terrorism against an unresponsive Nigerian state.

Since the 1995 execution of Ken Saro-Wiwa onwards, there have been several incidences of calculated and premeditated attacks on public properties in the area. Acts of terror such as oil pipeline vandalisation, bombings and attacks on oil installations, kidnapping and hostage taking of foreign oil workers, and kidnapping of relatives of government functionaries have become rampant. These

activities are masterminded and perpetrated by groups indigenous to the area, such as the *Movement for the Emancipation of Niger Delta* (MEND), the *Niger Delta Peoples' Volunteer Force* (NDPVF), *Niger Delta Vigilantes* (NDV) under Ateke Tom, the *Coalition for Militant Action in the Niger Delta* (COMA), the *Martyr's Brigade*, the *Federated Niger Delta Ijaw Communities* (FNDIC) and some other faceless groups. On 27 September 2004, one of these groups, the NDPVF under Alhaji Asari Dokubo, declared an 'all out war' against the Nigerian government.[12] In 2006, another group, MEND under Jomo Gbomo, also declared a total war on all foreign oil companies and their employees in the Niger Delta. From 2006 onwards, terror activities in the area have become more intense and widespread. Cases of hostage taking and deadly armed clashes with state security forces have become a regular occurrence. For example, in January 2006, Shell Petroleum's offshore EA field was attacked and its pipeline was blown up. In November 2007, a bloody clash was reported between the Nigerian navy and militants, with casualties on both sides. At least 100 foreign and local oil workers and relatives of state government functionaries have been kidnapped. The increase in terrorism may be due to possible links between local militias and international terrorist groups such as the *Al Qaeda* and the *Taliban* movements. There are allegations that these international terrorist groups are providing funds, arms and ammunition to the local 'terrorists'. The recent revelation by the leader of the NDPVF, Alhaji Asari Dokubo, of cooperation with organisations in Equatorial Guinea and South Africa to procure arms indicates the involvement of external (terrorist) groups in the Niger Delta crisis.[13]

TERRORISM IN NORTHERN NIGERIA

The issue of domestic terrorism in northern Nigeria is not a recent development. Northern Nigeria has always been a hotbed of social and religious crises. Since colonialism, the region has witnessed intermittent violent conflicts between southerners and northerners, and Muslims and Christians residing in the area. The 1953 crisis in the federal parliament regarding the need for self-government, which was proposed by southern leaders and vehemently opposed by northern leaders, was perhaps the starting point of political and ethnic conflict. From then it became clear that the two geopolitical sections in the country – the predominantly Muslim north and the predominantly Christian south (made up of the western and eastern regions) – would often be in opposition. The eight-point programme which the northern region threatened to embark upon after the parliamentary crisis can be described as a secession threat.[14] The violence that subsequently erupted in Kano, a city in northern Nigeria, in May of the same year, in which

southerners were killed and their properties destroyed, further demonstrated the political, ethnic and religious tensions between the north and the south. The level of political disagreement increased in the general elections of 1954 to 1965, in which political parties maintained dominance in their ethnic and geographic areas of origin. The Northern Peoples' Congress (NPC), established by the Hausa-Fulani elites, dominated politics in the northern part, while the Action Group (AG), founded by some Yoruba political elite, dominated politics in the west. The National Council of Nigeria and the Cameroon, later known as the National Convention of Nigerian Citizens (NCNC), which was formed by some Ibo intelligentsia, dominated politics in the eastern region.

Several other instances of political, ethnic and religious violence which resulted in the wanton destruction of lives and public and private properties have occurred in northern Nigeria since 1954. However, in view of the approach adopted in this paper, not every conceivable instance of violence, whether political, religious or ethnic, can be contextualised as domestic terrorism. Consequently, the analysis is limited to the extreme violence perpetrated in 1966 against the Ibo race in the north of the country (popularly referred to as the 1966 pogrom), the *Maitatsine* riots of 1980 to 1985 and the revival of radical Islam as exemplified in the activities of the Nigerian Taliban since 2004. These are some of the incidences in northern Nigeria that are considered to be domestic terrorism because they were premeditated and targeted at unarmed civilians to create a state of public panic and fear, and to destroy lives and public and private properties.

The 1966 pogrom

The military incursion into Nigeria's body polity through the *coup d'etat* of 15 January 1966 ushered in a period of terror in northern Nigeria. Between May and October 1966, a series of calculated massacres of Ibos occurred in northern Nigeria. Many lives were lost and properties belonging to people of southern extraction, particularly the Ibos, were destroyed. The events created an atmosphere of fear and panic and many Ibos residing in northern Nigeria relocated to their ancestral or ethnic homes in eastern Nigeria. Much has been written about this 1966 ethnic cleansing, but it is apt to point out that the cause(s) of the pogrom lay very much in the political and ethnic tensions built up between northern and southern political and ethnic leaders during colonial rule. These tensions became more pronounced in the attitudes and responses of the northern elites to the military coup of 15 January 1966 which resulted in the killing mainly of notable northern political leaders such as Sir Abubakar Tafawa Balewa, the Prime Minister of the Federal Republic of Nigeria, and Sir Ahmadu Bello,

the Premier of the northern region, and also brought Ibo military leaders to power. These events merely created suspicion among some northern elites that the coup was a ploy by the southerners to dominate their region. The northern fear of southern political domination was further heightened by the activities of the military government led by General Aguiyi Ironsi. The absence of or perhaps delay in the prosecution of the coup plotters, who were mostly Ibos like General Aguiyi Ironsi, the allegation that General Ironsi surrounded himself only with Ibo military officers and the promulgation on 24 May 1966 of Decrees 33 and 34 (which proscribed all political parties, tribal unions and cultural organisations with political leanings, abolished the regions and proclaimed that Nigeria was no longer a federation) to a great extent confirmed northerners' suspicions. The northern response was a series of calculated attacks on Ibos in northern Nigeria. For several days, Ibos in northern Nigeria were massacred in droves and their properties were torched. The government resorted to the combined use of police and military to end the conflict.

Similarly, the success of the counter coup of 29 July 1966, which ousted General Ironsi and was masterminded by the northern military officers in the Nigerian army, was welcomed by northerners and accompanied by a resurgence of hostility against Ibos in the north. Even though the new military head of state, Lieutenant Colonel Yakubu Gowon, reversed the offensive Decree 34, the Ibos in northern Nigeria were still massacred during September and October of 1966. It was this atmosphere of general insecurity, fear and panic in northern Nigeria and the lack of compromise between the federal and eastern regional government at the time that compelled many Ibos to relocate to the eastern region.

The Maitatsine violence (1980–1985)

The 1980s re-enacted the 1966 acts of terrorism in northern Nigeria, but on a different scale and in a different context. Unlike the 1966 experience, terrorism was masterminded and perpetrated by members of radical Islamic movements against non-members. The period was characterised by the rise of fundamentalism. Some of the numerous radical Islamic movements in northern Nigeria then were the *Izala, Tijanniyya, Quadriyya, Jama'atu Nasril Islam* (JNI) and the *Maitatsine*. While there were occasional clashes between these groups, the *Maitatsine*'s terrorism between 1980 and 1985 was unprecedented and more pronounced. The *Maitatsine* comprised Islamic pupils under the leadership of Muhammadu Marwa, who set up a *Koranic* school in 1945 in which he indoctrinated his followers into fanaticism. The group employed guerilla tactics against state security personnel and unarmed citizens, and destroyed both public and private properties. The *Maitatsine* violence was

a carefully planned series of terrorist acts that spanned five years and cut across virtually all the northern states. Kano state was the first to witness the violence on 18 December 1980, followed by Borno state on 26 October 1982, and Kaduna state on 29 October 1982. Kano state again experienced the *Maitatsine* violence on 30 October 1982, while the former Gongola state and Bauchi state had a taste of the violence on 27 February 1984 and 26 April 1985 respectively.[15] Tamuno notes that 'the *Maitatsine* Movement made no discernible distinction between civilian and military regimes on grounds of their retaliatory capacity through police and army units'.[16] An estimated 4 000 lives were lost during the Kano episode.[17] The resilience of the movement can be noted by the fact that, although its leader died as early as 1980, members of the group continued the acts of terror till 1985. The federal military government of General Muhammadu Buhari resorted to military force to end the movement permanently in 1985.

The Nigerian Taliban

Northern Nigeria was again subjected to terrorism a few months after 9/11. In early 2003, amid the introduction of *Sharia* in some northern states, a group which referred to itself as the *Muhajirun* (or migrants) movement or the Nigerian Taliban emerged in the northern state of Borno. The group was composed of educated and uneducated Islamic pupils, some of noble background. The group was organised and structured along the lines of the Afghan Taliban. Their aim was the creation of an Islamic state first in the areas around Kanamma and Toshiya, and then all over Nigeria. They were motivated by the conviction that the Nigerian state was so full of corruption and vice that the best thing for a devout Muslim was to 'migrate' from the morally bankrupt society to a secluded place and establish an ideal Islamic society devoid of political corruption and moral deprivation. In line with this, members of the group 'migrated' out of Maiduguri, capital of Borno state, to a secluded area around Kanamma in Yunusari local government area of Yobe state. This became the migrants' base where they engaged in moral rebirth through strict study of the Koran.

The emergence of the group was significant because of the use of terrorism in early 2004 to attack and loot police stations at Kanamma, Geidam and Damaturu, the capital of Yobe state (a neighbouring state to Borno), as well as some communities in Gwoza in Borno state. In the course of the attacks, policemen were killed and arms and ammunition belonging to the Nigerian police force were taken.

Though the activities of the Nigerian Taliban were halted by government forces, resulting in the death of about 20 members and the arrest of about 50 others, strains of the movement remain in the northern part of the country.

Three years after the 2004 crushing of the Nigerian Taliban, a Nigerian, Mallam Bello Ilyas Damagun, the director of Media Trust Limited –publishers of the *Daily Trust* newspaper – was arrested and later charged in court for being linked to an Al Qaeda network. Besides his alleged Al Qaeda links, he was said to be recruiting young Nigerians for military training abroad. Mallam Damagun had supposedly sent about 14 young Nigerians to an *Ummil Ourah Islamic Camp*, a terrorist training camp in Mauritania. The charges also read that he had collected money from Al Qaeda in the Sudan to fund terrorism in Nigeria.[18] Furthermore, Mallam Damagun was accused of aiding terrorist activities in Nigeria by providing material assistance in the form of a ten-seater bus with the registration number Kaduna AN 379 ANC and providing 30 public address systems for the Nigerian Taliban movement in Maiduguri, Borno state. According to the charge, the bus was used to 'spread extremism' and therefore was an act of terrorism.[19] All the charges against Mallam Damagun are offences contrary to section 15 subsections 1, 2, and 3 of the Economic and Financial Crimes Commission (Establishment) Act 2004 and punishable under the same section of the Act. If found guilty on any of the three charges, Mallam Damagun is liable for life imprisonment.

Between 2004 and 2007, another member of the Nigerian Taliban, namely Mohammed Yusuf, a Maiduguri-based imam and Taliban leader to whom Mallam Damagun delivered equipment and funds, was arrested and arraigned on a five-count indictment of illegally receiving foreign currency. Also Mohammed Ashafa, a *Muhajirun* from the city of Kano, was charged with receiving funds from two Pakistani Al Qaeda operatives to 'carry out terrorist attacks' on Americans in Nigeria. He was also charged with recruiting 21 fighters who were sent for training with an unspecified Algerian terrorist group, presumably the *Salafist Group for Preaching and Combat* (GSPC).[20] The GSPC has been linked to the *Al Qaeda* as a major financier.

The emergence of the Nigerian *Taliban*, the *Maitatsine* and radical Islamic organisations in northern Nigeria can be attributed to the region's history of external Islamic organisations sponsoring and promoting the spread of Islam in the region and even across the whole country. One such Islamic organisation is the Saudi-based *al-Mountada al-Islami*, whose charity and other good works, according to Peter Pham, include educating and sponsoring African clerics and helping them set up mosques and schools upon graduation.[21] Similarly, the *Jamaat Izalat al-Bida wa Iqamat al-Sunna* (The Society for the Eradication of Evil Innovation and Establishment of the Sunna), also known as *Yan Izala*, which later set up even more radical movements, including the *Ikhwan* (Muslim Brothers) and *Ja'amutu Tajidmul Islami* (Movement for Islamic Revival) in northern Nigeria and was established by Sheikh Abubakar Guni, had strong connections with Saudi Arabia. This confirms the need to probe into the interface between global or international terrorism and domestic terrorism.

Nigeria and the 'war on terror'

The Nigerian state has responded to threats and acts of terrorism within its territory with a combination of political, economic, legal and military strategies. In the Niger Delta the state has periodically shared the nation's oil wealth in a revenue-sharing formula. On the surface, the revenue-sharing mechanism seems to be yielding more and more ground to the Niger Delta people, but the reality shows that the series of allocations earmarked for the area so far have been too small to address the problem and have also been mismanaged. The major problem with this mechanism seems to be the perceived insincerity and excessively tight control by the federal government, which manages the lion's share of the federal account and leaves very little to the two lower levels of government. The hardest hit by this is the third level of government, which is closer to the people than both the federal and state governments. This information is evident from Table 1. The implication of this situation is the low level of socioeconomic development evident in most parts of Nigeria, particularly in communities outside the various state capitals.

Table 1 Federation account operations (Naira billion)

	1998	1999	2000	2001	2002	2003	2004 a	2005b	2006
Total revenue (Gross)	463,6	949,2	1 906,2	2 231,6	1 731,8	2 575,1	3 920,5	5 547,5	5 965,1
Federal account	404,7	576,8	1 262,5	1 599,4	1 899,5	2 011,6	2 657,2	3 033,9	3 219,1
Amount distributed:	257,3	446,5	1 052,6	1 298,3	1 692,8	1 821,0	2 438,8	2 643,7	2 964,2
Federal government	124,6	218,9	502,3	530,7	859,0	917,1	1 147,9	1 237,2	1 385,9
State government	57,5	108,2	248,6	391,3	398,8	419,8	582,2	627,5	703,0
Local government	47,9	90,2	207,1	245,4	333,9	346,9	448,9	483,8	542,0

a) Revised   b) Provisional [22]

Allocations to the Niger Delta have dropped from a 50 per cent profit from mineral royalties in the 1950s and early 1960s to the current 13 per cent. This illustrates that the region's demand, tabled at the aborted National Political Reform Conference under the last civilian administration, for between 25 and 50 per cent is far from being met.

The Nigerian state has experimented and is still experimenting with development agencies to look into the issue of the social and economic development of the Niger Delta. Such measures, like revenue sharing, predate the onset of terror activities in the area. The federal government first established the Niger Delta Development Board (NDDB) in the late 1950s to address the developmental needs of the area. In 1992, the Babangida administration set up the Oil Minerals Producing Development Commission (OMPADEC) for the same purpose, and the civilian government of Olusegun Obasanjo created the Niger Delta Development Commission (NDDC). At the state government level, the Delta state government established a commission called Delta State Oil Producing Development Commission (DESOPADEC). The rationale behind this strategy was for the commissions to complement the efforts of the federal government by creating job opportunities through the provision of social infrastructure.

However, these development agencies have been enmeshed in crises and corruption. After 25 years and huge financial commitments there is still no meaningful development in the Niger Delta. A visit to the region will easily reveal the poverty and misery of its people. Apart from the state capitals, every other area is undeveloped. It is interesting to note that the majority of the inhabitants in the Niger Delta reside in the undeveloped creeks and waterfronts.

The governmental response to the Niger Delta changed when political opposition developed into terrorism. The Nigerian government used force and police action against supposed militants' hideouts. Two examples are Umuechem and Odi, two communities in the area, in 1989 and 2000 respectively. The federal government, in conjunction with state governments, has set up military formations to deal with the activities of the militants. The government of General Sanni Abacha set up the River State Internal Security Task Force in 1994, while the Obasanjo administration established the Joint Military Task Force in 2003 to comb the creeks and the canals in the area and fish out the terrorists. Both the Nigerian navy and army have maintained a heavy military presence in the area. However, this strategy has not deterred terrorism and attacks on oil installations, and hostage taking has not ceased.

The military option has resulted in the proliferation of cult and militant groups who are masterminding terrorist activities in the area. The inability of the Nigerian state to tackle the problem of terrorism in the Niger Delta effectively is, in part, due to the local politicians, who are believed to be responsible for the creation of cult groups that are used to silence and terrorise political opponents. Two former governors of states in the region, Dr Peter Odili of Rivers state and Chief Depriye Alamieyeseigha of Bayelsa state have been linked to the activities of the militant groups.[23] It can be argued that the militants would not have sustained their terror operations without the backing of those in political power. This in a way illustrates the idea that the government is actually behind the crisis. The Nigerian government has, however, on several occasions attempted dialogue with the leaders of the supposed terrorist groups. During 2004, the government of Olusegun Obasanjo met with Alhaji Asari Dokubo (leader of the NDPVF) and Ateke Tom (leader of NDV) and brokered an agreement in which members of the militant groups were to surrender their arms in return for state pardon. The government also attempted to pacify the militant groups by offering some members political positions. It has been alleged that in 2006, as part of the effort to conciliate and convince the militants to disarm, the federal government reserved an oil block drilling license for a company linked to members of one of the groups in the area (the federated Niger Delta Ijaw Community).[24] The soft High Court judgement arranged by the federal government, which led to the release of Chief Depriye Alamieyeseigha (former governor of Bayelsa state detained on corruption charges) and Asari Dokubo (detained on charges of treason), whose freedom was demanded by militant groups in the area as a condition for peace, demonstrates the government's efforts to placate the groups. Similarly, the choice of Niger Deltans as presidential and vice presidential candidates by some of the political parties in the April 2007 elections was an indication of the realisation and willingness of the Nigerian state to address the issue of political marginalisation. Consequently, the choice of Dr Goodluck Jonathan as the vice presidential candidate of the Peoples Democratic Party (PDP) and Chief Perre Ajunwa as the presidential candidate of the Alliance for Democracy (AD), both of whom are Ijaw men, was part of the concessionary politics intended to ameliorate conflict in the area. Interestingly, however, in spite of all this, the spate of violence in the area has not abated. This illustrates that the area's problem is not only political marginalisation.

In a bid to further reduce tension in the area, the government of Olusegun Obasanjo instituted the Niger Delta Stakeholders' Forum. This was a forum of governors of states in the Niger Delta, local government chairmen in the area, leading intellectuals and selected representatives of the youth, women and the other communities in the area. These people met regularly (as determined

by the government) to discuss the way forward for the area. However, it is not surprising that the Niger Delta Stakeholders' Forum failed because the meetings were not as open as was needed and were often held in expensive hotels which ordinary Niger Deltans could afford to patronise. This failure underscores the need for a genuine, open dialogue between government and the true representatives of the people.

The Nigerian state has so far deployed only military and judicial options in northern Nigeria. The Taliban insurgence was put down by the military, while suspected members of the organisation were arrested and arraigned in court. The *Maitatsine* violence was crushed by strong military action. Government responses to terror acts in the north of the country have always been politicised. For example, the Pogrom of 1966 was not justly handled. Despite the horrendous killing and maiming of innocents and wanton destruction of property, the incident passed without any official reprimand of the perpetrators. While the Nigerian federal government, led by the National Party of Nigeria, blamed the rival political party, the Peoples Redemption Party (PRP), which controlled the Kano state government, the Kano state government saw the violence as sponsored by the federal government to destabilise the state and impose emergency rule. Although two tribunals of inquiry (the Justice Aniagolu Panel and the Justice Uwais Panel) were set up by the federal government at different times, nothing concrete was done to forestall future reoccurrences. This may be the reason why such acts of violence have not ceased in the northern part of the country.

Year after year sectarian, religious and ethnic conflicts have recurred with both the federal and state governments failing to identify the leaders and deal decisively with them. Indeed, it is the government's failure to deal with previous incidences of violence in the region, by using neither 'soft' nor 'hard' power, that has made it possible for the Nigerian Taliban movement to emerge, terrorise innocents and provide a platform for international terrorism in Nigeria.

CONCLUSION

The Nigerian government must cooperate with the international community to stamp out domestic terrorism linked to international terrorist groups. The Nigerian Taliban movement, which is now in its infancy, must be permanently crushed and its local networks destroyed. However, the government's handling of the series of court cases involving suspected terrorists and their local sponsors is fraught with difficulty. The absence of a detailed and comprehensive legal framework is one of the factors responsible for this. Apart from the Economic and

Financial Crime Commission (EFCC) Act (2004), particularly section 15 subsections 1, 2, and 3, which specifically address terrorist activities and the country's criminal code, Nigeria does not yet have an adequate framework detailing effective legal measures against all acts of terrorism. There is, therefore, the need to enact legislation with severe penalties that criminalise kidnapping, hijacking, and hostage taking, among other things.

Nigeria's leaders also need to be committed to the socioeconomic development of the Nigerian people. Studies have shown that most of the people perpetrating violence, particularly in the north of the country, are mainly the unemployed youths (the *Almanjiris*) who are always on stand-by for violent activities. It thus becomes imperative for the issue of economic empowerment of the youth in the country to be taken seriously. Even though it is not incontrovertible that poverty breeds violence, there is no doubt that in Nigeria's context poverty is a precursor to violence.

Similarly, it is actually not the presence of Islam in northern Nigeria that renders the region prone to violence, but the availability of willing perpetrators owing to the poverty and underdevelopment of the area. While the social and economic development of a state may not necessarily result in the cessation of acts of terror, it does seem a sure way of reducing such activities. From all indications, it is corrupt and ineffective political leadership that often engenders poverty and, consequently, violent activities.

Alongside economic development, special attention must be focused on the educational development of the country. A large percentage of those that take up arms in Nigeria are uneducated. The situation is even worse in the north where *Koranic* schools are preferred over Western education simply because of cost. It is in such schools that many of the youths are indoctrinated with fundamentalist ideas and recruited for the cause. While there is nothing wrong with essentially *Koranic* education, this approach should, however, be balanced with Western education and subject to the same basic regulations regarding course content as secular education. This would ensure that particular clerics do not give their own extreme and violence-inducing interpretations of the Koran. The Nigerian government and the international community should undertake a thorough review of the education of the youths in northern Nigeria.

If poverty is removed or significantly reduced and people can afford to go to schools, then domestic terrorism in northern Nigeria will not thrive. In addition, the restiveness of the youth, which is being used by international terrorist groups, makes it imperative for the Nigerian state to reconsider the issue of citizenship. Nigeria employs discriminatory citizenship. Much emphasis is placed on a candidate's parental (notably paternal) place of birth

in considering people for appointment to political and governmental posts. Although the constitution does not prevent Nigerians from being elected and/or appointed to positions in any part of the country, in practice Nigerians know that it is difficult to build a political career outside the state of origin of their parents. The implication of this is that Nigerians identify themselves more by their ethnic origins than by their nationality.

The overreliance on oil by the Nigerian state should also be reconsidered. Any little hiccup in the Niger Delta has serious implications for all of Nigeria. It is time Nigeria considered alternative and complimentary sources of revenue besides oil. Extraction and agriculture are two potential sources of economic strength which Nigeria could tap into to reduce the nation's present dependency on oil.

NOTES

1   It is to be understood that the governments of the countries in this category may not give tacit approval and support to terrorist groups within and outside their borders, but such governments have over the years failed to stamp out terrorist groups and their networks from their countries. Such countries are also training grounds for would-be terrorists from other parts of Africa.

2   Samuel M Makinda, History and root causes of terrorism in Africa, in Wafula Okumu and Anneli Botha (eds), *Understanding terrorism in Africa: in search for an African voice*, Tshwane (Pretoria): Institute for Security Studies, 2006, 16.

3   Anneli Botha, Africa's vulnerability to terrorism and its ability to combat it, in Wafula Okumu and Anneli Botha (eds), *Understanding terrorism in Africa: in search for an African voice*, Tshwane (Pretoria): Institute for Security Studies, 2006, 24.

4   Ibid.

5   Charles W Kegley Jr., The characteristics, causes and controls of the new global terrorism: an introduction, in Charles W Kegley Jr (ed.), *The new global terrorism: characteristics, causes, controls*, New Jersey: Prentice Hall, 2003, 7.

6   Brian M Jenkins, The changing characteristics of twenty-first century global terrorism, in Charles W Kegley Jr. (ed), *The new global terrorism: characteristics, causes, controls*, New Jersey: Prentice Hall, 2003, 16.

7   Gani Yoroms, Defining and mapping threats of terrorism in Africa, in Wafula Okumu and Anneli Botha (eds) *Understanding terrorism in Africa: in search for an African voice*, Tshwane (Pretoria): Institute for Security Studies, 2006,7

8   Ibid.

9   Jenkins, The changing characteristics of twenty-first century global terrorism, 17.

10 Edward Mickolus, Trends in international terrorism, in Marius H Livingston, Lee Bruce Kress and Marie G Wanek (eds), *International terrorism in the contemporary world*, Westport. Conn.: Greenwood Press, 45.

11 Yoroms, Defining and mapping threats of terrorism in Africa, 7.

12 International Crisis Group, *Fuelling the Niger Delta crisis*, Africa Report Number 118, 28 September 2006, 3

13 A Ekeinde, Terrorism: fear grips governors, *News Star*, 27 October–7 November 2007, 1.

14 G O Olusanya, Constitutional development in Nigeria since 1861–1960, in O Ikime (ed), *Groundwork of Nigerian history*, Ibadan: Heinemann, 1980, 536.

15 T N Tamuno, *Peace and violence in Nigeria*, Ibadan: The Panel on Nigeria since Independence History Project, 1991, 173–185.

16 Tamuno, *Peace and violence in Nigeria*, 173.

17 Tamuno, *Peace and violence in Nigeria*, 178.

18 A sum of US$300,000 was said to have been collected in 2002 from Al Qaeda operatives in Sudan to use and recruit members and execute 'acts of terrorism'. The money was kept in a London bank account named as Habibsons Bank Limited, Windson House, 55–56 St. James Street, London in account number, 2106775.

19 Lemmy Ughegbe, Government arraigns daily trust director over alleged terrorism, 2007, http://www.guardiannewsngr.com/news/article 05/170107 (accessed 25 October 2007).

20 I Ige, Pandemonium in court as trial of Nigerian leader of al-Qaeda begins, 2007, http://www.odili.net/news/source/2007/feb/23/306.htm (accessed 15 October 2007).

21 J Peter Pham, Militant Islamism's shadow rises over sub-Saharan Africa, 2007, http://worlddefensereview.com/ham050406.shtml (Accessed 23 October 2007)

22 Sources:
    (1) Figures for 1998–2005 are compiled from Central Bank of Nigeria Statistical Bulletin of December 2005, http://www.cenbank.org/OUT/PUBLICATIONS/REPORT/RD/2006/April-2005-PART1.PDF, 155 (accessed 26 October 2007).
    (2) Figures for 2006 are from Central Bank of Nigeria Annual Report and Statement of Account for the year ended 31 December 2006, http://www.cenbank.org/OUT/PUBLICATIONS/REPORT/RD/2007/Annual-2007-PART1.PDF, 59 and 61 (accessed 20 October 2007).

23 Ekeinde, Terrorism: fear grips governors, 4.

24 International Crisis Group, *Fuelling the Niger Delta crisis*, 2.

Domestic terrorism in South Africa

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Although South Africa's history of violence before 1994 is acknowledged, it has been decided to focus the attention of this paper predominately on the period after 1994. However, it must also be said that South Africa's history influenced ordinary perception not only of terrorism, but also of the 'acceptability' of resorting to violence with regard to 'just' causes. Two instances came to mind: People Against Gangsterism and Drugs (PAGAD), which developed from a community-based vigilante/pressure group to a group that was later in its history associated with a campaign of urban terror; and right-wing extremists that resorted to acts of sabotage and terrorism in an attempt to change the political dispensation in South Africa. Owing to space constraints, only PAGAD will be discussed in this contribution.

The establishment of People Against Gangsterism and Drugs (PAGAD) in 1995 in Cape Town and similar structures elsewhere needs to be assessed against the background of the high crime rate nationally. What distinguished PAGAD from other community-based anti-crime initiatives was its resorting to violence, first against drug dealers, then state structures and eventually the indiscriminate targeting of civilians. Given its religious affiliation to Islam (although it initially had a multi-religious character), one may speculate on how the world may have reacted and perceived PAGAD after the events of 9/11. This speculative question of linking PAGAD with transnational terrorism will, however, not be discussed in this paper.

One of PAGAD's main initial objectives was to serve as a broad anti-crime front. Under its banner, groups, organisations and concerned citizens of diverse ideological, political and religious persuasions and interests expressed their active support for an anti-crime cause. In June-July 1996, the PAGAD campaign gained an organisational aspect and began promoting itself as PAGAD, with Farouk Jaffer as coordinator, Nadthmie Edries as the organiser and Ali 'Phantom' Parker as head of operations. It also established a military wing (the G-Force or Gun-Force), which began with military-style operations against suspected drug dealers and their property. By this time PAGAD's support base had widened to include ordinary community members, the Muslim Judicial Council (MJC) and even Christian community members.

Differences of opinion on how to use PAGAD to counter crime and on the use of violence in actions against gangsters and drug lords caused dissent in the Cape Town anti-crime initiative. This intensified and ultimately resulted in the formation of two different groups, popularly known as the PAGAD moderate faction and the PAGAD *Qibla* faction.

The discussion that follows focuses on the establishment of PAGAD, its objectives and modus operandi. The latter provides greater insight into PAGAD's dual strategy. In summary PAGAD can be described as an overt mass movement, with a covert structure. As an overt movement PAGAD was 'open' to all South Africans, although it had a clear Islamic character. The covert structure adopted a more hard-line approach, which included the use of violence. Although PAGAD's violent campaign came at an abrupt end in 2000 with a number of key arrests, the underlying motivator, namely the combating of crime, led to later flare-ups in violence directed against alleged drug dealers in the Western Cape.

At this juncture, one should take into account the threat posed by right-wing extremism with regard to incidents of domestic terrorism in South Africa. This threat should be analysed in a broad historical context, so that its development is associated not only with the election of the African National Congress (ANC)-led government in

1994 – although this definitely influenced its development, motivation and focus. Since the 1980s smaller organisations all with the same core objectives had come to the fore. The *Afrikaner Weerstandbeweging* (AWB) emerged in the early 1980s, although it currently is not considered as representative of the far right. The Boer Attack Troops attracted attention in 1996, while the *Boeremag* appeared in October 2002. In general, the South African radical right aimed to establish a white-controlled government in South Africa. Of prime concern to the terror plots of 2002 were, inter alia, the overthrow the government and the restoration of the Boer republics in parts of the country. Other than PAGAD, right-wing extremism in South Africa is difficult to pinpoint, particularly since it is not represented by a single organisation or structure, and secondly because the actions associated with this category of extremism is sporadic and isolated. In contrast PAGAD had a more direct impact when one considers the number of incidents. Nevertheless, the right wing presents a definite threat to security in the assessment of government and its security forces. Due to structural limits this paper, the following paper will only concentrate on PAGAD, providing the reader with an overview of the underlying factors that led to the rise of PAGAD, its structure, activities and modus operandi State's reaction to both PAGAD and the right wing will however be discussed in a later chapter titled 'Law enforcement approaches and strategies in dealing with domestic terrorism'.

HISTORICAL BACKGROUND AND EMERGENCE OF PAGAD

With time, any organisation or structure develops a historical background, a reason for existence and an objective. In this sense PAGAD is no exception. An Islamic upsurge in South Africa began in the 1950s, influenced mainly by teachers and professionals in the Western Cape. It derived its religious inspiration from modern movements in Pakistan and Egypt, and its South African political dimension from the variety of local political movements and trends.[1] In December 1970 the Muslim Youth Movement (MYM) of South Africa was established and in 1979 the Iranian Revolution led to the formation of the *Qibla Mass Movement*, an anti-apartheid movement inspired by the revolution in Iran.[2]

The involvement of ordinary citizens in anti-crime structures began in the early 1990s with the Salt River Coordinating Council (SRCC) focusing on combating drug abuse. The assumption that PAGAD was the first anti-crime structure or that it was a sudden reactive movement to crime is part of a misperception. Cape Town's first mass anti-drug march took place in April 1990 under the leadership of the SRCC. This spawned

similar community-based anti-drug initiatives in the Bo-Kaap, Wynberg, Surrey Estate and elsewhere on the Cape Flats. Another prominent anti-crime initiative in the Western Cape was the Western Cape Anti-Crime Forum (WCACF).[3] PAGAD's emergence six years later was in all respects new and did not have any organic link to the earlier movements or to individuals involved and strategies used.[4] Nevertheless organisations such as *Qibla* and other Muslim organisations played a significant role in the establishment of PAGAD.

Although drug peddling and abuse, gang violence and high levels of violent crime are found throughout South Africa, the situation in the Western Cape is unique in the sense that gangster subcultures have proliferated throughout the prison system to affect the entire region. The situation in the Western Cape has shown an increase in drug abuse and peddling in suburbs inhabited mainly by the so-called coloureds, particularly in the more middle-class suburbs. Inter-gang violence has made the situation worse.[5]

According to Heyliger (commander of the South African Police Service's Gang Investigation Unit at the time), who was quoted in the South African Survey 1996/97, there were between 35 000 and 80 000 active gang members in the Cape belonging to 137 gangs at that time.[6] Chris Ferndale, founding chairperson of the Western Cape Anti-Crime Forum, highlighted the following as factors contributing to this situation: '[A] high population density with no social infrastructure, poor educational standards and facilities, and unemployment – which in certain areas is anything between 40 and 60%.'[7]

Seen in this light it can be concluded that former initiatives from the community in the Western Cape led to the establishment of PAGAD. Although the crime situation played the primary role, the following causes contributed to the institution of popular justice, including the formation of PAGAD:

- A reaffirmation of the superiority of traditional values and their potential for establishing order within the community.
- Socioeconomic concerns at grass-roots level that were not addressed.
- A criminal justice crisis manifested in overloaded courts. This crisis resulted in questions relating to the legitimacy and effectiveness of the criminal justice system. On the Cape Flats both the police and courts received a negative evaluation, especially among people who had had personal contact with the police and courts.[8]
- The lack of equality before the law, the unrestricted growth of crime, the inconsistency of sentencing patterns, and the alienation of the offender and the

victim. In a study done by Institute for Democracy in South Africa (IDASA) on the communities' perception of PAGAD, it was established that people on the Cape Flats exhibited weak support for the rule of law and the extension of procedural rights to those accused of crimes.[9]

- Courts were also regarded as being too remote from the interests of the general public. The repeated claims concerning the 'independence of the judiciary' to them meant an independence from public concerns and community accountability.
- The formal legal system appeared to be slow and cumbersome, and law enforcement appeared to be inconsistent and unable to provide substantive justice.
- A growing inadequacy in the legal process was experienced, based on the growing threat of crime, inconsistency in sentencing and the alienation of the offender and the victim.
- Diverse communities that included individuals from different religious backgrounds (especially Muslims, Christians and Jews) led to these communities preferring to be legally liable to their own legal systems. The breakdown in social relations and deteriorating socioeconomic conditions further enhanced their growing need to return to their roots. The Muslims, but particularly the coloured community, were of the opinion that they had been left behind. This gave rise to a feeling that, since nobody else would take care of them, they would look after themselves.

Johnston identifies two main reasons for popular justice:[10]

- Crime perpetrated in the community gave rise to a strong sense of vulnerability among members of the community.
- The local community structures encouraged the involvement of the community, especially in a socially and ethnically homogeneous community where communication and trust between participants is facilitated and which encourages identification with the victim.

PAGAD was launched from this situation in the Western Cape in November 1995. Although the crime situation favoured the launching of PAGAD, the Muslim community in the Cape was more inclined to engage in activism as a result of its history of political imprisonment and its working-class origins.[11] However, with the onset of a democratic government, the then existing structures to campaign for the political and civil rights of communities (in the hegemonic battle against the apartheid regime) disappeared.[12] According to Moosa: 'The anti-apartheid struggle taught us to create "alternative" structures of every hue to change conditions ourselves.'[13]

Objectives of PAGAD

The objectives of PAGAD can be best described in the movement's own words, as contained in the memorandum delivered to the Minister of Correctional Services on 28 September 1996:

One of the most important functions of government is to see to the safety of all its citizens and non-citizens. Unfortunately, this is not the case....We, The People Against Gangsterism and Drugs, have embarked on this mass demonstration to[14]:

- Inform the people of South Africa of the escalation of drug addiction and gangsterism.
- Make the people of South Africa aware that something is being done about the cancerous growths of drug addicts and gangsterism.
- Alert the government that urgent and drastic steps must be taken to curb, stop and eradicate the upsurge of gangsterism and drug addiction.
- Galvanize the entire population to be prepared to take alternative steps if the situation does not improve in the near future.
- Inform the entire population of the extent of corruption within the Police and Judiciary.

PAGAD's primary overt function was that of an anti-crime structure. It concentrated on the following four issues:

- *Initiatives to combat crime.* PAGAD argued that its actions should be regarded as a natural response of citizens who were disappointed by the failure of the state to protect them. This is regarded as a fundamental right of any society upon which a state's legitimacy depends. According to Father Clohessy, one of the founding members of PAGAD, who wished to emphasise that PAGAD was initially a community and not religious-based organisation, the community's frustration was based on the fact that the people realised that a non-confrontational approach to this particular problem (the activities of gangsters and drug dealers) was no longer a viable route. Secondly, that those who were empowered by law to confront crime were simply not able to function in a way that bore real fruit.[15] Consequently PAGAD proposed its own solution.

Initially PAGAD had a two-pronged strategy:

- ☐ Confrontation directed against government incompetence. PAGAD felt that if the government was not fulfilling the mandate of the people and was unwilling to be challenged or criticised, then

people had a moral right and obligation to defend their own lives and their property.[16]

☐ Confrontation directed against those who perpetrated crime since the government had been unable to address crime. A step in this direction was taken when PAGAD began to visit drug dealers and gang lords, in most cases between 22:00 and 03:00 in the night. During these visits, the alleged drug dealers and gangsters received ultimatums from PAGAD to stop their activities or face the consequences. These were phrased as follows: 'We are giving you 24 hours to clean up your act, or we will come back for you.' Posters such as 'Kill the merchant. One bullet, one peddler' emphasised the seriousness of their threats. After these visits by PAGAD, dealers and gangsters were violently attacked either in shooting incidents or in pipe or petrol bomb and hand grenade attacks.[17]

■ *Dissatisfaction with the way the government dealt with crime*, with special reference to gangsterism and drug trafficking. According to Aslam Toefy, PAGAD's commander at the time, PAGAD was a pressure group and would continue to put pressure on the authorities to rid the country and its people of gangsters and drugs. PAGAD also accused the police of being accomplices in crime and corruption.[18]

■ *Issuing of ultimatums and mobilisation (peaceful protest)*. PAGAD came into the public eye early in 1996 when it petitioned the government and the police to take action against gangs that had targeted Muslim youths for drug sales.[19] PAGAD's actions also comprised pro-active offensive actions, including the attack on the residence of the Minister of Justice, Dullar Omar, in March 1996 in Cape Town PAGAD subsequently delivered an ultimatum to the minister in which he was given 60 days to deal with the deteriorating crime situation in the country or face the consequences. Initially PAGAD's campaign predominately took the form of marches, but later the number of marches decreased as its campaign became more violent.

■ According to PAGAD there was a *theocentric justification* for its actions against drug lords and gangsters. At the time of the death of Rashaad Staggie, other members were quoted as saying that they were prepared to die for their cause of ridding the Cape of its notorious gangsters. There was also talk that the conflict against drug dealers and gangsters should be considered a jihad. Although PAGAD was not an exclusive Muslim organisation, the majority of its members were members of the Muslim community.

Until PAGAD split in September 1996, the following ideological perspectives could be identified within the organisation[20]:

■ Moderates that included Nadthmie Edries and Farouk Jaffer
■ Islamic political extremists symbolised by the involvement of Qibla
■ Militants as evidenced by the strategy of the G-Force (Gun-Force) members
■ Concerned citizens, in particular the larger Muslim community
■ Possible membership of drug dealers in an attempt to contain PAGAD's anti-drug activities.

In 1998 Sidique expressed the opinion that ideologically PAGAD's establishment in 1995 had been directly linked to *Qibla*'s inability to develop into a mass-based organisation for the promotion of militant Islamic extremism.[21] Suspicions of alleged *Qibla* involvement in PAGAD were confirmed with an Islamic Unity Convention (IUC)-initiated protest march in collaboration with the Surrey Estate and Athlone neighbourhood watches in March 1996 to the residence of the former Minister of Justice, Dullah Omar.

On 11 May 1996, members of the IUC together with members of the neighbourhood watches marched under the auspices of PAGAD to parliament in protest against the availability of drugs in the community. The *amir* of *Qibla* and chairperson of the IUC, Achmed Cassiem's outspoken opposition to the ANC government contributed to Qibla's persistent denial of any ties with PAGAD. There were, however, those in the Muslim community who believed that PAGAD was fully under the control of *Qibla*, although *Qibla* and the IUC had publicly distanced themselves from PAGAD. Unity, togetherness and standing up for truth and justice were the driving force behind PAGAD meetings. However, although PAGAD regarded itself as a broad interreligious movement, it committed itself to the *Shari'a* as a broad ethical code. However, the extent to which it was willing to commit itself to the *Shari'a* was exposed by its ambivalence to be the guardians of Islamic law in South Africa.[22]

Suspicion that PAGAD was used as a vanguard based on its growing radical statements and increase in attacks against outspoken members of the Muslim community in the Western Cape began to alienate the more tolerant Muslim majority. These speculations about *Qibla*'s alleged involvement in PAGAD contributed to a split in PAGAD's ranks. Academics in the Western Cape and high-ranking Muslim community members began to ask questions.

During September 1996 PAGAD split into two factions as the result of an apparent power struggle between Nadthmie Edries, Farouk Jaffer and Ali 'Phantom' Parker (the moderates) and the *Qibla* faction. This occurred when PAGAD members began to question the idea that the fight against drugs deserved to be called a jihad.

According to Jaffer, the original PAGAD had another vision 'through planning and constructive action such as the building of rehabilitation centres'. In other words, PAGAD had planned to do something about the drug and crime problem in the Western Cape.[23] According to Sidique, who was involved in negotiations between the two factions, 'Parker, Jaffer and Edries came out strongly against elements within PAGAD who they said were not interested in dealing with the authorities in the fight against crime. They claimed *Qibla* had an anti-state rather than an anti-crime agenda.' [24]

The final break between these two factions came on 20 September 1996 when Ali 'Phantom' Parker claimed that *Qibla* was in control of PAGAD. In his statement Parker made the following allegations against PAGAD:[25]

■ *Qibla* members within PAGAD were trying to assassinate him.
■ *Qibla* was responsible for hijacking the PAGAD movement as they had a 'hidden agenda'.
■ *Qibla* members blackmailed businessmen and extorted money in order to raise funds.
■ *Qibla* was trying to overthrow the government.
■ *Qibla* members encouraged people to burn down mosques in order to 'gain momentum for the cause'.

These accusations led to the suspension of Ali 'Phantom' Parker, Farouk Jaffer and Nadthmie Ederies from PAGAD, and the so-called split in September 1996. Although the full extent of the involvement of *Qibla* in PAGAD's formation may never be known, it appears that certain individuals associated with *Qibla* were a factor within the ranks of PAGAD.

Before the split in PAGAD in September 1996, Achmad Cassiem and *Qibla* members almost never made public statements. However, after September 1996 Achmad Cassiem began to attend and participate in PAGAD mass meetings, and to make some of the following statements. The reason for his involvement could firstly have been his being a member of the community in the Western Cape. However, it could also indicate that *Qibla* was involved in PAGAD structures.

■ During a meeting commemorating the death of Imam Haroon on 27 September 1996, Achmad Cassiem characterised South Africa as a country where 'streets are filled with prostitutes, murderers walk free and crime is on the rampage' and added that as a solution '[w]e need to see that South Africa becomes an Islamic state.'[26]
■ During a PAGAD march to parliament, Abdurrazaq Ebrahim stated that 'the government poses a definite danger to our community and the police are nothing but legal gangsters in uniform who are protecting the rights of illegal merchants in Parliament.' He equated the circumstances in which PAGAD found itself in relation to the government as 'the same scenario found in Bosnia, Algeria, Egypt, and all over the world where governments are discriminating against Muslims'.[27]

In the post-September 1996 period the emphasis also shifted from the state's inability to deal with crime to the necessity of establishing an Islamic state by revolution. PAGAD still attracted supporters mainly for two reasons: its ability to focus international attention on the escalating crime situation in South Africa, which, in turn, highlighted the government's inability to deal with the situation. Moderate and progressive Muslim organisations such as the Call of Islam and the Muslim Youth Movement still played an important role in the wider Muslim community in South Africa, but their influence appeared to be limited.

Responding to a question in an interview on whether PAGAD was a vigilante or pressure group, Dr Allie gave the following answer:

> PAGAD could be regarded as both a pressure group (putting pressure on the government and the police during marches and meetings to apply (sic) to its [PAGAD's] demands) and as a vigilante group. My understanding of a vigilante group is a person (sic) who reacts to a situation, and whose legitimate right it is to react to a situation because nobody else wants to. The latter is based upon the fact that PAGAD members as individuals and members of a structure (PAGAD) stand up to crime and drugs (wrongs) within the community. I will use my legitimate right to defend myself and by whatever means possible, whatever it takes.[28]

PAGAD's organisational structure and *modus operandi*

PAGAD's activities in the Western Cape contributed to the establishment of similar structures in the Eastern Cape, KwaZulu-Natal, the Northern Cape and Gauteng in 1996. Anti-drug groups from Cape Town (PAGAD), Port Elizabeth (PADAV), Johannesburg (PACAD) and Kimberley (PAGAD) united to form a national anti-crime body known as PAGAD United at a conference in Port Elizabeth in December 1996, under the chairmanship of Abdus Salaam Ebrahim as the national coordinator. Aslam Toefy was elected the national chief commander. During the conference it was decided that PAGAD's executive would include a representative from each of the regions. The most important feature of the conference

was the setting up a command substructure which would report to the executive.[29]

This consolidation served various objectives in dealing effectively with the eradication of drugs and gangsterism on a national level. The national executive not only coordinated the activities, but raised funds on a national level and countered threats from drug dealers and gangsters. Should PADAV in Port Elizabeth, for example, have come under attack from the drug lords, the national body would have organised assistance from other regions to counter that threat.

During the PAGAD National Conference from 21–23 March 1997, Abdus Salaam Ebrahim defined the word 'gangster' as follows:

> [A] person or persons who terrorize, brutalize, victimize, rape, rob and murder, oppress or do any form of injustice to humanity, communities, societies or individuals. A person who commits any crime, may it be shoplifting, car hijacking, fraud, all these are included in PAGAD's campaign against gangsterism and drugs. Any policeman, lawyer, religious person, an employed or unemployed person who assists criminals committing these crimes, are gangsters.[30]

Although PAGAD had a national structure, the structure and objectives of the Western Cape region were used as a model for the other regions. The discussion on the violent approach adopted by PAGAD focuses almost exclusively on its security department and cell structures. It is important to note that PAGAD's working committee and other substructures represent its overt function, while its security council represents its covert activities. This development reflected a dual strategy.

After PAGAD had split, it began to act in a more structured way. PAGAD Western Cape consisted of a working committee and nine substructures. The working committee was responsible for the entire campaign against gangsterism and drugs. It consisted of approximately 30 members including a chief coordinator, a chief commander and a chief of security, and the coordinators and secretaries of the various subcommittees. Each of the substructures was responsible for its own area, but was directly answerable to the working committee. Open structures responsible for the day-to-day functions and activities of PAGAD included the secretariat; the legal department; the social welfare department; the finance department; media and public relations; a medical team; an educational department; and the security department. The security department and the G-Force, however, became the focus of PAGAD's violent campaign. The G-Force was initially responsible for the safety of PAGAD members during mass rallies,

marches and meetings. Cell structures consisting of security members operated in the security department. Every cell had a commander accountable to the security department. Although no specific numbers were made public, a cell consisted of approximately 50 members and together accounted for approximately 600 active security members. The cell structures protected the specific areas in which its members resided. In the security department there was also a 'special unit' consisting of the most disciplined and well-trained members of every cell. According to Dr Allie:

> [C]ells are groups of people living in the same area. Each area has its own structure and coordinator… [I]t is not the policy of PAGAD to attack people (drug lords and gangsters), but if people act out of command or the intention of the Working Committee, one cannot take responsibility for those actions.[31]

It could be asked who was responsible for the violent attacks. According to the working committee it was not responsible, but also did not condemn people in the structure who committed these acts. In his work on post-modern terrorism, Laqueur explains that organisations may have a dual strategy and structure: firstly the political arm is used for the 'overt' activities, while the military or 'covert' structure engages in violent activities.[32] The objective of this strategy is for the overt leadership to dissociate itself publicly when the covert wing engages in violent activities. However, there is a danger that the covert wing may begin to operate independently and not under control of the overt structure. In fact individuals may begin to lose sight of the aims and objectives of the larger movement.

PAGAD's modus operandi fell into this framework – there was open denial of their involvement and responsibility for the violence perpetrated by the cell structures.

Dr Allie, however, also stated: 'By whatever it takes [PAGAD would get rid of crime], by every means necessary. If the people would decide to take the law into their own hands, we wish them the best of luck.' According to Allie and Abieda Roberts, one of the reasons for PAGAD's success was that the organisation 'took the fear that the community had (for gangsters and drug dealers) and placed it back into the hands of the gangsters/drug dealers.'[33] The police had a different perspective. According to Supt Holtzhausen, media liaison officer for the South African Police Service in the Western Cape PAGAD instilled fear in drug dealers and gangsters through acts of violence that included murder, by taking the law into their own hands, and by acting outside the boundaries set by the law.[34]

According to Jeremy Vearey, then commander of police intelligence coordination in the Western Cape, in Brummer:

PAGAD has in recent months formed its 'paramilitary wing', also called the G-Force, into small cell structures at neighborhood level, which have the capacity to operate undetected and independently from central organizational control. Some cell members are said to be veterans of armed Islamic campaigns in hot spots like Bosnia, Lebanon and Afghanistan. PAGAD seems not to be in any position to control the actions of its members. There is very little centralized control... and the energy unleashed by the PAGAD cause could reproduce itself in a pattern of militancy with a life of its own, independent of direct structural ties to PAGAD.[35]

Originally cells were decentralised and geographically arranged according to neighbourhood to defend themselves against attacks by gangsters. However, during 1998, individual cells started to perpetrate attacks and that ultimately resulted in an increase in the number of attacks.

Since PAGAD came into being, similar structures have been formed each with a different reason for existence. These include Muslims Against Global Oppression (MAGO); Muslims Against Illegitimate Leaders (MAIL) and People Against Prostitutes and Sodomites (PAPAS). Closer investigation of these structures has revealed that the same prominent role-players, who, according to Muslim leaders in the Western Cape, were affiliated to *Qibla*, have played a prominent role. Each of these structures represents a different challenge or problem faced by Muslims in the Western Cape, hence each has been able to recruit new members. For example, *Qibla*'s involvement in MAGO may best be seen in a *Qibla*/MAGO march on 7 January 2000

to the Russian embassy in Cape Town in protest against the killing of Muslims in Chechnya. *Qibla* leader, Achmat Cassiem, who handed over a memorandum demanding that Russia end the 'bloodshed' in Grozny, led the delegation. Earlier, in December 1999, Moain Achmad, spokesperson for MAGO, accused the South African government of being part of a US-led 'hidden ageda'.[36]

Radical Muslim extremists in the Western Cape, like radical Muslim groups throughout the world, propagated Islam with its own worldview, values and principles, social ideas and traditions with the objective of transforming and reconstructing the Muslim society and state according to the principles of Islam. To this point these principles and objectives fall within the framework of fundamentalism (or return to basic religious values) and therefore are legitimate. However, a small group of supporters went further and legitimated the violent activities on theological principles. For example, Muslims Against Illegitimate Leaders (MAIL) held that it is the religious duty of Muslims to establish an Islamic system of government. Like the radical Muslims in the Middle East such as in Saudi Arabia, Libya and Egypt, MAIL contends that the existing government is illegitimate despite the reality that non-Muslims form the majority.

Consequently there was division among PAGAD members over the approach to strategy dealing with gangsterism and drug abuse. This led to a split in community support. This second split was manifest in two groups:

- One faction, under the leadership of Abdus Salaam Ebrahim, which supported confrontation of gang leaders in a violent manner.

Figure 1 Inter-relationship between *Qibla* and PAGAD, MAIL, PAPAS and MAGO
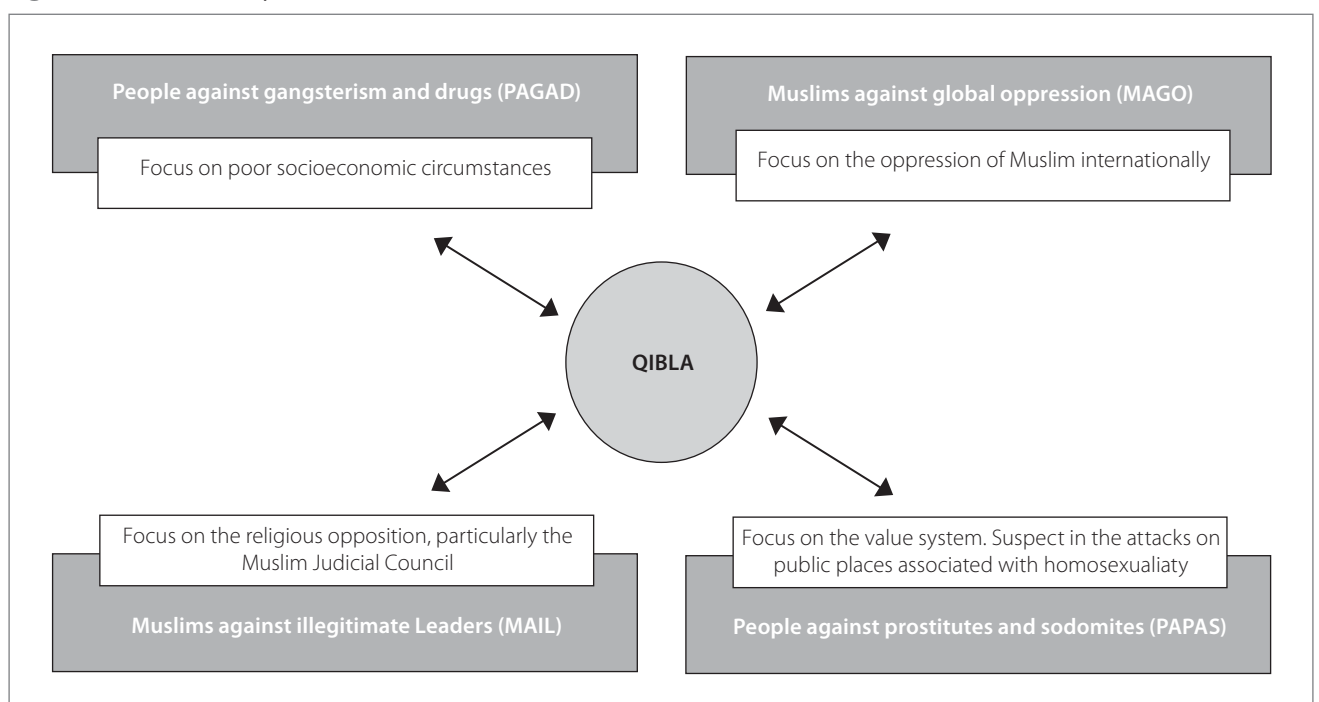
Figure 2 PAGAD violent modus operandi: 1996-2000
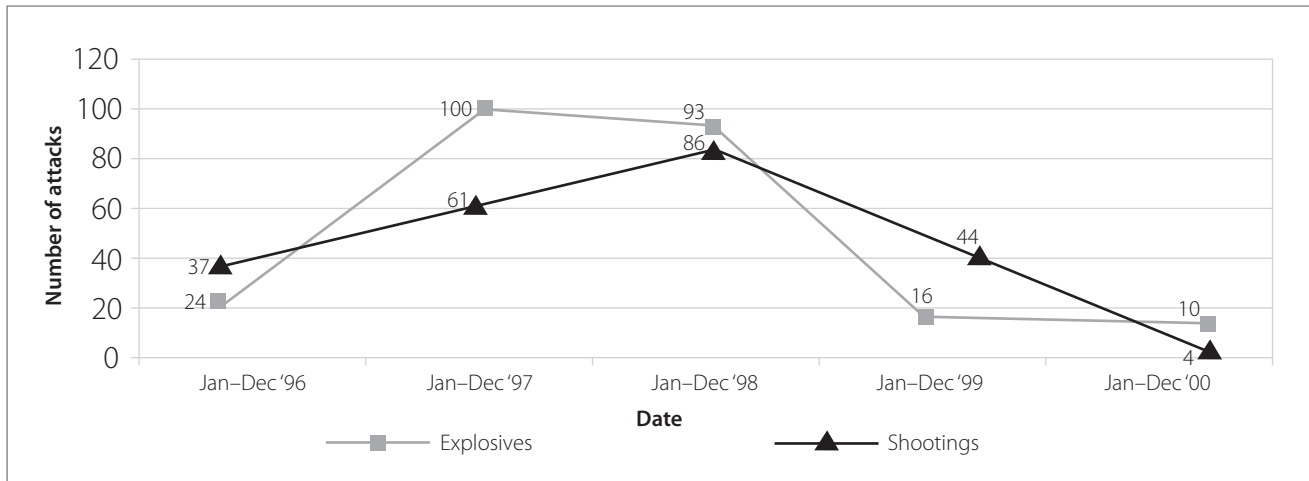
- Another faction which wished to cooperate with the South African Police Service in crime prevention functions. Its members rejected militant strategies and began to provide information to members of the security forces.

As PAGAD's campaign of urban terrorism developed, it became clear that PAGAD members had become dissatisfied with the working committee and security council. The dissatisfaction centred on the perceived weak leadership after the arrest of Abdussalaam Ebrahim and other key members in late 1999 and early 2000. However, attacks continued during 2000 indicating that the remaining radical PAGAD supporters had begun to follow their own initiative.

Although PAGAD initially focused on alleged drug dealers, it later came to include government structures, clerics, restaurants and other businesses. The objectives and organisation of its covert operations differentiated it from a pure vigilante group. However, militancy was evident in both the paramilitary-styled attacks on alleged drug dealers perpetrated primarily by PAGAD G-Force members, and the mass marches by PAGAD supporters, intended as a popular show of force when

PAGAD ultimatums were delivered to drug dealers. As mentioned earlier in PAGAD's development, there was a dual strategy and structure: first the political arm was used in its 'overt' activities, while the military or 'covert' structure engaged in violent activities.

The following graphic presentation reflects the development of PAGAD's violent approach. From 1996 till 1998 PAGAD's cell structures mostly limited their attacks to drug dealers. Although the number of incidents recorded declined for 1999 and 2000, PAGAD's target selection changed to include attacks on police stations and restaurants[37].

This progression will be discussed with regard to target selection, modus operandi, as well as the development of the devices used during these attacks.

The fight against drug dealers

During the period July 1996 to December 1997 PAGAD's covert structures were allegedly implicated in 222 acts of violence against alleged drug dealers and their property. Explosives (124) were increasingly used in these incidents, in comparison to the recorded 98 incidents in which firearms were used.[38]

In reaction to the increase in violence, public support for PAGAD gradually declined, as reflected both in fewer

Table 1 The following attacks were directed at police stations:[39]

Date	Description
25 Jan 1998	A pipe bomb attack at the Lansdowne Police Station.
26 June 1998	A pipe bomb attack at the Mowbray Police Station.
6 August 1998	An explosive device directed at the PAGAD special task force in Bellville resulted in the death of a street vendor.
28 January 1999	An explosive device directed at the Caledon Square police station resulted in the injury of 11 people.
30 January 1999	A blast directed at the Woodstock police station resulted in the injury of one person and damage to a police vehicle.
9 May 1999	A car bomb was detonated outside the Athlone police station.

people attending PAGAD-hosted functions and the negative sentiments expressed about PAGAD's tactics in the public media. This decline of support was attributed to the broader-based PAGAD supporters being dissatisfied with the tactics used by the G-Force, perceived as a deviation by PAGAD from its original specific focus on eradicating drug and gang-related activity. A select core group located within the G-Force therefore represented a threat to stability.

Violence against outspoken opposition

From 1996 up to and including late May 1998, the main targets were alleged or actual drug dealers, gangsters and *shebeens*. From the end of May through June attacks were largely directed against Muslim-owned businesses, while in July, both academics and clerics critical of the tactics of the G-Force were specifically targeted. At the same time, personnel and facilities of both the security and intelligence community were classified as the 'enemy' and subject to threats and attacks.

Essentially the increasing selectivity of targets reflected a notable qualitative shift in strategic objectives. This qualitative shift, however, did not translate into a quantitative increase in attacks per se. Rather, the use of explosive devices declined from 100 in 1997 to 93 incidents in 1998. However, during 1998 the number of shooting incidents increased to 86 in comparison with the 61 incidents recorded during 1997.

Attacks directed at restaurants and public places

PAGAD's modus operandi changed dramatically from the end of 1998. For example, in reaction to the United States' counter-reactions to the bombings in Kenya and Tanzania on 6 August 1998 (strikes against Sudan and Afghanistan), PAGAD allegedly began to target businesses linked to the United States. The best example was the explosion at Planet Hollywood on 25 August 1998.

Although the number of incidents declined from 93 explosions to 16 and 86 shooting incidents to 44, these incidents were intended to cause more casualties. Attacks on drug dealers were no longer the primary focus of attention. The change in target selection was accompanied by changes in the explosive devices used in the attacks and the introduction of cellular phones as detonators indicated a change in the objective of these attacks. In retrospect, pipe bombs had served as a warning to drug dealers to stop their dealings, while the use of mobile phones as detonators was in stark contrast to the earlier 'warning' attacks directed at drug dealers. Besides the remote detonation devices, car bombs were also introduced. Terrorism became almost faceless, whereas before 1999 perpetrators could be identified as pipe bombs had to be thrown at their targets.

Despite a decrease in violent activities after 1999, the target selection changed dramatically to include public places. A clear move from a focused to an indiscriminate target selection illustrated the seriousness of this urban terrorism. From January to December 1999 there were six bomb attacks in which 81 people were injured, and 17 armed attacks in which 17 people were killed. These acts of terrorism included the following:[40]

- 1 January: a car bomb exploded at the Waterfront, injuring two people.
- 8 January: Kentucky Fried Chicken in Athlone was petrol-bombed.
- 6 November: nine people were injured in the Blah Bar explosion in Somerset Road.
- 28 November: 48 people were injured in a blast at St Elmo's Restaurant in Camps Bay.
- 24 December: 7 police officers were injured when a bomb exploded in a refuse bin outside Mano's Restaurant in Main Road, Greenpoint. This device was triggered remotely by cellophane.

The organisation known as People Against Prostitutes and Sodomy (PAPAS) also began to accept responsibility for attacks against gay bars in 2000. Although PAGAD denied any links with PAPAS, the devices used were similar. During 2000 the following attacks were recorded:[41]

- 12 January: a bomb attached to a motorbike detonated in front of the Wynberg Magistrate's Court, injuring one person.
- 22 May: police defused a pipe bomb outside the New York Bagels and Sit-down Restaurant in Sea Point.
- 10 June: a bomb (inside a Toyota Corolla) detonated outside the New York Bagels and Sit-down Restaurant, injuring three people.
- 18 July: a small explosive device, planted in a dustbin, detonated at the Cape Town International Airport, causing minor damage.
- 11 August: an explosive device in a Toyota Corolla detonated outside the Zanzibar Coffee Shop, Constantia Village Shopping Centre, injuring two people.[42]
- 18 August: a car bomb detonated outside the Bronx nightclub.
  Five people were injured when the device detonated in a green Nissan Sentra at The Bronx Bar.
- 29 August: a car bomb detonated in Adderley Street, near the United States embassy during the afternoon rush hour, injuring seven people.
- 7 September: the assassination of state prosecutor Pieter Theron in front of his residence.[43]
- 8 September: a car bomb explodes outside the Obz Café, a student bar in Observatory.

- 12 September: a bomb detonated close to the Samaj Community Centre in Gatesville, moments after Gerald Morkel, Western Cape premier, arrived to address a meeting.[44]
- 18 October: a bomb detonated near the offices of the Democratic Alliance in Kenilworth.

Besides using mobile phones to detonate explosive devices, traces of domestic fertilisers were also found at the Constantia Shopping Centre, Bronx Bar, Heerengracht Street and Obz Café, according to Superintendent Denise Brand.[45] This may have been an indication that the perpetrators intended to cause the most damage possible or it may have been that, as a result of stricter measures regarding the purchase of gunpowder, the perpetrators were experimenting with ammonium nitrate since it was more freely available.

Re-emergence of PAGAD?

During 2007 citizens in the Western Cape witnessed a number of activities that led to speculations that PAGAD might have made a return. For example, on 18 June approximately 300 community members took to the streets and targeted eight suspected drug outlets in Mitchell's Plain. The following day, an estimated 2 000 community members, angered by speculation that tik dealers had attacked a mosque in Beacon Valley, gathered at a local mosque, marched to a luxury double-story house of a suspected tik dealer and set the residence on fire. They also overturned a vehicle before the police dispersed the crowd using stun grenades and rubber bullets.[46]

Police reacted by arresting 15 residents from Mitchell's Plain on public violence charges and descended on two mosques (one in Lentegeur and the other on A Z Berman Drive). Notwithstanding the responsibility of the police to maintain law and order, community members felt that the state had reacted against them, while those that needed to be apprehended by the state had managed to get away once again. Comments such as the following reflected this sentiment: 'They come here now to control us, but they let the drug dealers and crime lords run free. They're bastards! This is a corrupt state.'[47]

Despite statements from recognised PAGAD members that PAGAD was not responsible for these developments, somehow the suspected involvement of PAGAD raised concern. The organisation's early history as well as the chanting of the phrases 'We want a drug-free, gangster-free society' and 'Kill the merchants' brought back many memories.

It is essential to place these developments in context to understand that PAGAD's success first as a pressure group and later a vigilante group gained strength from a growing community perception that the government and the police were unable or even unwilling to deal with the growing problem of narcotics and gangs in the Western Cape – particularly on the Cape Flats. Even with the arrest and prosecution of suspected PAGAD members after 2000, the community on numerous occasions called for the return of PAGAD, since they saw it as the only force that stood up to and even effectively managed to deal with drug dealers and high profile gang members. Emotions flared up especially in reaction to drive-by shootings between opposing gangs in which children found themselves in the crossfire.

With the advent of tik, these calls became more urgent and even resulted in two attacks in which individuals possibly aligned with PAGAD were suspected: On 14 May 2005 a pipe bomb was thrown at the residence of an alleged drug dealer. According to this home owner, PAGAD had bombed his residence three times before.[48] It is not clear whether individuals associated with PAGAD were responsible for this incident, as competing drug dealers may also have been the perpetrators. On 17 October 2005, approximately 150 men gathered at a mosque in Pluto Street, Surrey Estate on the Cape Flats and marched through the streets in search of a Tanzanian man suspected of dealing in drugs. This coincided with an attack on a house in Surrey Estate which resulted in the resident Tanzanian families being evicted for dealing in drugs. During the same period a vigilante group trashed the homes of two Tanzanian families in Manenberg. Although not directly linked to PAGAD, these developments raised the levels of concern of a possible resurgence of PAGAD-style attacks on drug lords, particularly since Salie Abader, PAGAD's regional safety coordinator stated in August 2005 that PAGAD 'still had enormous community support and was contacted regularly by people from Bishop Lavis to Bishop's Court [who are] fed up with the government's inability to combat crime.' During the week of 14 August 2005, Salie Abader addressed a crowd in Mitchell's Plain, allegedly stating that PAGAD would 'hunt down and kill merchants and gangsters', but later retracted the statement in an interview with The Sunday Argus, stating instead that '[V]iolence was never part of PAGAD's policy and never would be.'[49]

Although the state cannot allow community members to take matters into their own hands, it has become clear that the police were unsuccessful in establishing community trust in and support for their ability to address crime. Statements such as: 'Away with the police. They are in any case only warning the tik-bosses' cast doubt on police-community relationships. Understandably the police cannot act on tip-offs alone, since they need to build a case to be

able to secure conviction in a court of law. However, community members have and continue to complain that police are either corrupt or simply not interested in addressing the drug dealers. This has contributed to an extremely emotional and volatile situation in a number of communities.

CONCLUSION

Although extremist elements in the Western Cape used the issues of gangsterism and drugs to gather support for PAGAD, it is expected that even if substantial success can be achieved to combat these two phenomena, nevertheless the Islamic extremists in the Western Cape in particular will continue to find other causes through which to display their violent opposition to the current democratic and constitutional dispensation. It is unfortunate that PAGAD's noble ideas of acting against drugs and gangs in the Western Cape and its initiatives to establish community centres have been overshadowed by its members' involvement in acts of terrorism and violence.

As with the relationship between the white Afrikaner community and right-wing extremism, the majority of Muslims in the Western Cape do not support Islamic extremism in the form of terrorism.

On the other hand, although PAGAD allegedly was responsible for the high profile attacks, no one ever focused on the reason for PAGAD's attacks, namely drugs and gangs. In comparison, gang violence was responsible for more instability in the Western Cape than PAGAD. Although drug peddling and drug abuse, gang violence and high levels of violent crimes are found throughout South Africa, the situation in the Western Cape is unique in that gangster subcultures have proliferated throughout the prison system and now affect the entire region.

PAGAD's covert activities came to a standstill with the arrest and prosecution of its prominent leaders. However, since the underlying reasons for its existence were never addressed, the possible re-emergence of PAGAD or similar organisations cannot be excluded. Although PAGAD's violent campaign was successfully dealt with, PAGAD – as an example in which a community-based structure can be used as a vanguard of Islamic militancy – remains important. Crime, social and moral decline, economic desperation, US foreign and Israeli domestic policy are issues that could easily be 'taken over' by Islamic extremists with ulterior motives.

Despite the broad assessment that right-wing elements pose a limited threat to the government or national and regional stability, the gradual increase in number and severity of incidents that resulted in sporadic acts of violence and terrorism should serve to indicate that the government urgently needs to address the underlying reasons for discontent among the right wing. These include fears for the future of their language, culture, identity and safety which often consolidate into feelings of marginalisation. However, the extreme right does not have the resources, capacity or support to execute a coup d'état in South African successfully. Currently it also lacks the broad popular support and access to military weaponry to proclaim and defend an Afrikaner or Boer state successfully in any part of the country. It would be naïve, however, to presume that the extreme right could not create instability and destruction on a significant scale.

It is interesting to note that the underlying issues of discontent in the right wing are remarkably similar to those of PAGAD:

- Crime
- Marginalisation
- Culture of resistance

So too, the government's reaction has focused predominately on the short term (arrest and conviction of suspects) without addressing the underlying reasons for illegal activities. Therefore, it is essential to provide a long-term solution to issues that can be used by such organisations to radicalise and recruit more members, and justify their use of violence, including terrorism.

NOTES

1 A I Tayob, Islamism & PAGAD: Finding the connection, in R Galant and F Gamieldien, Drugs, gangs, people's power: Exploring the PAGAD phenomenon, Cape Town: Claremont Main Road Masjid, 1996, 32.

2 R Galant and F Gamieldien, Drugs, gangs, people's power: Exploring the PAGAD phenomenon, Cape Town: Claremont Main Road Masjid, 1996, 9.

3 PAGAD targets Omar, Mail & Guardian, 6 December 1996.

4 A R Omar, Police, politics & anti-drug strategies: From Salt River to Salt River in R Galant and F Gamieldien, Drugs, gangs, people's power: Exploring the PAGAD phenomenon, Cape Town: Claremont Main Road Masjid, 1996, 49.

5 S Jeppie, Introduction, in R Galant and F Gamieldien, Drugs, gangs, people's power: Exploring the PAGAD phenomenon, Cape Town: Claremont Main Road Masjid, 1996, 14–15.

6 R Friedman, From back streets to business empires, The Cape Times, 18 February 1998

7 L van Zilla, Cape Flats under microscope, The Cape Times, 18 February 1998, 10.

8 C Africa, J Christie, R Mattes, M Roefs and H Taylor, Crime and community action: Pagad and the Cape Flats, 1996–1997, *Public Opinion Service Reports,* IDASA 4, June 1998, 2.

9 Ibid.

10 L Johnston, "What is Vigilantism" *British Journal of Criminology,* Vol. 36 No 2 1996, 234

11 Radical Islam: The PAGAD connection, *Financial Mail,* 14 (11) (16 August 1996), 48.

12 S Manjra, The smokescreen of 'fundamentalism', *Impact International* 26(9) (1996), 10–12.

13 Interview with Ebrahim Moosa, Cape Town, 19 June 1997.

14 A Botha, People Against Gangsterism and Drugs (Pagad): A study of structures, operations and initial government reactions, Johannesburg: Rand Afrikaans University, 1998, 21.

15 C Clohessy, Thoughts on PAGAD, in R Galant and F Gamieldien, *Drugs, gangs, people's power: Exploring the PAGAD phenomenon,* Cape Town: Claremont Main Road Masjid, 1996, 78.

16 Interview with Dr G Allie, PAGAD Secretariat Western Cape, Cape Town, 4 May 1998.

17 A Botha, People Against Gangsterism and Drugs (Pagad): A study of structures, operations and initial government reactions, Johannesburg: Rand Afrikaans University, 1998, 23.

18 A Botha, People Against Gangsterism and Drugs (Pagad): A study of structures, operations and initial government reactions, Johannesburg: Rand Afrikaans University, 1998, 23.

19 A Botha, People Against Gangsterism and Drugs (Pagad): A study of structures, operations and initial government reactions, Johannesburg: Rand Afrikaans University, 1998, 23.

20 H Boshoff, A Botha and M Schönteich, *Fear in the City: Urban terrorism in South Africa,* ISS Monograph No 63, 2001, 40.

21 Ibid.

22 Tayob, Islamism & PAGAD: Finding the connection, 34–35.

23 F Jaffer, Presentation to the Institute for Security Studies, Midrand, 28 February 1997.

24 Interview with Sheikh A Sidique, President of the Muslim Judicial Council (MJC), Cape Town, 6 May 1998.

25 A Botha, People Against Gangsterism and Drugs (Pagad): A study of structures, operations and initial government reactions, Johannesburg: Rand Afrikaans University, 32–33.

26 Ibid

27 Ibid.

28 Interview with Dr G Allie, PAGAD Secretariat Western Cape, Cape Town, 4 May 1998.

29 H Boshoff, A Botha and M Schönteich, *Fear in the City: Urban terrorism in South Africa*, ISS Monograph No 63, 2001, 47.

30 A Ebrahim, Speech delivered at the PAGAD National Conference, Podium Hall, Cape Town Civic Centre, Cape Town, 21–23 March 1997.

31 Interview with Dr G Allie, PAGAD Secretariat Western Cape, Cape Town, 4 May 1998.

32 W Laqueur, Postmodern terrorism, *Global Issues: Targeting Terrorism* 2(1) (1997), 9–14.

33 H Boshoff, A Botha and M Schönteich, *Fear in the City: Urban terrorism in South Africa,* ISS Monograph No 63, 2001, 53

34 Interview with Supt W Holtzhausen, South African Police Service, Liaison Officer: Western Cape, Cape Town, 7 May 1998.

35 Ibid

36 A Smith, Cape Muslims march on embassies, *Cape Argus,* 7 January 2000,1–2, http://www.newsview.php

37 H Boshoff, A Botha and M Schönteich, *Fear in the City: Urban terrorism in South Africa,* ISS Monograph No 63, 2001, 53

38 R Friedman, Govt blamed for lack in action as war escalates, *The Cape Times,* 24 January 1997, 5.

39 Bronx bomb was sixth attack this year, *The Cape Times,* 20 August 2000.

40 Ibid.

41 Chronology of Western Cape bomb blasts, *Independent Online,* 9 September 2000, http://www.iol.co.za/index.php?set_id=1&click_id=15&art_id=qw968455621346B214 (accessed 9 September 2001).

42 Car bomb in Cape Town possibly a form of Pagad revenge, Witness News, 8 October 2000, http://www.witness.co.za (access on 10 December 2000).

43 L van Zilla, Magistrate died for role in Pagad trial, *The Cape Times,* 7 September 2000.

44 Independent Online, "Bomb misses Morkel "by seconds", 13 September 2000, http://www.iol.co.za/index.php?set_id=1&click_id=13&art_id=ct20000913002504419G3214328 (accessed on 15 September 2000)

45 Ibid.

46 M Louw, Tik dealer's home torched, *Die Burger,* 20 June 2007.

47 M Williams, C Bailey and M Prince, It looked like a war zone, *The Cape Arugus,* 21 July 2007, http://www.iol.co.za/index.php?set_id=1&click_id=13&art_id=vn20070621115744564C312340 (accessed 23 July 2007) http://www.iol.co.za/index.php?set_id=1&click_id=13&art_id=vn20070621115744564C312340 (accessed on 23 July 2007)

48 Z Ekron, Bomb: Don't blame Pagad, *Die Burger,* 17 May 2005.

49 H Bamford, Pagad is back…to work 'within the law', *The Cape Argus,* 14 August 2005.

Domestic terrorism in Uganda

Wafula Okumu

INTRODUCTION

Terrorism has affected the countries of East Africa in different ways. Whereas Kenyans and Tanzanians have been subjected mainly to international terrorist threats and activities, Ugandans, particularly the northerners, have been victimised by terrorism perpetrated by the Lord's Resistance Army (LRA) for more than two decades. The LRA has almost become a legend because of its resilience and the failure to obliterate it. There have also been controversies around the government's way of classifying it as a terrorist organisation, the approaches it has used to end LRA activities and the support the LRA has received from foreign governments. This paper starts by giving a definition of domestic terrorism that corresponds to LRA activities; it traces the origins of the LRA, and highlights its agenda, tactics and acts of terrorism, as well as the responses of the Ugandan government aimed at ending LRA terrorist activities. The paper includes an overview of attempts to find a peaceful end to the LRA terrorism before concluding with some recommendations.

UNDERSTANDING AND DEFINING DOMESTIC TERRORISM IN AFRICA

Although LRA activities that target civilians are definitely terrorist in nature, the attempts of the Ugandan government to use this label may have created some confusion, especially when political opponents and government critics have also been branded terrorists or LRA sympathisers. There have also been doubts as to whether the LRA is a terrorist organisation because of how it has been classified by the UN and the US government. The UN keeps a consolidated list, which was established and is maintained by the 1267 Committee. It lists individuals and entities related to Al Qaeda, Osama bin Laden, and the Taliban.[1] This could explain why President Yoweri Museveni strenuously attempted to create links between the LRA and Al Qaeda, so that Kony, the LRA leader, could be included on this list as neither the LRA nor its high command is presently listed. Nor does the US list of 'foreign terrorists organizations' (FTOs) include the LRA, as to date it has not kidnapped or killed an American citizen. However, the LRA is listed among 'other selected terrorist organizations' (OSTOs) that are 'deemed of relevance in the global war on terrorism'.[2] Of concern to this seminar series is that these listings point out that terrorism in Africa has mainly been viewed from a Western perspective or has been related to Western interests. This approach by the UN and US State Department to listing Africans and African entities that engage in terrorist activities highlights the importance of developing an African understanding of terrorism.

In order for us to draw attention to terrorism in Africa, we need to contextualise it within an African definition and understanding. The AU does not have or maintain a list of terrorist organisations in Africa. However, the OAU Convention on the Prevention and Combating of Terrorism article 1(3) defines terrorism as **any act which** is a violation of the criminal laws of a State Party and which may endanger the life, physical integrity or freedom of, or **cause serious injury or death to any person, any number or group of persons or causes or may cause damage to public or private property**, natural resources, environmental or cultural heritage and is calculated or intended to:

■ intimidate, put in fear, force, coerce or induce any government, body, institution, **the general public or**

any segment thereof, **to do or abstain from doing any act, or to adopt or abandon a particular standpoint**, or to act according to certain principles; or

- **disrupt any public service, the delivery of any essential service to the public** or to create a public emergency; or
- **create general insurrection in a State**.[3]

However, the AU definition also points out in article 3(1) what does not qualify as terrorism:

- The struggle waged by peoples in accordance with the principles of international law for their liberation or self-determination, including armed struggle against colonialism, occupation, aggression and domination by foreign forces shall not be considered as terrorist acts.
- Political, philosophical, ideological, racial, ethnic, religious or other motives shall not be a justifiable defence against a terrorist act.

If one uses the AU definition of terrorism, it is quite obvious from the facts that follow that the LRA is a terrorist organisation and does not qualify as a liberation movement. President Museveni could easily have argued this within the African context instead of strenuously seeking an American endorsement of LRA categorisation as a terrorist organisation. The LRA terrorist acts, which qualify as terrorism under the AU definition, were also brought to the fore by the International Criminal Court (ICC) arrest warrants of the LRA high command. These warrants note that 'the LRA has engaged in a cycle of violence and established a pattern of brutalization of civilians by acts including murder, abduction, sexual enslavement, mutilation, as well as mass burnings of houses and looting of camp settlements'.[4] The LRA is also accused of abducting civilians, including children, and using them 'as fighters, porters and sex slaves' and as fighters against the Ugandan army and civilian communities.

ORIGIN OF TERRORISM IN UGANDA

The origin of domestic terrorism can be traced to the precolonial period when different communities used terror tactics to conquer and subjugate each other. However, for the purpose of this discussion we will trace the origins of the current terrorism in Uganda to the 1960s when Milton Obote started consolidating his power at the expense of other ethnic groups, particularly those in the south. Obote did this by strengthening military and state security apparatuses to enhance regime security at the expense of human security. While this enhanced his powers and promoted the interests of his Lango ethnic

group, it alienated and marginalised other ethnic groups, even the neighbouring Acholi. One of the key players in this quest for unbridled power was Idi Amin Dada, the army commander Obote used in the brutal clampdown of his opponents. However, it was not long before Amin ousted Obote from power in 1971 and launched a reign of terror that claimed more than 300 000 lives. Amin went on to build a terrorist state that acted with impunity and sadism to torture and kill innocent people perceived to be his opponents. Amin terrorised Ugandans for almost nine years before he was replaced by exiles from Tanzania. After a series of transitional governments, an election was held in 1982. These elections brought Obote back to power.[5]

Obote's second regime was no better than the first and was, in fact, said to have been as brutal as Amin's.[6] Obote did not rule peacefully as he was immediately confronted by a guerilla group led by the minister of defence, Yoweri Museveni, who had lost the elections and protested that they had been rigged in favour of Obote. This insurgency gained strength over the years, and by 1985 Obote's hold on power had been severely weakened to the point where he was easily overthrown by an Acholi military head, General Tito Okello. However, Okello's rule was short-lived as Museveni's National Resistance Army (NRA) took over the capital city Kampala in January 1986 and proclaimed him the new leader of Uganda. The Uganda National Defence Force (UNDF) under Okello withdrew to the north of the country and combined with remnants of the Amin and Obote forces to launch terrorist attacks against the new state and the population. Many more anti-Museveni groups emerged, among them the Uganda People Defence Army/Movement (UPDA/M) led by Odong Latek; the Citizens Army for Multiparty Politics (CAMP) led by Brigadier Smith Opon Acak; the Holy Spirit Mobile Forces (HSMF) led by Alice 'Lakwena' Auma; the West Nile Bank Front (WNBF) led by Juma Oris; the Uganda Salvation Front/Army (USF/A); the Uganda Peoples Army (UPA) headed by Peter Otai; the Uganda National Rescue Front II led by Colonel Ali Bamuzes; the Allied Democratic Forces (ADF) led by Jamil Mukulu and Taban Amin, and the National Army for the Liberation of Uganda (NALU) led by Jafari Salimu. All these groups developed the same modus operandi of kidnapping and murdering civilians to create fear in the local population and to undermine confidence in the government. The origins of the LRA can be traced to these groups.

Another factor that could explain the source of domestic terrorism in northern Uganda is ethnophobia and marginalisation of the region from the rest of the country. The divide between northern and southern Uganda is glaring: southerners have iron-roofed homes,

northerners live in grass-thatched huts with no electricity or running water; the southern part of the country has a fairly well-developed infrastructure, while the north has no tarmac roads. During the colonial period northerners were treated as a source of cheap labour and recruits for the military; they were denied the same access to education, government jobs and infrastructure as their southern counterparts. The people of the two regions also belong to two distinct lingual-cultural groups of Bantus and Nilotics. The Bantus of western Uganda refer to the people from the north as *abanyamahanga* (foreigners) or *abadokori (*speaker of unintelligible language).

The Lord's Resistance Army (LRA)

The origin of the LRA can be traced to 1988 when Joseph Kony formed the United Holy Salvation Army, which later became the Uganda Democratic Christian Army/Movement (UDCM/A) and the Lord's Resistance Movement/Army (LRM/A) in 1993. Ironically the word 'Kony' in the Acholi language means 'to help', but it is now synonymous with terror, destruction and suffering. Kony was born in 1962 to Luwigi Obol, a village teacher and catechist, and Nora Oting in Odek village in Omoro county of Gulu district.[7] In his youth, he was a very polite, humble altar boy who liked to dance the Lakaraka (an Acholi traditional dance). A school dropout who came of age during Idi Amin's brutal dictatorship in the 1970s, Kony became a witchdoctor in 1981 after leaving home for the nearby Awere hills where he established a shrine. He joined the rebel group, the UPDA (an armed wing of UPDM) in 1987 as a 'spiritual mobiliser' in Major Benjamin Apia's 'black battalion' at Awach in Gulu district. When the UPDA was defeated, Alice Lakwena (messenger), Kony's aunt, launched the Holy Spirit Mobile Forces (HSMF).[8] Lakwena rallied peasants and former soldiers to cleanse society and purge the government of 'evil'. When Lakwena was defeated she fled to Kenya.

In 1988 Kony assembled the remnants of Lakwena's HSMF and UPDA and launched the United Holy Salvation Army (UHSA), which later changed its name to the UDCM/A and subsequently became the LRM/A in 1993. Kony claims he is an embodiment and personification of the Holy Spirit, which came to him in a dream and asked him to launch the LRM. He has more than 50 ex-slaves with whom he has sired over 100 children (who will constitute the 'pure race').

The LRA initially operated in the northern Uganda districts of Gulu, Pader and Kitgum, but later moved across the border to southern Sudan. In October 2005, Vincent Otti led a group of 400 LRA rebels into Oriental province of the DRC and pitched camp in the Garamba National Park. By March 2008, one faction of the LRA under the command of Kony had moved into the southeastern Central African Republic, established a base near Obo and made contact with the Chadian rebel leader, Nour Mahamat, of the Union of the Forces for Democracy and Progress (UFDP).

LRA structure

The LRA is organised like a regular infantry army with five brigades named Control Altar (Kony's protection unit), *Stocree*, *Sinia*, *Gilva*, and *Shila*. Its operational orders are as follows:

- From the 'Spirit'
- To Laor (holy messenger) – Kony
- Holy chief (army commander)
- Military high command
- Division commander
- Brigade commander
- Unit commander

At its peak, the LRA had an estimated force of 5 000, mainly abducted children who had undergone 'faith orientation' training, which included, among other things, killing their parents or each other. It is estimated that Kony has kidnapped over 30 000 children over 20 years.[9]

LRA agenda

Over the years Kony has claimed that the aim of the LRA is to cleanse his people so that only the pure ones will remain. The pure children are those born in LRA camps. Ultimately he hopes to create a new and pure Acholi race that one day will be numerous and powerful enough to overthrow the government of Uganda and rule the country according to the Ten Commandments. Kony does not have a political agenda beyond 'ethnophobia' (mutual ethnic hatred of southern ethnic groups) and to remove Museveni and replace his government with one based on the Ten Commandments. It is ironic that the methods and strategies that Kony uses to achieve this aim flagrantly violate these commandments, particularly the tenth one of 'Thou shall not kill' by doing so even on Christmas Day and other Christian holidays. He has with impunity violated the other commandments against stealing, lying, worshipping idols, committing adultery as well as those calling for human beings to love each other.

LRA methods and strategies

The LRA has used brutal tactics to terrorise the population of northern Uganda. Kony has gained infamy by defiling girls, forcefully conscripting boys into his ragtag

fighting force, sadistically mutilating and hacking victims to death, and displacing over 2 million people. In specific terms his terrorist methods include:

- Chopping off hands and other body parts such lips, ears (and enclosing them in envelops), legs, breasts and fingers
- Beheading and chopping bodies into pieces and stuffing parts into cooking pots
- Slicing off private parts
- Burning victims to death
- Burning homes and granaries
- Killing anyone riding a bicycle

A chronology of LRA brutality[10]

The following chronology over a ten-year period, between 1995–2005, highlights the brutal LRA methods mentioned above:

- 13 April 1995: Fourteen hacked to death in Kitgum.
- 2 August 1996: Four tortured and killed at Patiko.
- 13 September 1996: Alice Lakwena's brother-in-law knifed to death at Ajulu in Aswa county.
- 7 October 1997: Two beheaded and another chopped into pieces in an ambush at Pajok.
- 27 February 1998: Rebels attack Aruu county and cut off the ears of seven residents.
- 15 May 2002: Kony slices off the private parts of Ojok Marino Duca, a captive.
- 15 October 2002: Rebels burn 65-year-old Mary Okello of Ayago parish to death. Ninety huts set ablaze and 30 civilians abducted.
- 29 October 2002: Thirty-four civilians massacred in Agago county, Pader district. Kony cuts a man up and stuffs the pieces into a cooking pot.
- 20 September 2002: Thirteen hacked to death in Gulu.
- 15 November 2002: Nine hacked to death in Lira district.
- 6 March 2003: Six Uganda People's Defence Force (UPDF) soldiers beheaded in Pader.
- 16 June 2003: Eighteen hacked to death in Apac.
- 19 November 2003: Twelve hacked to death in Lira.
- 2 June 2003: LRA rebels enclose a boy's ears in a letter warning the Acholi not to cooperate with the government.
- 27 October 2003: A man and two of his sons killed and mutilated in an internally displaced peoples (IDP) camp in Angopet, Soroti district.
- 4 April 2004: Kony kills nine people and cuts off one woman's lips and ears in Aloi sub-county, Lira.
- 11 March 2005: LRA kills seven in Adjumani. They cut off the fingers of 11 people and burn 76 houses.
- 24 March 2005: Five killed and one woman mutilated at Paicho subcounty in Gulu district.

- 26 February 2005: LRA cuts off eight women's lips in Ngomoromo village, Kitgum district.
- 21 March 2005: LRA chops off the lips, ears and breasts of three women in Kitgum district.
- 7 January 2005: LRA rebels chop off the fingers of two women, injure three others and abduct one in Pader district.

UGANDA GOVERNMENT RESPONSES TO LRA TERRORISM

President Museveni has treated Kony and the LRA as terrorists with whom the government should never negotiate. He has taken an approach similar to that of the US and Israel of never to negotiate with terrorists, but rather to hunt them down and possibly destroy them. Kony seems to have clearly understood this approach and to have chosen to play a cat-and-mouse game with the Ugandan government.

The Ugandan government's response to LRA terrorism has been two-pronged – military and non-military. The militaristic approach has mainly involved propaganda, violent threats and promises of killing the mysteriously invincible Kony by certain dates, deployment of ruthless military campaigns, forced encampment of the population, and so on.

Despite many promises by the government to deliver Kony's head by certain dates, he has continued to wreak havoc in northern Uganda and southern Sudan. At various times the government has offered huge pay-offs for the delivery of Kony's body. The most visible military campaigns have been Operation North and Operation Iron Fist, which involved more than 30 000 well-armed UPDF soldiers (5 000 of whom were ghost soldiers) to chase down fewer than 500 LRA rebels. The tactics used during these operations did not endear the UPDF troops to the people, as they were also accused of committing brutalities against the people. Those tactics not only alienated the UPDF from the people, but also encouraged LRA sympathy.

To protect the civilian population from LRA terrorism, the government established 'protected camps'. This was part of a strategy to deny the LRA the opportunity to recruit and abuse innocent civilians, particularly those that refused to support its cause. The forced encampment of the population was a military strategy aimed at depopulating the rural areas for easy operations. However, the government was accused of creating camps with squalid conditions and high mortality rates.

Numerous questions have been raised as to why a well-equipped army should fail for over 20 years to obliterate a ragtag rebel force of a few thousand.[11] It has come to light in the recent past that this war had in essence become a

growth industry for the military. Evidence of the embezzlement of funds, ghost soldiers, the purchase of junk military equipment, expired dry rations, and so on has emerged. Military analysts have questioned the rationale behind the purchase of MIG-21 and MIG-23 jet fighters to use in an anti-guerrilla war. The evidence adduced during the court martial of commanders and senior officers in 2007 and 2008 indicates that the UPDF sold weapons belonging to 'ghost soldiers' to Kony.[12]

The Ugandan government also contemplated assassinating Kony in a way similar to that used by the Angolan government to eliminate Jonas Savimbi, leader of the National Union for the Total Independence of Angola (UNITA) on 22 February 2002, with the support of South African mercenaries and Israeli Special Forces.[13] In January 2009, the *Independent* newspaper revealed that, in 2002, the then chief of military intelligence and security, Brigadier Noble Mayombo, approached Armour Group, a British private security firm made up of former SAS officers, to eliminate Kony for US$1,5 million. Although President Museveni endorsed the plan, the British government intervened to stop it, as it did not want to face another diplomatic embarrassment similar to the one in Sierra Leone, where 'ex-SAS officers had been used to carry out operations' and been paid with money that had come from the British Exchequer.

Museveni also adopted a soft approach that included negotiations, offers of amnesties, begging the UN and international community to assist in catching Kony, and so on. Between 1992 and 1997, Betty Bigombe (the minister responsible for northern Uganda) made a number of attempts to broker peace between the LRA and the Ugandan government. Her efforts failed when the government called off the talks with claims that Kony was using the ceasefire and talks to prepare for war.

During these talks, a number of amnesty pronouncements were issued, but the Amnesty Act 2003 was the most comprehensive.[14] The Act, which excluded Kony and his top commanders, set up an Amnesty Commission that gave resettlement packages to former captives of the LRA and US$150 to each returnee. On 16 December 2003, the Ugandan government referred the situation of northern Uganda to the Prosecutor of the International Criminal Court (ICC). On 27 February 2004, the Ugandan government lodged a declaration of acceptance of jurisdiction with the ICC registrar, extending temporal jurisdiction by the Court back to 1 July 2002. In July, the ICC decided that the situation in Uganda be assigned to the Pre-Trial Chamber II and the chief prosecutor opened an investigation into the situation in northern Uganda on 28 July 2004. On 6 May 2005, the chief prosecutor filed an application for warrants of arrest for crimes against humanity and war

crimes against five senior LRA commanders. The Pre-Trial Chamber II issued arrest warrants under seal on 8 July 2005. The chief prosecutor applied for the unsealing of the warrants of arrest on 9 September 2005, and they were unsealed on 13 October 2005. Interpol issued Red Notices for the arrest of the LRA Five on 31 May 2006.

The ICC cited the LRA for directing attacks against both the government and civilian populations and for engaging 'in a cycle of violence' and establishing a pattern of 'brutalization of civilians by acts including murder, abduction, sexual enslavement, mutilation, as well as mass burnings of houses and looting of camp settlements'. Other acts included abduction of civilians, including children, who were forcibly 'recruited' as fighters, porters and sex slaves to serve the LRA, pillaging, and attacks on IDP camps.

Kony and Vincent Otti were indicted for committing 33 crimes against humanity and war crimes, Okot Odhiambo for 19, Dominic Ongwen for seven, and Raska Lukwiya for four. The ICC indictment produced a challenge to balance peace and justice in the north. After more than 20 years of systematic terrorist attacks, there were many people in northern Uganda who seemed willing to pay any price for peace, including forgiving Kony for the atrocities he had committed against them. However, Kony's traumatised victims were also confused about the choices being presented: peace that would end LRA terrorism or justice that would end impunity. In choosing the latter, they feared it would mean cooperating with the ICC thereby putting their children and relatives in danger if they were required to testify against the LRA at The Hague. They were also not sure whether the ICC indictments, trial and incarceration of LRA high command would end the terror. As the peace process dragged on, the people in northern Uganda started to correlate the ICC warrants with Kony's obstinacy, the stalled peace and the terror they had been subjected to in the past 25 or so years.[15] Some even see the ICC as Museveni's instrument to promote his agenda in the north. Furthermore, they think the ICC has been selective in its pursuit of justice, as it has not held Museveni, the Uganda government and the UPDF accountable for the atrocities they have committed in the region since 1986. The ICC has answered that it can only try crimes that were committed after 1 July 2002. But the people of northern Uganda think that by working very closely with the Museveni government to build its case against the LRA, the ICC created an impression of partiality. They have also wondered why the ICC is reluctant to consider other options such as the withdrawal of the arrest warrants under article 53(2)(c) of the Rome Statute. Lastly, some people in the north expect the ICC to enhance its record as an effective instrument for dealing with impunity in the world. Consequently, proposals have

been made to try traditional approaches that can promote both justice and peace.

Other forms of alternative justice have gained keen attention, particularly the traditional forms of *Matto Oput* (Acholi), *Kayo Chuk* (Lango) and *Apuchumur* (Teso), as well as the establishment of a special court to try war crimes.[16] The traditional forms of justice have raised interest as they allow victims to express forgiveness and to make a commitment not to seek retaliation after the perpetrators have owned up to the crimes and paid reparations.

PEACE TALKS[17]

The Juba peace process has been regarded as the best opportunity to end LRA terrorism in northern Uganda. The initiatives leading to the Juba peace process can be traced to 2 May 2006, when Kony met with the southern Sudan vice president, Riek Machiar, in Western Equatoria province of Sudan. During this meeting Machiar gave Kony US$20 000 for 'food'. On 13 May southern Sudan's president, Salva Kiir, handed President Museveni a request from Kony to enter into a peace deal with the Ugandan government. At first President Museveni 'categorically ruled out engaging in peace talks with the LRA', but responded days later with an ultimatum to Kony to 'peacefully end terrorism' by the end of July. [18]

Museveni also guaranteed Kony safety despite the ICC indictment. This offer was, however, later refuted by Sandra Khadouri, an ICC official in Nairobi, who stated that the Ugandan government, being a signatory to the ICC statute, must arrest Kony and the other indicted rebel leaders when it comes into contact with them. On 19 June, President Museveni withdrew the offer extended to Kony saying that his 'government cannot accept the idea of pardoning those responsible for murdering so many civilians.'[19] However, on 4 July, President Museveni not only offered Kony 'full amnesty in exchange for voluntarily ending his rebellion', but also assured him that he would not be handed over to the ICC.[20]

With the government of southern Sudan offering to host the peace talks in Juba and Machiar offering to be the facilitator, the talks started in July after Machiar's shuttle diplomacy, offers of limited amnesty to Kony, and the appointment of the delegations.

Although the process was almost derailed when Raska Lukwiya was reportedly killed, a cessation of hostilities agreement (CHA) was finally signed on 26 August and took effect three days later. This agreement, which called for, among other things, the assembling of LRA rebels at Ri-Kwangba and Owiny Ki-Bul, established a framework and conditions conducive for the negotiation of a comprehensive peace agreement and adoption of a peace

agenda. The agenda included the following: the cessation of hostilities; comprehensive solutions to the problems of northern Uganda; reconciliation and accountability; a formal ceasefire agreement; and demobilisation, disarmament and reintegration (DDR).

Despite expirations and numerous renewals of the CHA, walkouts, violations of the CHA, and unnecessary delays by both sides to complete the peace process speedily, a firm date was set for the completion of the talks by 28 March 2008, when the CHA would expire. However, the signing of the final peace agreement scheduled for the first week of April was postponed to the second week. There was scepticism that Kony would sign as he had insisted from the beginning of the peace process that a deal could be reached only if the ICC withdrew the indictments. The ICC refused to do this despite offers by the Ugandan government to address the issues of impunity and justice through an alternative approach that incorporates traditional methods of reconciliation and restorative justice.

Besides the Juba peace process, there have been other efforts dating from 1986 to end the conflict in northern Uganda that has wrought so much suffering on the civilian population. These are discussed briefly below:

The Goodwill Mission (1986–1987): This mission was led by three prominent elders, Tiberio Okeny, Leander Komakec and Peter Odok, with President Museveni's blessing. These elders spent four months in the bush of northern Uganda and southern Sudan meeting with rebel leaders, particularly remnants of the defeated Uganda People's Democratic Army (UPDA). The elders made some recommendations to the government on how to end the war peacefully, but these were never implemented.[21]

The Pece Peace Agreement of 1988: Despite the rebel movement increasingly coming under the control of fanatical cult-like leaders such as Alice Lakwena, Severino Lokoya and Joseph Kony, the UPDA, led by Lieutenant Colonel Anjelo Okello, managed to negotiate a deal with the government. The meetings between army commander, General Salim Saleh, and rebel commander, Brigadier Odong Latek, in Palabek and in Gulu resulted in a peace agreement signed at Pece Stadium in Gulu. This agreement led to the integration of many former rebels into the NRA.[22]

The Betty Bigombe I Initiative (1993–1994): In October 1993, the then minister for the pacification of the north, Betty Bigombe, initiated peace talks between the government and the LRA. These talks resulted in a declaration of a total ceasefire 'in which rebels were allowed to move freely and at times mixed with NRA soldiers in barracks and trading centres, giving people the chance to enjoy… (peace)…in many years'.[23] These talks collapsed in February 1994, 'when the army received reliable reports that the LRA had started receiving full military support

from the Sudanese Government and President Museveni gave the rebels a seven-day ultimatum to surrender. The LRA responded by launching violent attacks, mass abduction of children and introducing the widespread use of landmines.'[24]

The Gulu elders' initiative of 1996: In July 1996, two Gulu elders, Okot Ogoni and Lagony, obtained permission from the government to meet Kony to end two years of extreme violence and the worst atrocities of the LRA. The two were brutally murdered on arrival at the peace venue. The circumstances under which these two lost their lives are still unclear, but press reports indicated that the rebels were angered by the government's attempt to persuade them with money, which the elders had brought along.[25]

The Community of Sant'Egidio Initiative I (1997–1998): After the Acholi Diaspora-organised peace conference (Kacoke Madit)[26], the Rome-based Community of Sant'Egidio organised two meetings in Rome between government officials headed by Amama Mbabazi (the state minister of foreign affairs) and LRA representative James Obita. Nothing much came of these meetings, as Obita had no mandate from Kony to negotiate on his behalf. He was later arrested by Kony, sentenced to death, released and left the LRA.[27]

The Carter Center Initiatives (1999–2000): During 1999, the Carter Center successfully mediated a peace agreement between the Ugandan and Sudanese governments. Within the framework of this peace agreement, the Ugandan parliament passed the Amnesty Bill, which was supposed to benefit the rebels. However, the rebels launched a series of violent atrocities towards the end of the year. Despite holding a number of meetings with the Carter Center officials, Kony refused to pursue a peaceful solution to the conflict.[28]

Amnesty Marketing Initiatives (2001): During 2001, numerous efforts were made by the Acholi cultural leaders Rwot Oywak Ywakamoi, Rwot Oywak and Rwot Lugai, Catholic priests Fathers Tarcisio Pazzaglia and Carlos Rodriguez, and Gulu Local Council (LC-V) chairman Lieutenant Colonel Walter Ochora to encourage LRA rebels inside Uganda to come out of the bush.[29]

Religious leaders' mediation efforts (2002-2003): In response to Operation Iron Fist, LRA rebels unleashed unprecedented violence in northern Uganda and this prompted the Catholic Archbishop of Gulu, John Baptist Odama, and the retired Anglican Bishop of Kitgum, Baker Ochola, to reach out to rebel leaders to seek peace. Despite a few meetings between religious leaders and some LRA commanders, violence continued unabated. Besides blessing the initiatives of the religious leaders, President Museveni proposed safe assembly zones, ceasefire arrangements and appointed a presidential peace team. All these efforts came to naught when the Sudanese government resumed military assistance to the LRA, which enabled the rebels to escalate their atrocities against the population.[30]

Presidential Peace Team Initiative (March–April 2003): When Kony declared a ceasefire and asked for direct negotiations with government representatives on the radio in March 2003, President Museveni responded by sending some members of the presidential peace team (PPT) to Gulu and declared a ceasefire in Lapul, a subcounty of Pader, to facilitate contacts. Although a number of LRA junior officers came out of the bush, violence continued and high-level meetings never took place. Increased military support from the Sudanese government enabled the rebels to extend their violence to Lango and Teso.[31]

The Community of Sant'Egidio Initiative II (2003–2004): While the PPT initiative was taking place, two members of the Community of Sant'Egidio were given permission by President Museveni to engage the LRA and bring them to a peace table. Their proposal for the LRA to come to Rome for serious negotiations with government representatives was not accepted.[32]

The Betty Bigombe II Initiative (2004-2005): In March 2004, Betty Bigombe made another attempt to engage the LRA in peace talks when she travelled to Juba, with the official support of the Sudan government and unsuccessfully tried to reach Kony in his bases close to the Sudanese armed forces barracks. Towards the end of 2004, Bigombe, with the support of the governments of Norway, the UK and the Netherlands and the UN managed to arrange a number of meetings between top rebel commanders and Acholi traditional leaders, religious leaders, MPs and district political leaders. Despite the meeting of the minister of internal affairs, Ruhakana Rugunda, with some of the LRA top brass in Paluda (Palabek) on 29 December 2004, the highly anticipated ceasefire agreement that should have been signed on 31 December never materialised, as both sides blamed each other for the failure. Despite the resumption of hostilities on 1 January 2005, serious attempts to put peace talks back on track continued. However, these attempts ended in mid-February when the main rebel negotiator, Sam Kolo, surrendered. The talks effectively ended in October 2005 when the ICC issued arrest warrants against Kony and four of his top commanders. [33]

CONCLUSION

After almost two years of on-and-off talks, it appeared that a final deal was to be sealed by April 2008. However, this was not to be as Kony not only moved further away from northern Uganda and the Garamba forest into the Central African Republic, but also snubbed the elaborate ceremony that had been planned for him at which to sign a peace agreement to end the decades of terror suffered by the people of northern Uganda. It is obvious that Kony is

unwilling to leave the bush and face his victims or a trial in The Hague.

The talks in Juba ended without the world knowing who Kony is or what he really wants. This means that the only option remaining is for a combined military operation to demobilise him permanently.

In order for the terror to end in northern Uganda, peace will have to be restored in the region but not at the expense of justice., While international justice is committed to ending impunity, this should be balanced with local realities. It should also be borne in mind that the ICC is not the primary or only mechanism for ending atrocities meted out to innocent civilians in northern Uganda; it should rather complement local, national and regional mechanisms. The ICC arrest warrants should be executed only when these mechanisms have failed and after IDPs have been resettled.

NOTES

1   United Nations, The Consolidated List established and maintained by the 1267 Committee with respect to Al-Qaida, Usama bin Laden, and the Taliban and other individuals, groups, undertakings and entities associated with them, 2007. Available at http://www.un.org/sc/committees/1267/consolidatedlist.htm (accessed on 16 October 2007).

2   US State Department, Foreign Terrorist Organizations (FTOs), 2007. Available at http://www.state.gov/s/ct/rls/fs/37191.htm (accessed on 16 October 2007).

3   Emphasis added.

4   ICC, Warrant of arrest unsealed against five LRA commanders, Press Release ICC-CPI-20051014-110, 2005. Available at http://www.icc-cpi.int/menus/icc/situations%20and%20cases/situations/situation%20icc%200204/related%20cases/icc%200204%200105/press%20releases/warrant%20of%20arrest%20unsealed%20against%20five%20lra%20commanders (accessed on 16 February 2009).

5   (see Akena Adoko, From Obote to Obote. New Delhi: Vikas Publishing House, 1986; and Kenneth Ingham, Obote: A Political Biography. London: Routledge, 1994.

6   Phares Mutibwa, Uganda since independence: A story of unfulfilled hopes. Trenton, NJ: Africa World Press, 1992.

7   Frank Nyakairu, The making of LRA's Joseph Kony, the enigmatic rebel leader, Daily Monitor, 6 January 2008.

8   Heike Behrend, Alice Lakwena & holy spirits: War in northern Uganda 1986–97. Athens: Ohio University Press, 2000.

9   James Bevan, The myth of madness: The organisation of the Ugandan Lord's Resistance Army, Paper presented at the Annual Meeting of the International Studies Association (ISA), San Diego, California, USA, 22 March 2006. Available at http://www.allacademic.com/meta/p100558_index.html (accessed on 16 February 2009).

10 Grace Matsiko, Highlights of Kony's atrocities in northern Uganda, Daily Monitor, 27 May 2006. Available at http://www.monitor.co.ug/news/news05278.php (accessed on 16 August 2006).

11 P wa Mucoori, Grace Matsiko and Steven Kibuuka, Why has Kony survived UPDF fire for 22 years? Independent, 11 February 2009. Available at http://www.independent.co.ug/index.php/news/news-analysis/79-news-analysis/587-why-has-kony-survived-updf-fire-for-22-years (accessed on 11 February 2009).

12 Risdel Kasasira, More ghost soldier reports expose UPDF failure to end Kony war, Daily Monitor, 11 May 2008.

13 Barbara Among, Is this the end of Kony? New Vision, 3 January 2009; Independent Team, Mayombo: When UK aborted his plan to kill Kony, The Independent (Kampala), 22 January 2009. Available at http://www.independent.co.ug/index.php/news/news-analysis/79-news-analysis/500-mayombo-when-uk-aborted-his-plan-to-kill-kony (accessed on 16 February 2009); and Ka-Rusoke, Kajabago, 2009. 'Tracing Joseph Kony's 'military superiority'', New Vision, 11th February. Available at http://www.newvision.co.ug/D/8/20/671069. (Accessed on 16 February 2009).

14 Refugee Law Project, Whose justice? Perceptions of Uganda's Amnesty Act 2000: The potential for conflict resolution and long-term reconciliation, Working Paper 15, February 2005.

15 Tim Allen, Trial justice: The International Criminal Court and the Lord's Resistance Army. London: Zed Books, 2006; Refugee Law Project, Peace first, justice later: Traditional justice in northern Uganda, Working Paper 17, July 2005. Available at http://www.refugeelawproject.org/working_papers/RLP.WP17.pdf (accessed 20 June 2006); Zachary Ochieng' Justice dilemma haunts northern Uganda rebels, East African (Nairobi), 21 April 2008; Kate Glassborow, Peace versus justice in Uganda, Institute for War & Peace Reporting (IWPR), 2006. Available at http://www.iwpr.net/?p=acr&s=f&o=324160&apc_state=heniacr2006 (accessed 16 February 2009).

16 Lominda Afedraru, Uganda lacks laws to prosecute LRA rebels, Daily Monitor, 6 April 2008.

17 Carlos Rodriguez, More talk than peace in northern Uganda, Weekly Observer, 17 April 2008.

18 Ben Simon, Juba in review, Daily Monitor, 25 December 2007.

19 Ibid.

20 Ibid.

21 Rodriguez, More talk than peace in northern Uganda.

22 Ibid.

23 Ibid.

24 Ibid.

25 Ibid.

26 An Acholi phrase meaning 'Big Meeting or Big Conference.'

27 Ibid.

28 Ibid.

29 Ibid.

30 Ibid.

31 Ibid.

32 Ibid.

33 Ibid.

Domestic terrorism in Kenya

Adams Oloo

INTRODUCTION

Domestic terrorism involves groups or individuals who are based and operate entirely within a host country and its territories without foreign direction. It is homegrown and has negative consequences for the host country, its institutions, citizens, property and policies. Domestic terrorism is the unlawful use of force or violence, committed by two or more individuals, against persons or property to intimidate or coerce a host government, the civilian population, or any segment thereof, in the furtherance of political or social objectives. Whenever domestic terrorism occurs, the perpetrators, victims and targets are all from the host country.

Kenya, which is our case study, has experienced both international and domestic terrorism. The international episodes include the following:

- The 1980 New Year's Eve bombing of an entire wing of the Norfolk Hotel (an Israeli-owned five-star hotel) by Islamic fundamentalist groups in retaliation against Kenya granting the Israelis permission to use Kenya as a staging area to rescue hostages in Entebbe, Uganda. Sixteen people were killed.
- The 7 August 1998 car bomb attack which blew up the US embassy in Nairobi and killed 224 Kenyans and 12 Americans, and injured more than 5 000 people.
- The 2 November 2002 suicide bombing in Kikambala, near Mombasa, in which a truckload of explosives was detonated at the Israeli-owned Paradise Hotel, killing 16 people (12 Kenyans and 4 Israelis) and injuring more than 80 others. Three suicide bombers also perished in the attack. This bombing incident was coordinated with a simultaneous surface-to-air missile attack on an Arkia Israeli airliner (AIZ), carrying about 264

passengers and taking off from the Mombasa airport. The two missiles missed the airliner.

Our focus in this article is on domestic terrorism, especially in the period beginning in 1991, when Kenya reverted to multipartyism.

This article reviews the acts of domestic terrorism in Kenya and advances three arguments for its prevalence. First, domestic terrorism occurs as a result of elections. The article demonstrates that episodes of domestic terrorism have been experienced every election year albeit with different magnitudes. Militias and vigilante groups have been used during election years to cause mayhem in different parts of the country. Second, domestic terrorism occurs as a result of ethnicity. Although there is a nation called Kenya, ethnic divisions still run deep. This is mainly because the ethnic identity is stronger than the national identity. Domestic terrorism, therefore, pits different ethnic groups against each other. Third, domestic terrorism occurs as a result of poverty. This is because unemployed youths are easily lured to commit acts of terrorism in return for handouts. The final section is a case study of the most prevalent vigilante/militia group, the Mungiki, and shows how it has been involved in domestic terrorism.

CONCEPTUAL FRAMEWORK

Terrorism can generally be referred to as violent acts against a civilian population by state and/or non-state actors irrespective of their political, philosophical, ideological, racial, ethnic and religious motives. In broad terms, terrorism is violence, or the threat of violence, calculated to create an atmosphere of fear and alarm. Terrorist acts are designed to coerce others into taking

actions they would otherwise not undertake or to refrain from taking actions that they desire to take.

There is no doubt that the term 'terrorism' elicits different meanings to a varied global audience. However, the distinction between international and domestic terrorism does not elicit similar contests. International terrorism refers to the premeditated use, or threat of use, of extranormal violence or brutality to obtain a political objective through intimidation or fear directed at a large audience beyond national boundaries.[1] Domestic terrorism, on the other hand, occurs when the act of terrorism is confined to national boundaries and does not include targets or agents from abroad. State terrorism also forms part of domestic terrorism when state actors (police, military, etc.) resort to acts of terror against their own nationals.[2] But in spite of this clear distinction, the statutory definition of domestic terrorism has changed many times over the years. A thin line exists between domestic terrorism and extremism.

When studying domestic terrorism and trying to understand the intricacies and motivations that characterise organisations engaging in terrorist acts, it is difficult to differentiate clearly between an extremist group and a terrorist group, even though, superficially, the use of violence seems to be an adequate point for division. A more succinct differentiation between extremism and terrorism comes with the realisation that the former is not unusual in any political environment, and is normally controlled by civil discourse, education, societal pressures and the law. Terrorism, on the other hand, because of its violence, is far beyond control by civil, educational or societal elements and must be pursued and punished by law enforcement agencies.[3]

Frank G McGuire further expands on the characterisation of extremist traits with a summation that they have three things in common.[4] First, extremists commonly represent some attempt to distort reality for themselves and others. Secondly, they try to discourage a critical examination of their beliefs, either by false logic, rhetorical trickery or some kind of intimidation. And finally, extremists represent an attempt to act out private or personal grudges or to rationalise the pursuit of special interests in the name of the public welfare. Thus the difficulty in clearly separating terrorism and extremism is that, in numerous instances, domestic groups, which are ostensibly law abiding, may be planning violent actions in the future. Most violent groups begin as non-violent discussion or protest movements with high ideals and, as time elapses, they evolve into something else.

Despite the thin line between extremism and domestic terrorism, the most recent reformulation defines domestic terrorism as

the unlawful use of force or violence, committed by a group(s) of two or more individuals, against persons

or property to intimidate or coerce a government, the civilian population, or any segment thereof, in furtherance of political or social objectives.[5]

Under this current reformulation, acts of domestic terrorism are those which:

- Involve acts dangerous to human life that are a violation of the criminal laws of any state
- Appear to be intended
  - To intimidate or coerce a civilian population
  - To influence the policy of a government by intimidation or coercion, or
  - To affect the conduct of a government by mass destruction, assassination, or kidnapping, and
- Occur primarily within the territorial jurisdiction of a state.[6]

In Kenya, domestic terrorism is best demonstrated in the form of militias/vigilantes, which are defined as 'all non-state actors who resort to violence in order to achieve their political objectives'.[7] Domestic terror groups, however, broadly include guerillas, revolutionary armies, insurgents, state proxies fighting on behalf (not necessarily at the behest) of the state, armed ethnic formations, vigilantes, and warlord movements.

In Kenya militias and vigilantes are prominent in domestic terrorism.[8] Militias are usually armed, militarily organised, have a structure outlining the flow of power and a central leader. Vigilantes, on the other hand, are individuals or groups that take on the responsibility of maintaining law and order in a community when the normal channels have become ineffective. However, in the long run, they acquire traits that are similar to those of militias. Other domestic terror groups in Kenya are those that engage in urban thuggery, banditry and cattle rustling.[9]

VIGILANTES/MILITIAS AS TERROR GROUPS IN KENYA

Domestic terrorism is rife in Africa. It is partly a leftover of the process of decolonisation, but is more intimately linked to the failure to effect sustained development and to consolidate accountable and effective governance. Insecurity in the Horn of Africa has deep roots in the political use of terror by state and non-state actors. Liberation movements, guerillas, bandits, criminal gangs, cattle rustlers, pirates and vigilantes, as well as state terror, have long been included in the nomenclature of terrorism.[10] This is reflected in the public mind by the activities of the Mai Mai in the eastern DRC, the Lord's Resistance Army (LRA) in northern Uganda, the

activities of warlords in Somalia, Liberians United for Reconciliation and Peace (LURD), and so on. These were all movements that relied heavily, but not exclusively, on the use of extreme violence against innocent civilians in pursuit of their objectives.[11]

In Kenya, as in most African countries, domestic terrorism is mostly associated with governance and electioneering. In 1991, Kenya reverted to a multiparty system of government after two decades of one-party autocracy. While this was a positive political move, the country lacked the institutional framework necessary to manage the new political system. In a nutshell, multipartyism brought, among other things, competitive politics, constitutional reform, efforts to level the political playing field, freedom of association, an aggressive press and increasing demands for public accountability. The same changes have led to great disruption in the political arena, and produced challenges to many entrenched political interests, which have, in response, formed militias to guard their interests.[12]

There are many militias operating in Kenya's political landscape and they have had a profound influence on the country's politics. The combination of militias, the enabling ground for their existence, availability of small arms and a continuing culture of impunity has created a thriving industry of violence. The main objective of these terror groups is either to scare or intimidate opponents in election years, and they have been in operation ever since the advent of multiparty politics in 1991. All these groups were banned in 2002, after fights between the Mungiki and another vigilante group called the Taliban in the Kariobangi area of Nairobi led to the death of 23 people. However, as a result of the government's inability to enforce this ban, most of the groups have remained operational, although the violence is not as intense as before. The most notorious groups include the Mungiki (Nairobi/Rift Valley/Central), Kaya Bombo Youth (Mombasa/Kwale), Sungu Sungu, Chinkororo and Amachuma (Kisii/ Nyamira/ Gucha/ Transmara), Taliban, Jeshi la Mzee and Jeshi la Embakasi (Nairobi).

DOMESTIC TERRORISM AS A RESULT OF ELECTIONS

In the run-up to the three multiparty elections in 1992, 1997 and 2002, candidates used vigilante groups to rough up their opponents at political rallies. These are not permanent groups, but loose associations of slum youths who are easy to mobilise into dangerous gangs allied to particular political parties or tribes at short notice.[13] In 1992 and 1997, vigilantes allied to the then ruling party, KANU, stirred up violent ethnic clashes in politically motivated battles whose purpose was to drive ethnic groups believed to support the opposition

out of areas where KANU's support was insecure. Many of the impoverished youths who participated in the clashes blamed their landlessness and unemployment on migrants belonging to other ethnic groups, rather than on KANU's legacy of misrule and corruption.[14] Vigilantism assumed several characteristics. First, it was portrayed as a product of 'ancient animosities' or long-standing 'communal hatreds'; second, it relied on ethnic warriors, often identified with traditional ethnic symbols and attire, and wielding traditional weapons such as spears, swords, bows and arrows, although, in some cases, 'warriors' wielded modern firearms; and third, sometimes security forces provided training, protection and worked hand in hand with ethnic vigilantes during attacks. Without exception, attacks were made against groups associated with the opposition or pro-democracy movement.[15]

Since 1992, there has been a growth of both urban and rural militias/vigilantes, which have become sophisticated and more dangerous. In 1992 and 1997, the KANU government was accused of instigating violence and sponsoring militia which targeted various communities opposed to KANU, then the ruling party, in order to enable it to retain power in the 1992 and 1997 elections. These attacks peaked when elections neared. Initially, the violence was dubbed by the media as 'ethnic clashes' or 'land clashes', but over time, this violence started having political undertones. On a positive note, in the 2002 elections, there was reduced electoral violence compared with the large-scale electoral violence associated with the two previous general elections.

The motive for violence appears multifold. First, during the Moi regime it was meant to prove the government's assertion that pluralism would not work in the country and would only lead to tribal animosity. Second, again during the Moi regime, it was meant to punish ethnic groups that allegedly supported the political opposition, such as the Kikuyu, Luhya and Luo. Third, during the Moi regime, it was meant to terrorise and intimidate 'outsiders' to leave certain provinces to allow 'insiders' to take over the land. Fourth, during both the Moi and Kibaki regimes, the violence has been spurred by the struggle over resources, land, water, pasture and cattle. Fifth, during the Moi and Kibaki regimes, politicians have used youths who form themselves into vigilantes to intimidate opponents and these same vigilantes extort money from their zones of operation and engage in criminal activities.

With the reintroduction of multipartyism in 1991, the militia groups that were nurtured by political aspirants took a new, militarised operational dimension. The militias/vigilantes work at the behest of government ministers as well as opposition leaders.[16] These vigilantes are not usually established for expressly political purposes, even

though they may have proliferated with the emergence of political pluralism in the 1990s. Rather, they have presented opportunities to politicians who wish to protect their supporters from intimidation, or who want to intimidate their opponents.[17]

The 1992 multiparty elections were held against a background of the open use of violence that resulted in killings, intimidation and the displacement of communities perceived as opposition supporters in various parts of the country. The violence, which began in 1991, came after KANU, the then ruling party, reluctantly agreed to repeal section 2A of the Constitution. Most KANU politicians 'predicted' that the adoption of multipartyism would make the country disintegrate along tribal lines, thus leading to anarchy and chaos. To most of them, multiparty politics meant a coalition of ethnic communities opposed to Moi's rule, and, therefore, had to be countered. The medium used for this was the Majimbo rallies.[18]

KANU MPs and other politicians allied to the party, who were mostly from the Rift Valley province, organised five rallies, two of which were especially crucial to the Majimbo project – at Kapsabet and Kapkatet in the Nandi and Kericho districts in the Rift Valley. The main objectives of these rallies were threefold: first, they were to demonstrate that the KAMATUSA[19] communities were ready to protect the Moi presidency at all costs; second, that since the 'democratic reforms' were a camouflaged form of Kikuyu-Luo ethnic agenda, they must be countered with their logical equivalent – the restoration of Majimbo; and third, they called for the eviction of non-KAMATUSA communities from the Rift Valley.[20] Majimbo was used as the rallying call for achieving these ends and became an ideological justification for the indiscriminate and violent expulsion of non-indigenous people, leading to subsequent ethnic cleansing.[21] The vigilantes/militias were sponsored by the state to stem the tide of the multiparty challenge and to help sustain the hegemonic elite of the one-party era. Mysterious Kalenjin 'warriors' and Maasai 'morans' clad in traditional attires, their faces painted with red ochre, descended on non-Kalenjin populations in parts of the Rift Valley, Nyanza and Western.

This trend was repeated in the following election year of 1997. During the clamour for constitutional reforms, when it appeared that the National Convention Executive Council (NCEC) had the upper hand, senior KANU officials formed a militia known as Jeshi la Mzee (the old man's army) in May 1997 with a mandate to harass and intimidate opposition candidates and their supporters and disrupt their political meetings.[22] Supported by members of the General Service Unit (GSU), Jeshi la Mzee violently disrupted the first NCEC rally at the Kamukunji grounds in Nairobi in May 1997,

and subsequently broke up meetings on 7 July, 8 August and 10 October 1997. Likewise, on 26 July 1997, Jeshi la Mzee fought pro-reform youths in Mombasa. Six thousand members of the militia disrupted campaign programmes of opposition leader and presidential candidate Charity Ngilu in Machakos, claiming the area was a 'KANU zone'.[23] In 1999, members of Jeshi la Mzee were caught on camera clubbing Presbyterian Church of East Africa clergyman Timothy Njoya outside the National Assembly as he took part in a peaceful pro-reform demonstration. In the 2002 elections, the Westlands National Rainbow Coalition (NARC) parliamentary nominations were not held owing to the violence unleashed on the supporters of Betty Tett, who was opposing Fred Gumo, who had been associated with Jeshi la Mzee. NARC's election board eventually nominated Gumo as their parliamentary candidate and promised Tett a seat as a nominated MP.

The activities of Jeshi la Mzee drove opposition politicians to form their own militia in an effort to counter the state-condoned violence. David Mwenje formed the Jeshi la Embakasi to counter Jeshi la Mzee. Besides intimidating people who were opposed to Mwenje, the militia was also involved in bloody and sometimes fatal battles in Embakasi and its environs.[24]

On the coast, in 1997, vigilantes displaced and disenfranchised inhabitants opposed to strongholds, with the aim of eliminating the demographic basis of a nationwide political alliance between up-country and coastal groups. A few days after the NCEC rally in Mombasa, on 26 July 1997, violence erupted on the coast. On 13 August 1997, between 200 and 500 Mijikenda 'warriors' attacked and burned down the Likoni police station, a nearby tourist police booth and a block that housed the Likoni district officer and the area chief, killing six police officers and taking away with them 30 to 50 guns and 3 000 to 5 000 rounds of live ammunition. The whole administrative and security infrastructure was wiped out. The targets of the violence in this case were up-country people – mainly people from the Luo, Luhya, Kikuyu and Kamba ethnic groups. Soon the political violence spread to the heavily populated north coast (Kongowea, Kisauni and Mtwapa), and later to Malindi, Mombasa and the south coast.

The Kaya Bombo Youths were reportedly recruited, trained and organised in Shimba hills, Kaya Bombo, Kaya Waa and Similani caves in the Kwale district, at the instigation of prominent politicians and with the support of the government.[25] They were deployed to ferment ethnic violence in the run-up to the 1997 elections in the coastal province. Among other incidents, the Kaya Bombo were blamed for the massacre of some 70 people in Kwale, and the murder of six policemen at Likoni.[26] Many people in the Likoni and Kwale clashes agreed that it had nothing

to do with land, but concerned politics. As Professor Alamin Mazrui, the then director of the Kenya Human Rights Commission (KHRC), pointed out: '[T]hose who suffered were poor kiosk owners who had no influence to grab land.'[27] The 'ethnic violence' was used to depopulate opposition strongholds such as Likoni, where just over 30 per cent turned out to vote in the elections.

The state and KANU also activated violence in areas such as Gucha-Trans Mara, Migori-Gucha, Migori-Kuria and West Pokot-Marakwet, and the declaration of a security operation zone in Nyanza and Trans Mara considerably undermined the entire electoral process.[28] KANU sought to create rivalry between the Luo and the Kuria and Gusii. As a result, vigilantism spread in the Migori, Gucha and Kuria areas. Clashes in the Migori-Gucha area were concentrated in Ochadororo, Nyabera and Cham-Gi-Wau border areas, where five people were killed and over 40 houses belonging to Luos were burned, forcing Luo villagers and farmers to flee. Similarly, the Luo-Kisii clashes focused on the border areas of Remo, Sageki and Ogwedhi, killing 20 people, burning houses and displacing 600 Luo families.[29]

In Kisii, the Chinkororo are traditionally regarded as the army of the community. They provide protection against enemies who mostly raid cattle, fight over land and normally use bows and arrows. The Chinkororo featured prominently in the electoral violence of 1992 and 1997 and the South Mugirango by-election in January 2001. The Amachuma were subsequently formed to oppose the Chinkororo, and became famous when they were recruited as bodyguards by one of the contestants in the South Mugirango by-election in Kisii and occasioned the death of MP Enoch Magara. Local politics among the Gusii are driven by deep rivalries, which, combined with the serious impact of ethnic clashes, contributed to a high incidence of violence in the district around the election campaign of 1992 that reverberated in the campaign of 1997. This is a district in which KANU has struggled to maintain political supremacy.[30]

The 2002 general elections suffered the same fate as the 1992 and 1997 general elections, even though violence was not on as larger scale as in the previous years. The use of vigilantes and traditional 'warriors' was remarkably reduced, even though at the beginning of the year there were fears of an eruption of violence. Information collected by the Central Depository Unit (CDU) showed that 325 lives were lost owing to electoral violence from January to December 2002. Of these incidents, 53,3 per cent were of assault; 13,8 per cent were due to inter-ethnic violence, banditry and cattle rustling; 12,4 per cent were on account of the forcible disruption of public meetings and gatherings; 10,7 per cent originated with threats, intimidation and hate-speech; and 9,8 per cent were due

to political thuggery.[31] Most of the violence that occurred during 2002 was during party nominations for parliamentary and civic seats.

The post-2002 period has also witnessed its fair share of vigilante/militia attacks. The worst hit areas during this period have been Molo and Kuresoi, the Mandera district, the Trans Mara-Bomet district borders, Kwanza constituency in the Trans Nzoia district, Mai Mahiu and Likia in the Nakuru district. By May 2007, the Chebyuk clashes in Mt Elgon district, Western province, and the Mungiki menace in Nairobi and parts of Central province marked the latest incidents of bloody violence in Kenya.

The 2007 elections introduced a complete new dimension to electoral related conflicts. Apart from the widespread violence that was witnessed during parliamentary and civic party nomination and when supporters of ODM and PNU clashed during campaign rallies, the violence that followed the release of the 2007 results was violence of a degree that had not been experienced since 1992. During this violence, marauding, armed, rag-tag militia unleashed terror on Kenyans in many parts of the country. As in 1992 and 1997, the violence was mainly between people from different tribes.

The violence was experienced in the following areas: North Rift region, Central Rift region, South Rift region, Kisii, Western and Nyanza provinces, Nairobi and Coast provinces. In parts of Nairobi, Nyanza, Rift Valley, Coast and Western provinces the main victims were people from Kikuyu, Embu and Meru tribes, and to a lesser extent Kisii communities, who were being targeted because of their perceived support for President Kibaki. In other parts of Nairobi, Nakuru, Naivasha and areas of Central Province, the main victims were people from the Luo community, who were attacked in reprisal for what was happening to Kikuyus and their related ethnic groups elsewhere.

The Luos were in this case targeted for their perceive support for Raila Odinga who was the main challengers of Mwai Kibaki. Also unlike most previous cycles of election related violence, much of it followed rather than preceded elections. The 2007-2008 post-election violence was also more widespread than in the past. It affected all but two provinces and was felt in both rural and urban parts of the country. The attacks were systematic and were carried on Kenyans based on their ethnicity and political leanings.[32]

DOMESTIC TERRORISM AS A RESULT OF ETHNICITY

Diversity, especially if accompanied by geographic and economic differentiation, can lead to mistrust, violence and acts of terrorism. At the beginning of the decade, political scientists warned of an emerging trend in which African

states, facing determined opposition, were resorting to recruiting surrogates and clients to organise violence against citizens. Mohamed Salih shows how the state in Sudan recruited tribal militias to terrorise and rob the civilian populations, thus contributing to the 'retribalisation' of politics.[33] In the same vein, the dynamics of informal repression were aptly described as 'marionette politics' which underlined the pervasive use of 'tribal authorities', institutions and militias in Nigeria, Cameroon, Malawi, South Africa and Kenya to repress the opposition.[34] One way in which the African state carried out informal repression was to 'play the communal card' or exploit latent ethnic grievances and conflicts over resources and opportunities in the modern sector to split political opinion or divide and rule various ethnic groups. Violence was particularly masked as 'communal' or 'criminal' and attributed to traditional warrior bands, ethnic militias, vigilantes, bandits or simply gangs of thugs.[35]

In the 1992 and 1997 elections, the Kenyan state effectively crippled the political opposition by mobilising militias to disrupt their public meetings and intimidate, displace and disenfranchise ethnic populations suspected of being sympathetic to the opposition.[36] Existing literature also seems to strongly support the conclusion that the government used informal repression extensively in the 1998–2002 period to reclaim the political initiative in urban areas, especially in Nairobi where the opposition has held sway since 1992. As a result, violence attributed to ethnic vigilantes and militias has spiralled alarmingly in urban zones, especially in Nairobi's suburbs.[37]

The advent of 'clashes' in 1991, the first incidence of large-scale inter-ethnic conflict, closely followed political rallies at which high-level KANU officials incited violence. A number of cabinet ministers openly encouraged the expulsion of opposition supporters and ethnic minorities from the areas dominated by KANU. In addition, the government and party officials trained, armed and paid militias composed of Kalenjin and Maasai 'warriors' to attack members of opposing ethnic groups, destroy their property, and even kill them.[38] In the case of the 1997 coastal violence, KANU was similarly linked to the violent attacks on minority ethnic groups that generally supported the opposition.[39]

Between 1992 and 2002 ethnic violence erupted in most of Kenya's eight provinces pitting one tribe against another, especially around election years. Tribal clashes in the Rift Valley province started on 29 October 1991 at a farm known as Miteitei, situated in the heart of the Tinderet division in Nandi district. It pitted the Nandi, a Kalenjin tribe, against the Kikuyu, the Kamba, the Luhya, the Kisii and the Luo. The clashes quickly spread to other farms in the area, including Owiro farm, which was wholly occupied by the Luo, and the Kipkelion

division of Kericho district, which was a multi-ethnic area including the Kalenjin, the Kisii and the Kikuyu. Since then, these kinds of terror activities against ethnic groups have spread to most parts of the country whose politico-administrative units coincide with the area claimed or occupied by a particular ethnic group.

In all cases, when violence erupts, tribal differences are blamed. However, it is not the existence of multi-ethnic groups in Kenya that is problematic, rather the systematic manipulation of ethnicity by the ruling elite is at fault.[40] As is often the case, the violence in Kenya is an ethnically defined expression of political conflict. Ethnicity is the medium of political violence, not its cause. However, the system, once in place, becomes self-perpetuating: it increases the likelihood of future conflict by sharpening ethnic identity and chauvinism, as well as promoting the doctrine that specific regions of the country 'belong' to the groups who 'originally' occupied them. Some uncoordinated retaliatory attacks have occurred, yet the violence remains overwhelmingly directed against the communities presumed to support the opposition and has always taken place in areas where the ruling party, KANU, was clearly dominant. No significant attacks pre-2002 took place against perceived KANU supporters in opposition-dominated territory.[41]

The common underlying reality is that what in the end gets characterised as inter-ethnic conflict is, in fact, conflict over the control of political and economic power as a means to improve the access of those excluded from it, or as a means of protecting what has already been achieved. It is, therefore, clear that when we speak of inter-ethnic conflict what we really mean is the phenomenon of politicised ethnic conflict. Both the in-group and the out-group use politicisation of ethnicity. The ethnic conflicts in Kenya during the 1990s vividly illustrate the use of such politicisation by the in-group.

DOMESTIC TERRORISM AS A RESULT OF POVERTY

It is often suggested that there is a direct link between extremist ideas and appalling social conditions. The roots of extremism grow in poverty and despondency. People become easy prey to devious individuals who will attempt to channel this frustration into religious or political fanaticism. This perception became the norm in understanding and analysing the reason for terrorism, especially in Africa and in developing countries.

In Kenya, egged on by the sheer need to survive, thousands of marginalised youths have drifted into gangs, militant formations under labels such as the Talibans, Baghdad Boys, Jeshi la Mzee, Jeshi la Embakasi and the Mungiki. Poverty and widespread unemployment have

made Kenyan youths vulnerable to indoctrination and recruitment for domestic terrorist activities. Kenya has a young population (40,6 per cent are under the age of 15) and an unemployment rate of 40 percent. Domestic terrorism sponsors in Kenya use money and are able to entice many from the unemployed and poverty-stricken to support their cause, wittingly or unwittingly. These groups can be hired by politicians for around 250 Kenya shillings (Ksh.)(US$4) a time to unleash violence on their opponents. What is notable about the operations of these groups is their mobilisation around ethnic identities with a common poor background. Politicians seek to hire their violence by playing down their own class interests and appealing instead to common ethnic identities. Such militias operating in Nairobi include the Jeshi la Mzee , who were used to beat up civil society activists such as the Reverend Timothy Njoya, and the Jeshi la Embakasi (the Embakasi battalion), an amorphous group that appears in land disputes in Nairobi with the most notable incident being an invasion of a 818-acre piece of land that lies between Umoja II, Kayole and Komarock estates in Nairobi.[42]

For a long time it was believed that there were two criminal gangs battling for control of the city, but it is now clear that there are other groups operating independently. The gangs have taken over the city's crowded and poorly policed slums and other low-cost housing estates, especially Eastlands, unleashing terror and extorting money from the residents, business people, landlords, building contractors, matatu (public transport vehicle) owners and illicit brewers. People who resist them are beaten or even killed.[43] This has become their way of earning a living. With rampant crime in the absence of a police presence, the gangs also run illegal vigilante groups that make sure petty criminals keep out of their area of operation. In return, they extort hefty protection fees.

There are various gangs in Nairobi. At Huruma estate, there are the Geri ya Urush (the Huruma gang) and the Geri ya Ngei (the Ngei gang), while Kariobangi estate is ruled by the Geri ya Bangla. In Jericho estate, there are the Jobless Corner Base and the War is War, while the Bamboo Base rule Ofafa Jericho estate and the Otonglo Base rule Jerusalem estate. There are also the more established vigilantes in Nairobi. For instance, the Taliban is one of the militia groups involved in the tenant-landlord conflict.[44] The common factor underlying these gangs is that they recruit poor individuals who have no other means to earn a living.

THE CASE OF THE MUNGIKI

The most prominent of these terror groups and the one which is best organised is the Mungiki, whose roots can be traced to the Kikuyu population affected by the clashes

which occurred mainly in Molo, Elburgon, Rongai, Narok and Eldoret in 1991–1993, and Njoro and Laikipia in 1998. These clashes are partly to blame for the rise of the Mungiki. As a radical movement, the Mungiki appears to have been forged on the anvil of the 1991–1998 ethnic clashes in the Rift Valley. While the movement seemed not to have a clearly spelled out programme and agenda, its plans in the early 1990s were to mobilise its members against the government, which it accused of beginning and fueling the clashes. Reminiscent of the Mau Mau-style of mobilisation of the 1950s, the Mungiki reportedly began administering oaths as a way of politically uniting its members for the purpose of repulsing ethnic attacks.

The Mungiki has several faces. First, the socio-cultural face: the snuff-sniffing, dreadlocked variety, which is dying off; second, the economic face, mainly seen in the matatu industry; and third, the security criminal face, which evolved when the Mungiki migrated from the rural areas to the urban areas. The urban areas absorbed the criminal element of the Mungiki and transformed members into a violent movement for hire to the economic elite.[45] Recruitment to the group occurs in four ways: first, there are those people who just stroll into their religious meetings out of mere curiosity, are inspired by their teachings and join the group; second, there are those who hear about the movement from colleagues and friends or the media and decide to join; third, there are those who undergo forceful oath-taking which binds them to the ideals of the sect; and fourth, there are those who are endeared to the successful social activities of the group, for example, restoring security in the slums or along matatu routes.[46]

At some point in mid-2000, the Mungiki started gravitating towards Islam. Eventually, on 2 September 2000, 13 of its leaders, among them Ndura Waruinge (renamed Ibrahim), converted to Islam. Others who adopted Islam during a ceremony held at Mombasa's Sakina mosque included former member Mohamed Njenga, provincial co-ordinators, Hassan Waithaka Wagacha, Mohamed Kamau Mwathi (Nairobi), Kimani Ruo Hussein (Rift Valley), and Khadija Wangari, who represented the women.[47] In the next few months, hundreds of ordinary Mungiki members, especially in Nakuru (Rift Valley), converted to Islam, enrolled in Islamic classes and received books and other materials containing the basic Islamic message from Kenya's Muslim Community.[48] However, this move was largely seen as a means of self-camouflage in the face of repression as most members of the sect tended to emphasise the political rather than the cultural-religious motive behind the Mungiki's Islamisation.

Mungiki membership cuts across ages and gender, but it draws most of its adherents from the lower classes of society, especially those residing in the slums and areas that had

been hit by the politically instigated violence of 1991–1992. The bulk of its followers come from former street children, unemployed youths, hawkers, artisans, small traders in the Jua Kali (the informal sector) and the alarmingly growing number of urban poor in Nairobi's slums of Githurai, Dandora, Korogocho, Kariobangi, Kawangware, Kibera, Mathare and Kangemi. It also has a strong constituency among the landless, squatters and internally displaced persons (IDPs) in areas in the Rift Valley such as Londiani, Eldoret, Molo, Olenguruone, Elburgon, Subukia, Narok, Nakuru, Laikipia and Nyahururu. By 2001 it was estimated that Mungiki had between 1,5 and 2 million due-paying members, with at least 400 000 of these being women. Notably, among the Mungiki activists on the streets of Nairobi are many who were displaced in the 1992 and 1997 ethnic clashes. In the wake of Mungiki's entry into active electoral politics, it has revised these numbers upward to a largely inflated figure of between 3.5 and 4 million.[49]

The Mungiki derives its funding from membership dues (which leaders claimed to be between 3,5 and 4 million in the mid-1990s), although donations from politicians and businesses persons cannot be ruled out. Each Mungiki member pays a token Ksh. 3 a month, which, according to the national coordinator, Ndura Waruinge, adds up to a total monthly income of Ksh. 4,5 million.[50] Collection from the matatu industry also forms a main source of its funding. Previously, before the October 2003 reforms in the matatu industry, the Mungiki controlled matatu operations on busy routes to Kayole, Dandora (routes 32 and 42), Huruma (route 46) and Kariobangi (routes 12, 28 and 40) in Nairobi, while it also controlled and collected levies from other routes outside Nairobi.[51]

At the peak of its influence, the Mungiki is said to have collected at least Ksh. 10 000 (US$ 125) per day per route, amounting to nearly Ksh. 200 000 (US$ 2 500) per day from all routes under its control.[52] The Mungiki has since reclaimed its control of the matatu industry and developed a firm grip on that lucrative industry and the low-income residential areas of the city and other urban areas. They collect protection fees from matatu operators and slum residents. Households at Mlango Kubwa of Eastleigh, Mathare, Huruma, Huruma Ngei, Kariobangi, Dandora, Baba Dogo and other estates have to pay between Ksh. 30 and 50 each month; shopkeepers Ksh 300; kiosk and vegetable vendors Ksh. 150; Ksh. 300 a week from Chang'aa brewers; vehicle that deliver vegetables to Korogocho and Kariobangi pay Ksh. 400 per delivery. The gangs collect Ksh. 200 per day from each 14-seater matatu and Ksh. 250 from 25-seater minibuses. Matatu crews also pay a fee to be allowed to operate, with drivers parting with Ksh. 1 000 as an entry fee and conductors Ksh. 400. The control of the 'transport levy'

has brought the Mungiki and other gangs into constant bloody confrontations.[53] Trucks that deliver sand, ballast, cement, stones and other building materials at construction sites in the Eastlands are also forced to pay a fee. Workers such as masons, electricians and casual labourers at the construction sites have to pay an 'access fee' to be allowed into the yards. The gangs also run illegal water collection points where they charge between 10 and 20 Ksh. for a 20-litre jerrican of water tapped from city council pipes.[54]

Since the mid-1990s, the poorer neighborhoods of Nairobi have slowly been taken over by the Mungiki. It has control of most functions of government in slums and low-income communities: it claims to offer security and extorts protection fees; it levies illegal taxes on property; it forcefully takes over land and reallocates it, and is illegally taking over and selling services such as electricity and water.[55] In Nairobi, the Mungiki operates most extensively in Mathare, the city's second largest slum, where extremes of poverty and crime are widespread.

The tool of choice of organised crime for infiltrating and taking over communities and neighborhoods is fear – instilling it and exploiting it. People are mugged, brutalised and businesses are vandalised. The victims are guaranteed safety for themselves, their families and their premises – in exchange for a fee. Those who resist are killed or maimed to serve as an example to others and to close the circle of fear around communities, while those who comply resign themselves to a life of servitude and exploitation. Working in a tight, disciplined manner, the Mungiki has taken over the provision of security, water, electricity and the management of transport in parts of the city, and replaced administration chiefs and assistant chiefs in matters such as the arbitration of family disputes.[56] The Mungiki has managed to set up what can only be described as a parallel government – the Mungiki government – complete with its own elaborate tax collection machinery and a judicial system.

CONCLUSION

This article shows that domestic terrorism in Kenya is intertwined with electoral politics, which is ethnically based. Because of this relationship, most domestic terror groups in Kenya are formed and operate either as a result of elections, ethnicity or poverty and are associated with politicians on both sides of the political divide. Although there are terror groups, like the Mungiki, which have developed a life of their own, it is the politicians who hold the key to checking the institutionalisation of terror groups in Kenya.

Despite the government's banning of vigilante groups in 2002, the ban was never enforced, nor did the vigilantes cease to operate. The Mungiki, for example, has been

declared to have been obliterated on a number of occasions by the government, but it continues to resurface at predetermined times. This happens mainly because there is no political will from either the government or the politicians who sponsor the groups to disband them. The government has not vigorously investigated or prosecuted those behind the militias even though some are well known.

However, most of the militias are not institutionalised and emerge only as the situation demands. Despite this, the measures instituted by the government to curb militias and vigilantes have been half-hearted and have not effectively addressed the challenges posed by these domestic terror groups.

NOTES

1   W Enders and T Sandler, Transnational terrorism in the post-Cold War era, *International Studies Quarterly,* 43 (1999), 145-167.

2   A Botha, The relationship between African and international terrorism: Causes and linkages, Paper prepared for the Conference on Southern African and International Terrorism, Tswalu, 22–25 January 2007.

3   S M Presley, The rise of domestic terrorism and its relation to the United States Armed Forces, 1996, http://www.fas.org/irp/eprint/presley.htm (accessed 12 January 2008).

4   F McGuire, *Security Intelligence Sourcebook,* Silver Spring, MD: Interests Ltd, 1990.

5   K Riley and B Hoffman, *Domestic terrorism: A national assessment of state and local preparedness,* Santa Monica: RAND, 1995.

6   Ibid.

7   P Kagwanja, Warlord democracy: The proliferation of militia and pre-election violence in Kenya, *1999–2002.* Unpublished Kenya Human Rights Commission, 2001.

8   Z Marie-Joelle, Protégés, clients and cannon fodder: Civil-military relations in internal conflicts, in Adekeye Adebajo and Chandra Lekha Sriram (eds), *Managing armed conflicts in the 21st century,* London: Frank Cass, 2001.

    P Kagwanja, Facing Mount Kenya or facing Mecca? The Mungiki ethnic violence and the politics of the Moi succession in Kenya, 1987–2002, *African Affairs* 102(406): 25-49 (2003).

    Kagwanja, Warlord democracy.

    P Mutahi, Violence and politics of militias in Kenya, *Journal of the Africa Peace Forum,* 2(1) (2006).

9   Mutahi, Violence and politics of militias in Kenya.

10 P Kagwanja, Counter-terrorism in the Horn of Africa: New security frontiers, old strategies, *African Security Review* 15(3) (2006).

11 J Cillers, Africa, root causes and the 'war on terror', *African Security Review* 15(3) (2006).

12 Mutahi, Violence and politics of militias in Kenya.

13 Human Rights Watch, Kenya's *unfinished democracy: A human rights agenda for the new government,* Washington: Human Rights Watch, 2002.

14 Human Rights Watch, *Kenya's unfinished democracy: A human rights agenda for the new government.*

15 P Kagwanja, Politics of marionettes: Extra-legal violence and the 1997 elections in Kenya, in M Rutten, A Mazrui, and F Grignon, (eds), *Out for the count: The 1997 general election and prospects for democracy in Kenya,* Kampala: Fountain Publishers, 2001.

16 D Anderson, Vigilantes, violence and the politics of public order in Kenya, *African Affairs,* 101(405) (2002).

17 Mutahi, Violence and politics of militias in Kenya.

    Anderson, Vigilantes, violence and the politics of public order in Kenya.

18 J Klopp, Ethnic clashes and winning elections: The case of Kenya's electoral despotism, *Canadian Journal of African Studie*s 35(3) (2001).

19 Acronym for Kalenjin, Maasai, Turkana and Samburu groups.

20 M Ngunyi, Resuscitating the Majimbo project: The politics of deconstructing the unitary state in Kenya, in A Olukoshi and L Laakso, *Challenges to the nation-state in Africa,* Motala: Nortdiska Afrikainstitutet, 1996.

    P Mutahi, Political violence in the elections, in H Maupeu, M Katumanga and W Mitullah, *The Moi succession: The 2002 elections in Kenya,* Nairobi: Transafrica Press, 2005.

21 Kagwanja, Politics of marionettes: Extra-legal violence and the 1997 elections.

22 P Kagwanja, *Killing the vote: State sponsored violence and flawed elections in Kenya,* Nairobi: KHRC, 1998.

23 Kagwanja, Killing the vote: State sponsored violence and flawed elections in Kenya.

24 Mutahi, Violence and politics of militias in Kenya.

25 Kaya Bombo Youths named after the region in Mombasa where the youths were being trained.

26 A Mazrui, Ethnic voices and trans-ethnic voting: The 1997 elections at the Kenya coast, in M Rutten, A Mazrui, and F Grignon (eds), *Out for the count: The 1997 general election and prospects for democracy in Kenya,* Kampala: Fountain Publishers, 1998.

27 Kenya Human Rights Commission, *Kayas revisited: a post-election balance sheet,* Nairobi: Kenya Human Rights Commission, 1998.

28 Kagwanja, *Killing the vote: State sponsored violence and flawed elections in Kenya.*

29 Kagwanja, Politics of marionettes: Extra-legal violence and the 1997 elections.

30 K Ombongi, Gusii politics: An analysis of the 1997 elections, in M Rutten, A Mazrui, and F Grignon (eds), *Out for the count: The 1997 general election and prospects for democracy in Kenya,* Kampala: Fountain Publishers, 2001.

31 Mutahi, Political violence in the elections.

32 Commission of Inquiry into Post-Election Violence (CIPEV) 2008. Report of the post-2007 election violence. Nairobi: Government Printer.

33 M Salih, New wine in old bottles: Tribal militias and the Sudan state, *Review of African Political Economy,* 16(45/46) (1989), 168–74.

34 Kagwanja, Politics of marionettes: Extra-legal violence and the 1997 elections.

35 Kagwanja, Facing Mount Kenya or facing Mecca? The Mungiki ethnic violence and the politics of the Moi succession in Kenya, 1987–2002.

36 D Throup and C Hornsby, *Multi-party politics in Kenya,* Nairobi: East African Education Publishers, 1998.

37 Kagwanja, Facing Mount Kenya or facing Mecca? The Mungiki ethnic violence and the politics of the Moi succession in Kenya, 1987–2002.

38 Human Rights Watch, *Divide and rule: State-sponsored ethnic violence in Kenya,* New York: Human Rights Watch, 1993.

39 Mazrui, Ethnic voices and trans-ethnic voting: The 1997 elections at the Kenya coast. Kagwanja, *Killing the vote: State sponsored violence and flawed elections in Kenya.* Human Rights Watch, *Kenya's unfinished democracy: A human rights agenda for the new government.*

40 Mutahi, Political violence in the elections.

41 S Brown, Quiet diplomacy and recurring 'ethnic clashes' in Kenya, in C L Sriram and K Wermester (eds), *From promise to practice: Strengthening UN capacities for the prevention of violent conflict,* Boulder: Lynne Rienner, 2003.

42 M Katumanga and L Cliffe, *Nairobi – a city besieged: The impact of armed violence on poverty and development,* Bradford University: Centre for International Cooperation and Security, Department of Peace Studies, 2005.

43 S Muiruri, 'Mungiki bounces back with a bang,' *The Daily Nation,* 11 November 2006, p. 12.

44 D Wabala, 'Two groups not the only nes ruling city estates, *The Daily Nation,* 11 November 2006, p. 12.

45 Karuti Kanyinga, quoted in Sunday Nation team, 'The Mungiki government,' *The Sunday Nation,* 4 February 2007, p. 1.

46 Mutahi, Violence and politics of militias in Kenya; G Wamue, Revisiting our indigenous shrines through Mungiki, *African Affairs* 100(400) (2001).

47 Sunday Nation correspondence, 'Mungiki leaders convert to Islam,' *The Daily Nation,* 3 September 2000, p. 28.

48 Kagwanja, Facing Mount Kenya or facing Mecca.

49 Kagwanja, Facing Mount Kenya or facing Mecca. Anderson, Vigilantes, violence and the politics of public order in Kenya.

50 M Muthui, 'What makes Mungiki tick,' *The Daily Nation,* 23 October 2000, p. 6.
Kagwanja, Facing Mount Kenya or facing Mecca
Katumanga and Cliffe, *Nairobi – a city besieged: The impact of armed violence on poverty and development.*

51 C Kinyanga, 'New insights into a secretive cult, *The Daily Nation,* 5 April 2004, p. 13-14.

52 P Kagwanja, Power to uhuru: youth identity and generational politics in Kenya's 2002 elections, *African Affairs,* 105 (418), (2005) 51-75

53 D Wabala, 'Two groups not the only ones ruling city estate, *The Daily Nation,* 11 November 2006, p. 12.

54 Ibid.

55 S Simon, 'Up and about, but disguised,' *The Sunday Nation,* 4 February 2007, p. 17

Sunday Nation Team, 'Agony of residents trapped in a web of gang extortion,' *The Sunday Nation,* 4 February 2007, p. 17-19

56 D Wabala, 'Where the underworld government rules,' *The Sunday Nation,* 4 February 2007, p.4.

Part Three

Domestic terrorism in other parts of the world and lessons for Africa

Domestic terrorism in Asia and lessons for Africa

Sam Makinda

The purpose of this article is to examine the nature of terrorism in Asia and explore if there are lessons that African states and societies can learn from the Asian experience. The paper focuses on South-east Asia, in particular Indonesia, the Philippines, Thailand and Malaysia. It also refers to the role that Australia has played since 2001 to try to help South-east Asian states deal with terrorism.

Conceived within the framework of the 'global war on terror', this paper makes two major claims. The first is that, given the fact that the level of state development in some parts of South-east Asia and Africa are roughly similar, it is possible that African states can benefit by understanding how their Asian counterparts have dealt with, and continue to deal with, security problems, including terrorism and political violence. The second claim, which appears to contradict the first, is that irrespective of the apparent similarities in development trajectories between Africa and Asia, African states need to bear in mind the fact that their security problems have local roots and can be addressed effectively only if their root causes are tackled.

To elaborate on the above claims, the paper is divided into five sections. Section one discusses briefly the spread of Islam and the nature of Muslim groups and movements in South-east Asia. Section two examines the emergence of *Al Qaeda* in South-east Asia and explains how its role in the region differs from that in Africa. The third section discusses the role of *Jemaah Islamiyah* in South-east Asia, and the fourth section the role of Australia in assisting South-east Asian states to pursue multifaceted counter-terrorism measures. The final section suggests the possible lessons that Africa might learn from South-east Asia.

MILITANT ISLAM IN SOUTH-EAST ASIA

Like some parts of the Maghreb or northern Africa, South-east Asia is home to a large Muslim population. Indeed, one of the South-east Asian states, Indonesia, with a population of over 230 million, is acknowledged as the second largest Muslim country in the world after India. South-east Asia has also been home to a variety of militant Muslim groups and movements for many decades. Initially, the relationships among these groups were fairly weak because most of them operated only in their own countries, where they focused on domestic problems. The common theme among these groups was, and has been, the need for the *Sharia* or Islamic law. At different times, some of these groups sought independence from central government control.[1]

The Philippines has had violent Muslim separatist movements for more than a century. Until recently, the activities of several Muslim groups were confined mainly to the relatively isolated Muslim-majority regions in the southern Philippines, especially in Mindanao and Jolo. The main militant groups include the *Abu Sayyaf* group, which operates on the islands of Mindanao and Sulu. The other groups are the *Moro National Liberation Front* (MNLF) and the *Moro Islamic Liberation Front* (MILF). The Australian and US governments have provided the Philippines government with military support in its fight against these groups.

Thailand has also witnessed growing incidences of terrorism, both indigenously based and transnational. The fact that a *Jemaah Islamiyah* leader, Hambali, was arrested near Bangkok in August 2003 is one of the signs of collaborations between local Muslim militants and outsiders. In southern Thailand there is a restless

and sometimes rebellious Muslim minority. Indeed, since 2004, there have been numerous clashes between the Thai government forces and Muslim groups, especially in the southern provinces of Yala, Narathiwat and Pattani.

Over the years, Indonesia has witnessed situations where different schools of Islamic thought have competed for followers and public support, but many of them have not called for the establishment of an Islamic state. The more radical groups, which started their activities as anti-Dutch guerilla warfare, were effectively suppressed by the Sukarno (1950–1965) and Suharto (1967–1998) regimes. Some Muslim groups formed opposition parties that sought to defeat President Suharto through the elections. Suharto's regime came to an end in May 1998. One of the opposition groups in Indonesia was led by Abdurrahman Wahid, who became the first democratically elected president after the collapse of the Suharto regime. Another group was led by Amien Rais, who became speaker of the upper house of parliament following the departure of Suharto. Although Wahid and Rais led large Muslim organisations, they pursued a secular political agenda. However, in the past few years, Indonesia has witnessed several bombings carried out by a radical Muslim group, *Jemaah Islamiyah*, as we shall explain later.

Another predominantly Muslim country in South-east Asia is Malaysia. It witnessed a potentially significant electoral swing toward a 'radical' Islamist party, *Parti Islam se-Malaysia* (PAS) in the late 1990s. However, PAS suffered major setbacks in the parliamentary elections in early 2004. The then Malaysian Prime Minister, Abdullah Badawi, who is a respected Islamic scholar, demonstrated Malaysia's 'moderate' Islamic approach to public policy issues since replacing the former prime minister, Mahathir Mohammad.

There are sizeable Muslim populations in sub-Saharan Africa, but no sub-Saharan African state has experienced the type of problems that one can find in South-east Asia, especially in Indonesia, the Philippines and Thailand. It is for this reason that the lessons learned in South-east Asia may not be automatically applicable in Africa.

The emergence of radical Muslim groups and movements in South-east Asia in the 1990s has been traced to several developments, some of which served as remote causes, while others served as immediate causes. These include a reaction to globalisation forces, frustration with repressive secular governments, the desire to create a pan-Islamic South-east Asia, resentment against the continuing Israeli occupation of the West Bank and Gaza Strip, and the arrival of terrorist veterans who spent many years fighting against the Soviets in Afghanistan. These factors facilitated the forging of relations between *Al Qaeda* and domestic Muslim groups in South-east Asia.

THE SIGNIFICANCE OF AL QAEDA IN SOUTH-EAST ASIA

Southeast Asia and Africa were 'invaded' by *Al Qaeda* at about the same time: in the early 1990s *Al Qaeda* agents established a foothold in both Africa and Asia. Given the fact that the Egyptian cleric Dr Ayman al Zawahiri, who is often described as Osama bin Laden's deputy, is an African, one could argue that the seeds of *Al Qaeda* were planted in Africa before they were transplanted to other parts of the world.

Since the early 1990s, however, *Al Qaeda* agents, or those who claim to operate in its name, have made significant inroads into South-east Asia.[2] According to a variety of sources, *Al Qaeda*'s South-east Asian operatives appear to have performed three primary tasks. The first was to have set up local cells, which were predominantly headed by Arab members of *Al Qaeda* and served as regional offices supporting the network's global operations. These cells are said to have exploited the region's generally lax border controls thus enabling them to hold meetings in South-east Asia to plan attacks against Western targets, host *Al Qaeda* operatives transiting through South-east Asia, and provide safe havens for other operatives. For example, *Al Qaeda*'s Manila cell, which is said to have been founded in the early1990s by a brother-in-law of Osama bin Laden, was particularly active in the early to mid-1990s. Under the leadership of Ramzi Yousef, who escaped to Manila after coordinating the 1993 bombing of the World Trade Centre in New York, the cell reportedly plotted to blow up 11 airliners in a two-day period, crash a hijacked airliner into the American CIA headquarters and assassinate the Pope during his visit to the Philippines in early 1995. Yousef is reported to have been assisted in Manila for a time by Khalid Sheikh Mohammed, the alleged mastermind of the 11 September 2001 attacks.[3]

In the late 1990s, *Al Qaeda*'s attention appears to have shifted to Indonesia, Malaysia and Singapore. *Al Qaeda*'s leadership also apparently took advantage of South-east Asia's generally lax financial controls to use various countries in the region as places to raise, transmit and launder the network's funds. It is claimed that by 2002 roughly one-fifth of *Al Qaeda*'s organisational strength was in South-east Asia.

Moreover, over time, *Al Qaeda*'s South-east Asian operatives are said to have helped to establish *Jemaah Islamiyah* (JI), which has been accused of plotting attacks against Western targets. JI is suspected of having carried out the 12 October 2002 bombing in Bali, Indonesia, that killed approximately 200 people, mostly Western tourists,

including 88 Australians. Although JI does not appear to be subordinate to *Al Qaeda*, the two networks appear to have cooperated extensively.

In addition, *Al Qaeda*'s local cells are reported to have worked towards cooperating with indigenous radical Muslim groups and movements by providing them with money and training. Until it was disbanded in the mid-1990s, *Al Qaeda*'s Manila cell reportedly provided extensive financial assistance to Moro militants such as the *Abu Sayyaf* group and the *Moro Islamic Liberation Front*. Thousands of militants have been trained in *Al Qaeda* camps in Afghanistan or in the camps of Filipino, Indonesian and Malaysian groups that opened their doors to *Al Qaeda*. *Al Qaeda* reportedly provided funds and trainers for camps operated by local groups in Indonesia, Malaysia and the Philippines. Indonesian intelligence officials have also accused *Al Qaeda* of sending militants to participate in and foment the Muslim attacks on Christians in the Malukus and on Sulawesi that began in 2000.

The task of *Al Qaeda*'s operatives appears to have been made easier by several factors. The first was the withdrawal of foreign state sponsors, such as Libya, that had supported some local groups in the 1970s and 1980s. The second was the personal relationships that had been established during the 1980s, when many Southeast Asian Muslim radicals had fought as *mujahideen* in Afghanistan. The third factor was related to the weak central government control, endemic corruption, porous borders, minimal visa requirements, extensive network of Islamic charities, and lax financial controls of some countries, most notably Indonesia and the Philippines.

THE ROLE OF THE JEMAAH ISLAMIYAH (JI)

After the 11 September 2001 terrorist attacks in the USA, it was realised that JI had an extensive pan-Asian network with cells in Australia, Indonesia, Malaysia, Pakistan, the Philippines, Singapore and Thailand. To achieve its goal of creating an Islamic state in South-east Asia, JI leaders have formed alliances with other militant Muslim groups to share resources for training, arms procurement and financial resources. It has been shown that JI has engaged in joint operations and training with the Moro Islamic Liberation Front in the Philippines.

In Indonesia, JI has created and trained local radical groups that have been involved in sectarian conflict in the country's outer islands. Shortly after the Bali bombing of October 2002, Australia and the USA designated JI a terrorist organisation. Thereafter the United Nations Security Council added JI to its list of terrorist groups, which meant that all UN member states were required to freeze the organisation's assets, deny it access to funding

and prevent its members from entering or travelling through their territories. However, the Indonesian government has not banned JI because it believes the organisation does not exist. Despite this, the Bali bombing prompted Indonesian officials to arrest several militant Muslims who are believed to be members of JI.

The ideas and concerns that gave birth to JI stretch back to the 1960s, when its co-founders, Abu Bakar Bashir and Abdullah Sungkar, began demanding the establishment of the *Sharia* in Indonesia. The two considered themselves the ideological heirs of the founder of the *Darul Islam* movement, the Muslim guerilla force that fought the colonial Dutch troops and the post-independence Indonesian forces of Sukarno, Indonesia's founding president who ruled from 1950 to 1965. In the 1970s, Bashir and Sungkar established *Al Mukmin*, a boarding school in Solo on the main island of Java. This school taught the puritanical *Wahhabi* interpretation of Islam, which has its roots in Saudi Arabia. The suspected JI activists who have been arrested are said to be *Al Mukmin* graduates. In 1985, Bashir and Sungkar moved to Malaysia where they set up a base of operations and helped send Indonesians and Malaysians to Afghanistan, first to fight the Soviets and later to train in *Al Qaeda* camps. Sungkar and Bashir are said to have formed JI in 1993 or 1994, and to have begun steadily setting up a sophisticated organisational structure and actively planning and recruiting for terrorist activities in South-east Asia.

The fall of Indonesia's Suharto regime in 1998 provided a major boost to JI. Within a short period, formerly restricted Muslim groups were able to operate freely. Bashir and Sungkar returned to Solo, preaching and organising their supporters. At the same time, Jakarta's ability to maintain order in Indonesia's outer islands decreased dramatically, and long-repressed tensions between Muslims and Christians began to erupt. In 1999 and 2000 the outbreak of sectarian violence in Ambon (in the Malukus) and Poso (on Sulawesi) provided JI with critical opportunities to recruit, train and fund local *mujahadeen* fighters to participate in the sectarian conflict. After the violence ebbed, many of these *jihadis* became active members of JI. In 2000, JI carried out bombings in Jakarta, Manila and Thailand.

JI is said to have assisted two of the 11 September 2001 hijackers and its supporters have confessed to plotting and carrying out attacks against various Western targets. These include the 12 October 2002 bombing in Bali that killed over 200 people, the Marriot Hotel attack in August 2003, and the 9 September 2004 suicide bombing of the Australian embassy in Jakarta.

There has been considerable debate over the relationship between JI and *Al Qaeda*. Although some analysts have claimed that JI is *Al Qaeda*'s South-east Asian affiliate, others believe that the two groups are discrete

organisations with different, albeit overlapping, agendas. Whereas *Al Qaeda* focuses on global trends and targets Westerners and Western institutions, JI is focused on radicalising Muslim South-east Asia. Indeed, some JI leaders believe that attacking Western targets might undermine their goal.

Al Qaeda and JI have developed a highly symbiotic relationship in which they benefit from and reinforce each other. It is assumed that they have some overlap in membership, because some of the South-east Asian militants who trained in Afghanistan have become members of both organisations. They have shared training camps in Afghanistan, Pakistan and the Philippines. *Al Qaeda* has provided JI with considerable financial support. They have also shared personnel, such as when JI sent an operative with scientific expertise to Afghanistan to try to develop an anthrax programme for *Al Qaeda*.

The two networks have jointly planned operations and reportedly have conducted attacks in South-east Asia together. Often, these operations have taken the form of *Al Qaeda* providing the funding and technical expertise, while JI has procured local materials and located operatives. Riduan Isamuddin (also known as Hambali) appears to have been a critical coordinator in these joint operations, and his arrest in 2003 may have curtailed JI-*Al Qaeda* cooperation.[4] Finally, the terrorist attacks in 2003 and 2004 in Morocco, Turkey and Spain indicate that *Al Qaeda*'s anti-Western ideology has inspired individuals and local groups to undertake terrorist acts.

AUSTRALIA'S ROLE IN SOUTH-EAST ASIA

The activities of *Al Qaeda* sympathisers and JI require a coordinated, international response in a region where multilateral institutions and cooperation are weak. It is for this reason that Australia's approach to counter terrorism in the region has taken various forms. Australia recognises that terrorist threats to its interests are most acute in South-east Asia and, therefore, its engagement with regional governments is partly designed to enhance its own security.[5]

The terrorist activities that prompted Australia to get involved in South-east Asia's counter-terrorism strategies include the Bali bombings of 2002 and 2005, the attack on the Marriot Hotel in Jakarta in 2003, the attack on the Australian embassy in Jakarta in 2004, and the continuing insurgency problems in the Philippines and Thailand.

Since the 2002 Bali bombing in which over 200 people, including 88 Australians, died, Australia has established counter-terrorism cooperation with Indonesia and other states in the region, with a view to strengthening their capacity to deal with the problem. It has signed at least 13 memoranda of understanding (MOUs) with Asian, Middle Eastern and Pacific states. The bilateral MOU network

includes the following countries: Afghanistan, Brunei, Cambodia, Fiji, India, Indonesia, Malaysia, Pakistan, Papua New Guinea, the Philippines, Thailand, East Timor and Turkey. Australia has also assisted South Pacific island states to draft counter-terrorist legislation. Moreover, in May 2006, Australia announced a counter-terrorism assistance package of A\$92,6 million over a four-year period to help regional countries strengthen the counter-terrorism capacities of their police forces, restrict the flow of funds to terrorists, and improve travel security. Australia's special forces have also participated in counter-terrorism exercises with the armed forces of Thailand and the Philippines.

However, effective counter-terrorism measures have to go beyond the technical issues like military cooperation and exercises. They need to reduce poverty and address other socioeconomic problems, hence former World Bank president James Wolfensohn's emphasis on development.

Development is defined broadly as referring to both qualitative and quantitative changes in a variety of areas, including the provision of basic needs such as shelter, water, sanitation, education and health. It incorporates human empowerment, especially increased participation by the people in the management of their economic, political, cultural and social affairs. Development includes capacity building, thereby implying the introduction of new ideas, standards, institutions, norms and techniques of overcoming obstacles to human progress. It also includes democratisation, independent judiciaries and open, responsible and accountable governments.

Development, poverty alleviation and social justice can reduce the chances of terrorism by facilitating human empowerment, while at the same time eliminating the conditions that produce political discontent. As Wolfensohn has argued:

The international community has already acted strongly, by confronting terrorism directly and increasing security. But those actions by themselves are not enough. We will not create that better and safer world with bombs or brigades alone.[6]

WOLFENSOHN WENT ON TO ARGUE:

We must recognise that while there is social injustice on a global scale – both between states and within them; while the fight against poverty is barely begun in too many parts of the world; while the link between progress in development and progress toward peace is not recognised – we may win a battle against terror but we will not conclude a war that will yield enduring peace.[7]

Poverty per se does not cause terrorism, but it could combine with other factors to ignite political violence. Poverty combined with the politics of identity can fuel terror. People, like those who masterminded the terrorist

attacks of 11 September 2001, do not have to come from poverty-stricken homes in order to identify with the poor. Those terrorists were rich, but they defined their identities in terms of the aspirations of those who had been denied justice in the Middle East. Development can help people to redefine their identities and to refocus their interests and energies, and thereby reduce the chances of terrorism.

It was in the light of these considerations that, in June 2006, the Australian Agency for International Development (AUSAID) released its White Paper entitled 'Australian aid: Promoting growth and stability'. This Paper sets out Australia's strategies for poverty reduction, sustainable development and steps toward the millennium development goals. For instance, it suggests how Australia will seek to enhance security by reducing poverty, fighting corruption and addressing other social, demographic and cultural sources of insecurity.

Thus, by the end of 2007, Australia's approach to the threat of terrorism and other security problems in South-east Asia was broad and geared towards tackling their root causes. Its multifaceted approach to counter terrorism in South-east Asia has been in place for only a few years, but it has started to show some success. It is a model that could be emulated by African states and their partners in the 'war on terror'.

LESSONS FOR AFRICA

The South-east Asian experience of addressing domestic terrorism provides at least three lessons for Africa. The extent to which each African state can apply the Asian approach will depend on its unique circumstances. The first lesson is that terrorism often has local causes, and this means that unless these specific problems are effectively addressed, the threat of political violence is unlikely to go away. For example, Indonesia, the Philippines and Thailand have to deal with local grievances if they are to eliminate the current causes of terrorism.

The second lesson is that much of modern terrorism has transnational links, and this implies that tackling it seriously requires international cooperation. For instance, Indonesia and the Philippines are unlikely to curtail the influence of outside forces on their domestic problems unless they cooperate with other parties that are similarly threatened.

The third lesson, as the Australian involvement in South-east Asia has shown, is that terrorism needs to be addressed simultaneously at various levels: political, economic, social and military. Focusing on one aspect of the strategy, for example the use of military force, is unlikely to resolve the situation satisfactorily.

NOTES

1 For a brief but excellent analysis of terrorism in South-east Asia, see, for example, Bruce Vaughn, Emma Chanlett-Avery, Mark E. Manyin and Larry A. Niksch, CRS Report RL34194, *Terrorism in Southeast Asia*, Congressional Research Service, Washington DC, 11 September 2007.

2 For a detailed analysis of Al Qaeda's early moves in South-east Asia, see Rohan Gunaratna, *Inside Al Qaeda*, London: Hurst & Co., 2002, Chapter 4.

3 For a useful analysis of the activities of Khalid Sheikh Mohammed, see National Commission on Terrorist Attacks Upon the United States, Final Report: The 9/11 Commission Report, New York: W. W. Norton, 2004, 145–150.

4 For detailed information on Hambali, see National Commission on Terrorist Attacks Upon the United States, Final Report: The 9/11 Commission Report, 150–152.

5 See Department of Foreign Affairs and Trade, *Transnational terrorism: The threat to Australia*, Canberra: Department of Foreign Affairs and Trade, 2004.

6 James D. Wolfensohn, A partnership for development and peace, Speech at the Smithsonian Institution, 6 March 2002, http://wwics.si.edu/NEWS/speeches/wolfensohn.htm. Accessed on 8 March 2002.

7 Wolfensohn, A partnership for development and peace.

Domestic terrorism in the United States and lessons for Africa

William Rosenau[1]

INTRODUCTION

Until the attacks of 11 September 2001, most Americans, as well as many international observers, considered terrorism on US soil a relatively rare and, with a few exceptions, a generally minor phenomenon. However, even before 9/11 terrorism was hardly exceptional. The number of events classified as 'incidents' in the US during the 1970–1997 period, according to one leading terrorism database, totalled an impressive 1 023 – putting the country roughly on a par with Pakistan (1 228) and South Africa (1 372), and well ahead of Germany (436).[2] Moreover, as discussed in this paper, US domestic terrorism and responses to it have had profound political consequences.

Whether the American experience has any policy relevance in the African context is one of the subjects this paper addresses. The paper begins with an overview of terrorism and counter-terrorism from the 1860s until the end of the 20th century, and includes (but is not be limited to) a discussion of the violent racialist right, the most persistent threat in the post-Civil War period. The paper then explores trends in terrorism and counter-terrorism after 9/11 and, among other things, addresses the relatively new challenge of 'home-grown' violent Islamist extremism. The conclusion offers some preliminary ideas about the features of counter-terrorism policy (past and present) in the US and other democratic countries which might prove salient in Africa.

However, this paper does not include an explicit discussion of the definitions of terrorism, which number more than 100 according to one count.[3] The reason is fairly simple. Such discussions can be useful, but they can also consume vast amounts of analytical oxygen and, in so doing, prevent the consideration of other subjects of consequence. That said, one definitional aspect will be addressed immediately, namely the distinction between 'domestic' and 'international' terrorism. The US Federal Bureau of Investigation (FBI) defines the former as terrorism 'by a group or individual based and operating entirely within the United States or Puerto Rico without foreign direction', and the latter as acts of terrorism which take place outside the United States 'or transcend[s] national boundaries in terms of the means by which they are accomplished, the persons they appear intended to coerce or intimidate, or the locale in which their perpetrators operate or seek asylum'.[4]

Given the physical permeability of international borders, not to mention the growth of the internet, it might be argued that 'international versus domestic' or 'outside versus inside' is a distinction without a difference. But the distinction is one worth preserving for at least one important political reason. By employing the term 'domestic terrorism', we are (at least implicitly) accepting that not all terrorism is 'foreign' in origin and nature, and in so doing we make it impossible to ignore the profoundly indigenous nature of some manifestations of political violence. In other words, the domestic-international distinction tacitly recognises that 'outsiders' are not always to be blamed.

THE HISTORICAL CONTEXT

Violent extremism has been a feature of the American political landscape since the earliest days of the republic. In the aftermath of the Civil War, the country saw the birth of its first terrorist movement, the Ku Klux Klan. The Klan, which at the peak of its power in the 1920s had millions of members (including judges, policemen and elected officials), employed violent intimidation as an instrument of racial domination. Waves of immigration during the first two decades of the 20th century and

'invasion' fears among the Protestant, native-born population contributed to the growth of the Klan. Nativism, anti-Catholicism and anti-Semitism, although always secondary to its campaign of anti-black violence, became significant components of the Klan's political programme during this period.[5] Throughout its history, the Klan has gone through cycles of expansion and decline, and by the 1930s the movement had waned. The growth of the civil rights movement in the 1950s, and the birth of what was termed the 'second reconstruction' led to a resurgence of the Klan and, for the first time, sustained efforts by federal authorities to curb Klan violence and disrupt the organisation.

Given the organisation's size, political influence and enthusiasm for violence, it is understandable that the Klan should dominate any discussion of home-grown terrorism in America during the early and middle 20th century. However, it is worth noting that two other significant forms of terrorism – one emerging from the Puerto Rican separatist movement, the other from anarchism – materialised during this period.

In November 1950, members of the separatist National Party of Puerto Rico attempted to assassinate President Harry S Truman and, four years later, party members opened fire on a session of the US House of Representatives, wounding five members of Congress. During that century's first two decades, anarchist groups, while tiny in terms of actual membership, achieved enormous political effects. Like their counterparts in Western Europe, some American anarchists supported violent anti-state subversion. Two events were particularly dramatic.

In September 1901, President William McKinley, perhaps the most popular American chief executive of his era, was assassinated by a self-proclaimed anarchist in Buffalo, New York. In September 1920, in one of the most notorious acts attributed to US anarchists, a horse-drawn cart loaded with 100 pounds of dynamite – an early example of what is now known as a vehicle-borne improvised explosive device – exploded near J P Morgan's Wall Street offices, killing 30 people. [6]

Terrorism attributed to anarchists and other leftists was a contributing factor to a series of 'Red Scares' that included massive roundups and deportations of non-citizens. The early 20th century also witnessed the emergence of a uniquely American phenomenon – the joint effort by government authorities and non-governmental organisations to combat internal extremism, a partnership that has continued into the present day. During World War I, the American Protective League, the National Security League, American Defense Society and other self-proclaimed patriotic groups disrupted Socialist Party meetings, investigated anti-war dissent, and attacked striking trade unionists.[7] During the 1930s, the Anti-Defamation League (ADL), founded in 1913 to fight anti-Semitism, supplied the Roosevelt administration with intelligence on pro-Nazi individuals and organisations within the US.[8] Today, the ADL works with police agencies in the southeastern US to keep authorities abreast of 'the presence of hate groups and the activities of those groups in their jurisdictions', according to the organisation's website, and the ADL's authoritative assessments of the violent right reach a wide audience both inside and outside the US government.[9]

Fears about domestic subversion and terrorism also contributed to the creation of a federal-level domestic intelligence apparatus. The founding of the country's first internal security service in 1919 – the General Intelligence Division, a Department of Justice unit headed by J Edgar Hoover, who would go on to lead the FBI for nearly 50 years – was a reflection of popular and official fears of the growing power of the enemy within.[10]

Counter-terrorism as such was never a priority for Hoover's FBI. Until the mid-1960s, the bureau and its director (interchangeable entities in the minds of detractors and supporters alike) devoted the bulk of its intelligence resources to combating the ever-dwindling ranks of the arch-Stalinist Communist Party in the, US (CPUSA). One FBI operation did have significant consequences for the Ku Klux Klan, easily the country's largest and most violent terrorist movement. The Counterintelligence Program (COINTELPRO), from its launch in 1956 until its public exposure in 1971, was a covert action designed to 'expose, disrupt, misdirect, discredit or otherwise neutralize' what in FBI parlance were termed 'White Hate' and 'New Left' groups, 'Black Nationalist/Hate Groups', and the FBI's traditional foe, the CPUSA.[11] Although COINTELPRO had relatively little effect against the new left, it did contribute to a broader law enforcement campaign against what was termed 'Black Power'. However, COINTELPRO did the greatest damage to the Klan and other white hate groups, whose members tended to be relatively uneducated and unsophisticated, and whose ranks were riddled with informants and thus easily penetrated by the bureau's agents.[12] During the early and mid-1970s, the Watergate conspiracy and associated crimes, and the exposure of illegal surveillance by the FBI and other intelligence agencies led to restrictions on the bureau's domestic intelligence activities. In 1976, the Justice Department enacted a series of guidelines (named after the attorney general Edward Levi) that largely removed the FBI from the business of spying on domestic political groups. Over a two-year period beginning in 1975, the number of domestic intelligence cases plummeted from 1 454 to 95.[13]

But the bureau did not withdraw entirely from domestic intelligence or counter-terrorism. During the

1970s and 1980s, the bureau chased down Vietnam-era radical fugitives, including members of the Weather Underground organisation (WUO), a tiny (but elusive) terrorist group that emerged from the ashes of the mass-based Students for a Democratic Society (SDS).[14] The FBI also investigated cases of terrorist violence perpetrated by the Black Liberation Army (BLA), the M19 communist organisation (along with the BLA, one of the groups responsible for the notorious October 1981 Brinks robbery in upstate New York), Puerto Rican and Croatian nationalists, and anti-Castro elements.[15] During the early 1980s, as the US increased its support for the 'contras' in Nicaragua and the pro-American government in El Salvador, the administration of Ronald Reagan directed the FBI to investigate members of US opposition groups, most notably the Committee in Solidarity with the People of El Salvador (CISPES) and affiliated organisations. More than 2 300 people were investigated during the course of the bureau's probes, which continued through most of the 1980s.[16] Eerily reminiscent of COINTELPRO, these investigations reportedly included opening mail, unsolved burglaries at the homes and offices of activists and physical surveillance. Perhaps unsurprisingly, the FBI failed to establish any links between these individuals and groups and international terrorists, and the operation led to public and congressional outcries about repressive government practices that echoed the uproar of the early 1970s.

THE RE-EMERGENCE OF THE VIOLENT RIGHT

By the mid-1980s, the violent left had essentially disappeared from the American political landscape, and no longer posed an appreciable threat to the public order.[17] However, during this decade the country witnessed a re-emergence of a new 'insurgent terrorist underworld'.[18] Although the Klan continued to operate, its position as the leading right-wing violent extremist organisation was eclipsed by newer entities, including 'patriot', survivalist, paramilitary and militia groups, and more explicitly neo-Nazi and white supremacist groups like the Aryan Nations, the Christian Identity Church, the Order, the White Aryan Resistance, the Creativity Movement (also known as the World Church of the Creator), and the National Alliance. Leaders such as the Aryan Nation's Lewis Beam and the National Alliance's William Pierce (author of the movement's urtext, *The Turner Diaries*) forged an ideology of violent sedition and racial hatred premised on the notion that blacks, Jews and other 'sub-humans' had seized control of the American republic. Indeed, a favourite refrain of the violent right was that the racially pure were under attack

from a tyrannical regime, which activists labelled the 'Zionist Occupation Government'.

Two events during the first half of 1990s helped galvanise right-wing extremists. A bungled government siege at the home of Randall Weaver in Ruby Ridge, Idaho in 1992 led to the death of Weaver's wife and son and the killing of a US marshal. This debacle prompted widespread criticism of the FBI and other agencies involved in the siege. The siege at the Branch Davidian compound near Waco, Texas in April 1993, laid on by the FBI after a failed raid by the Bureau of Alcohol, Tobacco, and Firearms (BATF), led to the death of 76 sect members, including more than 20 children. These incidents confirmed to many on the far right that the US government was truly at war against religious and political dissidents. Waco and Pierce's *Turner Diaries* had a powerful effect on Timothy McVeigh, who with his accomplice, Terry Nichols, carried out the April 1995 attack on the Alfred P Murrah Federal Building in Oklahoma City – the deadliest pre-9/11 terrorist attack on US soil – in retaliation for the government's violence at Waco. Other significant right-wing terrorist attacks followed, including bombings at an abortion clinic and at the 1996 Olympic Games by Eric Rudolph, a follower of Christian Identity.[19] The actions of McVeigh and Rudolph suggested to many observers the emergence of a new, and to some a uniquely American, form of terrorism – so-called 'lone-wolf' terrorism, that is, politically motivated violence carried out by individuals (with perhaps a conspirator or two) with little or no connection to extremist organisations. Lone wolves are by no means an exclusively right-wing terrorist phenomenon. Theodore Kaczynski, the notorious 'Unabomber', carried out a series of bombings from the 1970s through to the mid-1990s. While not explicitly part of the political left, the central thrust of his ideology was the need for violent opposition to what he considered to be the loss of human freedom in industrial society – a stance that would be difficult to categorise as uniquely right wing.[20]

THE GOVERNMENT RESPONSE

Oklahoma City convinced many Americans that the country had grown dangerously vulnerable to home-grown extremism. The destruction of the Murrah Federal Building, and with it the loss of 168 lives – a high-water mark (of a kind) for right-wing terrorists – had major unintended consequences for the violent right. The attack forced terrorism to the top of the American political agenda, mobilising decision makers as Ruby Ridge and Waco had galvanised far-right groups. Militias and other violent extremists came under increasing government scrutiny. The investigative restrictions imposed by the Levi guidelines were eased, sweeping new legislation was

enacted, including the curiously named Antiterrorism and Effective Death Penalty Act of 1986 and the number of FBI domestic terrorism investigations increased from 100 in the period immediately before Oklahoma City to 900 by 1997. [21] [22] The state engaged in a new prosecutorial strategy against the violent underground that would continue into the post-9/11 period.

In the past, some domestic terrorists had in effect been deemed enemies of the state, and were prosecuted under sedition laws. Under the post-Oklahoma City crackdown, terrorists were treated as ordinary (albeit dangerous) criminal actors and prosecuted for weapons violations, bank robbery and racketeering offences – just as 'ordinary' criminals were. In the words of one justice department official, 'We're going after them as criminals, not martyrs.'[23] Inexplicably, given the February 1993 bombing of the World Trade Center in New York by Islamic extremists, the subject of potential jihadist terrorism within the US received scant FBI scrutiny. The violent right, nationalist organisations, anarchists, and what the FBI termed 'extreme socialists' were identified as significant threats, and as late as May 2001 the FBI director, Louis J. Freeh, continued to highlight what he termed 'special interest extremists' such as 'animal rights, pro-life, environmental, [and] anti-nuclear militants' as noteworthy domestic threats.[24] During the 1990s, increasing government pressure led some elements of the violent right to evolve structurally. In an influential essay (published in an aptly named journal, *The Seditionist*, in 1992), Louis Beam of the Aryan Nations introduced the concept of 'leaderless resistance', in which he argued that individuals or tiny groups – rather than formal organisations, which were vulnerable to penetration by government agents – should have the responsibility for waging the armed campaign against perceived racial enemies.[25] The concept was widely embraced on the far right, which used technological advances, most notably the internet, to carry out Beam's radically decentralised approach. Ironically, leaderless resistance was adopted explicitly by violent environmental activists. Generally considered to be part of the political left, leaderless and loosely structured movements like the Earth Liberation Front (ELF) and the Animal Liberation Front (ALF) seemed unaware of the strategy's right-wing extremist pedigree.

By the end of the 1990s, US counter-terrorism policy was focused increasingly on the threat of Islamist terrorism. The attacks on the US embassies in Nairobi and Dar-es-Salaam in August 1998 and the near destruction of the USS Cole in the Gulf of Aden in October 2000 alerted policymakers to the dangers to the US posed by Al Qaeda and like-minded extremists, and officials in the Clinton and Bush administrations braced themselves for additional terrorist attacks. However, the US government directed its

attention beyond US borders, believing that future attacks would take place abroad. The attacks on 11 September 2001 led to the devastating realisation that the 'homeland' (in post-9/11 parlance) was again dangerously vulnerable. Violent right-wing extremists and single-issue terrorists remained a domestic counter-terrorism concern to be sure, but they took a back seat to the new enemy within.

TRENDS IN POST-9/11 DOMESTIC TERRORISM

In the years since the September 2001 attacks, federal, state and local authorities have disrupted a series of plots by individuals with no direct connection to Al Qaeda, but apparently inspired by Osama bin Laden and like-minded extremists and their ideological programmes. Notable cases of home-grown terrorism include the so-called 'Lackawanna Six', a group of Yemeni-Americans who in 2003 pleaded guilty to providing material support to terrorists and other charges; Hamid Hayat, a Pakistani-American who in 2006 was convicted for terrorism-related offences in connection with his purported membership in a terrorist cell in Lodi, California; the so-called Virginia Jihad Network, members of which were convicted in 2003 and 2004 for travelling to Pakistan to receive terrorist training and other offences; and the 2007 Fort Dix conspiracy, in which six Muslims allegedly plotted to kill soldiers at a military base in southern New Jersey.[26] At least one group, the prison-based Jam'yyat Al-Islam (JIS), reportedly moved far along an operational trajectory and, according to authorities, was on the verge of carrying out attacks on Jewish targets in the Los Angeles area before members were arrested in 2005.[27] However, most of these plots were relatively unsophisticated in comparison with those witnessed outside the US and most never reached an operational stage. [28]

What authorities term 'pre-emptive prosecution' has become a favoured counter-terrorism strategy. Rather than wait for individuals to carry out acts of terrorism – and prosecute after the fact – the government strikes early, before any actual acts of violence take place. As with violent right-wing extremists in the post-Oklahoma City crackdown, authorities carry out arrests and prosecutions on the basis of even relatively minor alleged offences, such as immigration charges. In addition, the USA PATRIOT Act, passed by Congress in October 2001, created a variety of new terrorism-related offences and made it significantly easier for law enforcement and intelligence agencies to conduct surveillance and share information with each other.[29]

This legislation and the post-9/11 campaign against terrorists operating in the US (and against US interests abroad for that matter) has been the subject of sustained

and often rancorous domestic debate. Civil libertarians have objected to what they regard as a sweeping expansion of investigative powers, arbitrary arrests and illegal spying on US citizens, including the use of warrantless wire-tapping.[30] Moreover, critics have charged that many terrorism-related prosecutions have been unsuccessful, or have only resulted in convictions for essentially trivial crimes. Not surprisingly, the Bush administration and supporters of its policies counter that the post-9/11 measures are legal, necessary and effective, and that prosecutions of would-be terrorists for minor offences is a powerful counter-terrorism tool.[31] In the words of one senior FBI official,

> I sometimes see people criticize us for having counterterrorism cases that result in relatively modest criminal prosecutions. I look at that and applaud it. That means we prevent it before it reache[s] a level where it's a headline-type counterterrorism prosecution.[32]

A full assessment of this debate and a comprehensive analysis of the Bush administration's response to the threat of home-grown violent jihadists is beyond the scope of this paper. Bush partisans have argued that the absence of a terrorist attack on US soil since 9/11 – or even a close call – is evidence that administration policies to defend the homeland are working, but it is impossible to say with any certainty at this stage whether it is those policies (or, as some have argued, the absence of a genuine threat) that are responsible.[33] Survey research indicates that most American Muslims have a positive view of the larger society, and overall the community is opposed to extremism to a greater degree than are Muslim minorities in regions such as Western Europe.[34] That said, the US 'is not immune', according to the director of national intelligence (DNI). The threat, according to the DNI, 'is likely to be fuelled in part by propaganda and mischaracterizations of US foreign policy as harmful to Muslims, rather than by any formal assistance from al-Qa'ida or other recognized groups'.[35] According to a July 2007 National Intelligence Estimate (NIE), violent radicals within the US are becoming less isolated internationally and are forging ideological and physical links with what the authors term 'global extremist movements'.[36] The Department of Justice has identified federal prisons as a hospitable environment for radicalisation and terrorist recruitment, and has expanded intelligence gathering within prison populations.[37] At the same time, other parts of the US government have in the past expressed scepticism about the intentions and capabilities of home-grown violent actors. According to a draft planning document prepared by the Department of Homeland Security (DHS) in 2005, 'we are not convinced that any of these [violent] organizations

acting alone would pursue a major attack against the Homeland'.[38] Whatever the merits of these various claims, it is fair to conclude that much remains unknown about radicalisation and recruitment trends, and more research is required as the subject has failed to receive the analytical attention in the US that it has enjoyed in Britain and other Western democracies.[39]

Other forms of terrorism continue to receive attention from federal, state and local authorities. Indeed, investigative efforts directed against the extremist right and single-issue terrorists appear have increased since 11 September 2001. 'We are taking every incident much more seriously, and we are analyzing it more closely', in the words of one federal prosecutor.[40] Animal rights and earth liberation activists committed 700 criminal acts and caused US$112 million in property damage during the 1995–2005 period, according to the FBI, and the Bureau continues to assess these movements as a threat.[41] These and other single-issue movements, concludes the July 2007 NIE, are likely to carry out attacks over the next three years (the period covered by the estimate), although the US intelligence community believes these will be relatively small-scale in nature. American pro-life terrorists have committed murder, including the assassination of doctors providing abortions, but to date US-based animal and earth liberation movements have not been responsible for human deaths. Some analysts predict that these movements, bitterly frustrated in their failure to achieve their aims, may turn to extreme violence, including the use of weapons of mass destruction (WMD). However, what one scholar terms the 'individualistic ethics' of the movements' participants, which argues against indiscriminate violence and the death of innocent humans, makes such a scenario highly implausible.[42]

Right-wing extremists were involved in 40 to 50 plots involving violence during the 2000–2005 period, according to the Southern Poverty Law Center (SPLC), which like the ADL and other NGOs tracks and analyses the racist and neo-Nazi anti-establishment, and provides training to police personnel to help them combat violent extremists.[43] Some of these plots have involved chemical and biological agents. In May 2004, William Kar, a white supremacist living in Texas, was sentenced to 11 years in prison for stockpiling large amounts of cyanide, as well machine guns, explosives and 100 000 rounds of ammunition.[44] However, the relentless prosecution of violent activists, the loss of financial assets as a result of government action and private lawsuits, and the death and imprisonment of key leaders have badly weakened the extreme right. The death in 2002 of William Pierce, founder of the National Alliance, and the arrest in 2003 and conviction in 2005 of Matthew Hale, leader of the World Church of the Creator and a leading advocate for

what he termed 'Racial Holy War' led to the collapse of two of the most violent 'pagan racialist' organisations.[45] The National Alliance, according to the SPLC, has been reduced to a 'menagerie of squabbling gossips', and Hale's group, concludes the ADL, is 'a loose array of largely uncoordinated white supremacists' apparently incapable of any meaningful political action. [46] This disarray among neo-Nazis and white supremacists has created fresh opportunities for the Ku Klux Klan, however. After a period of decline, the Klan, as in the past, has resurrected itself, with chapters in some 18 US states. In its most recent incarnation, the Klan has used anti-immigrant sentiment as a tool for recruitment and mobilisation, and has reached out to racist skinhead youth. In so doing, the Klan has become increasingly 'Nazified' – adopting the tattoos, slogans and music of the skinhead subculture, and even going so far as to abandon the traditional robes and regalia of its own 'invisible empire'.[47]

CONCLUSION: LESSONS FOR AFRICA?

Can the American experience in combating domestic terrorism help to identify constructive policies for contemporary Africa? At one level the answer is no. Differences in history, political and legal structures and, perhaps most importantly, the nature of terrorism in the US and Africa make a straightforward transfer of 'lessons' impossible. The phenomenon of terrorism in Africa has assumed two primary forms: state violence perpetrated against perceived internal enemies (for example, the Mengistu Haile Mariam regime's 'Red Terror' in Ethiopia), and insurgent violence deployed against non-combatants (by the Lord's Resistance Army in Uganda, for instance). The US has experienced the former (such as the so-called 'pacification' of the plains Indians and other indigenous peoples) and the latter (e.g. during the guerilla warfare in Kansas territory in the 1850s). But overwhelmingly, terrorism for more than a century has been in the form of small-group violence directed against state institutions, racial minorities and economic targets. In addition, some features of American terrorism, such as the lone-wolf phenomenon, are unheard of outside the US context.

That said, it is possible to identify some elements of US domestic counter-terrorism implemented during the past half-century that may be relevant for Africa today. Some of these elements are by no means unique to the US – some make up the 'best practices' for counter-terrorism that analysts have distilled from the experiences of other democratic countries during the past 50 years.[48] Key elements include conducting counter-terrorism in strict adherence to the law; engaging the public as essential stakeholders in the campaign against terrorism; keeping the use of force by the state to an absolute minimum, and establishing amnesty programmes for terrorists who are willing to foreswear violence and abandon the armed struggle. (The discussion of counter-terrorism best practices is generally confined to those used by democracies. Authoritarian regimes such as Egypt clearly have had successes against terrorists within their border. However, for obvious reasons any attempt to apply their approaches must be done with extreme caution, as many of their methods would be unfeasible and undesirable in a democratic context.)

Perhaps the most important tenet to be derived from the US experience is the need to 'criminalise' terrorism. Governments should never frame terrorism as an existential threat to state and society. Such thinking concedes far too much to the terrorist; after all, no terrorists per se have ever succeeded in toppling a state and seizing power. Moreover, depicting terrorism as a profound national security threat can direct the state away from measured, precisely calibrated responses and towards an all-out 'war' against terrorism. This, in turn, can lead to the abandonment of the rule of law (a key tenet of effective counter-terrorism) and systemic and wide-scale repression – which almost inevitably works to the terrorists' advantage by seeming to confirm the terrorists' narrative that the state is at war with its own people.

As many students of the subject have observed, terrorists' effectiveness is a function of their ability to carry out violent acts that have profound psychological impacts within target audiences.[49] Stated another way, the mind is the principal theatre of conflict in any capable terrorist campaign. Effective counter-terrorism requires a 'demystification' process that reduces the status of the terrorists from that of 'alchemists of revolution' (as some were labelled in the 1980s) to that of ordinary criminals.[50]

Such an approach will help reinforce the position of the police and the broader justice system as the central pillars of counter-terrorism in a democratic context. Properly organised and trained police will have an intimate knowledge of the communities they serve, and are in an ideal position to identify terrorism-related activities, actors and support networks. After all, some of the most notorious terrorists of the previous century – including Abimael Guzman, the leader of Peru's Shining Path, and Timothy McVeigh – were apprehended not by the armed forces or intelligence services, but through careful police work.

NOTES

1   The views expresses in this paper are those of the author, and do not necessarily reflect those of the RAND Corporation or its research sponsors.

2   Global terrorism database, National consortium for the study of terrorism and responses to terrorism, University of Maryland, weblink: http://209.232.239.37/gtd1/ (accessed 15

April 2008). For various methodological reasons, the database is divided into two sets: GTD1 (covering 197?–1997) and GTD2 (1998–present).

3   Alex P Schmid, *Political terrorism: A research guide,* New Brunswick, NJ: Transaction Books, 1984, x.

4   US Federal Bureau of Investigation (FBI), *Terrorism 2002–2005,* Washington DC: US Department of Justice , nd, 35.

5   For more on the history of the Ku Klux Klan, see David M Chalmers, *Hooded Americanism: The history of the Ku Klux Klan,* 3rd ed, Durham NC, London: Duke University Press, 1987; Nancy K MacLean, *Behind the mask of chivalry: The making of the second Ku Klux Klan,* New York: Oxford University Press, 1995.

6   Amy Zalman, 1920: Wall Street bombing – Terrorism in America, http://terrorism.about.com/od/originshistory/p/WallStreetBomb.htm (accessed 10 April 2008).

7   Richard Gid Powers, *Not without honor: The history of American anticommunism,* New York, London: The Free Press, 1995, 10–11.

8   George Michael, *The enemy of my enemy: The alarming convergence of militant Islam and the extreme right,* Lawrence: University Press of Kansas, 2006, 174–175.

9   Anti-Defamation League (ADL), Programs, http://regions.adl.org/southeast/programs (accessed 3 April 2008).

10 For more on Hoover and counter-subversion during this period, see Curt Gentry, *J Edgar Hoover: The man and the secrets,* New York: W W Norton & Company, 2001, particularly 70–105; Richard Gid Powers, *Secrecy and power: The life of J Edgar Hoover,* New York: The Free Press, London: Collier Macmillan Publishers, 1987, 93–129. For an outstanding recent history of the FBI, see Rhodri Jeffreys-Jones, *The FBI: A history,* New Haven, London: Yale University Press, 2007.

11 David Cunningham, *There's something happening here: The new left, the Klan, and FBI counterintelligence,* Berkeley, Los Angeles, London: University of California Press, 2004, 8.

12 Ibid., Chapter 5, passim.

13 James Kirkpatrick Davis, *Spying on America: The FBI's domestic counterintelligence program,* Westport, CT: Praeger, 1992, 176.

14 For more on the Weather Underground organisation, see Dan Berger, *Outlaws of America: The Weather Underground and the politics of solidarity,* Oakland CA: AK Press, 2006; Ron Jacobs, *The way the wind blew: A history of the Weather Underground,* London, New York: Verso, 1997.

15 US Federal Bureau of Investigation (FBI), *Terrorism 2002–2005,* 35.

16 Cunningham, *There's something happening here: The new left, the Klan, and FBI counterintelligence,* 212.

17 For a different view, see Karl A Segar, Left-wing extremism: The current threat, Paper prepared for the US Department of Energy, Center for Human Reliability Studies, Oak Ridge Institute for Science and Education, April 2001, http://www.osti.gov/bridge/servlets/purl/780410-SHVVvq/native/780410.PDF (accessed 2 January 2008).

18 Dennis B Downey, Domestic terrorism: The enemy within, *Current History* (April 2000) 170.

19 Ibid., 170.

20 For more on the Unabomber, see Alston Chase, Harvard and the making of the Unabomber, *Atlantic Monthly* (June 2000). Kaczynski's manifesto, Industrial society and its future, can be found at http://en.wikisource.org/wiki/Industrial_Society_and_Its_Future (accessed 10 April 2008).

21 For more on this legislation, see Charles Doyle, Antiterrorism and Effective Death Penalty Act of 1996: A Summary, Congressional Research Service, 3 June 1996, http://www.fas.org/irp/crs/96-499.htm (accessed 10 April 2008).

22 David E Kaplan, Mike Tharp, Mark Madden and Gordon Witkin, Terrorism threats at home: Two years after Oklahoma City, violent sects still abound, *US News & World Report,* 21 (December 1997), http://www.usnews.com/usnews/news/articles/971229/archive_008586.htm (accessed 4 February 2008).

23 Quoted in Kaplan, Tharp, Madden and Witkin, Terrorism threats at home: Two years after Oklahoma City violent sects still abound.

24 Louis J Freeh, FBI, Statement for the record, The threat of terrorism to the United States, US Senate, Committees on Appropriations, Armed Services, and Select Committee on Intelligence, 10 May 2001, http://www.fbi.gov/congress/congress01/freeh051001.htm (accessed 15 April 2008).

25 Louis Beam, Leaderless resistance, *The Seditionist* (February 1992), http://www.louisbeam.com/leaderless.htm (accessed 15 April 2008).

26 For more on these cases see Dina Temple-Raston, *The jihad next door: The Lackawanna Six and rough justice in an age of terror,* New York: Public Affairs, 2007; Henry K Lee, Lodi man convicted of aiding terrorists gets 24 years in prison, *San Francisco Chronicle,* 10 September 2007, http://www.sfgate.com/flat/archive/2007/09/10/chronicle/archive/2007/09/10/BA7IS2RNQ.html (accessed 17 April 2008); Christine Hauser and Anahad O'Connor, Six arrested in plot to attack Fort Dix, New York Times, 8 May 2007, http://www.nytimes.com/2007/05/08/us/08cnd-dix.html?_r=1&hp&oref=slogin (accessed 17 April 2008); The Fort Dix plot, Report 13, NEFA (Nine/Eleven Finding Answers) Foundation, January 2008, http://www.nefafoundation.org/miscellaneous/fortdixplot.pdf (accessed 2 February 2008).

27 For more on the Jam'yyat Al-Islam (JIS) case, see Jeffrey B Cozzens and Ian Conway, The 2005 Los Angeles plot: The new face of jihad in the US, *Terrorism Monitor* 4(2) (26 January 2006); Amy Argetsinger and Sonya Geis, 4 charged with terrorist plot in California, *Washington Post,* 1 September 2005.

28 Michael Leiter, Acting Director, National Counterterrorism Center, Looming challenges in the war on terror, Remarks delivered at the Washington Institute for Near East Policy, 13 February 2008.

29 US Department of Justice, The USA PATRIOT Act: Preserving life and liberty, http://www.lifeandliberty.gov/highlights.htm (accessed 2 April 2008).

30 See for example Bruce Ackerman, *Before the next attack: Preserving civil liberties in an age of terrorism,* New Haven, London: Yale University Press, 2006.

31 See for example John Yoo, *War by other means: An insider's account of the war on terror,* New York: Atlantic Monthly Press, 2006.

32 Public Broadcasting System, *Frontline,* Interview: Phil Mudd, http://www.pbs.org/wgbh/pages/frontline/enemywithin/interviews/mudd.html (accessed 3 July 2007).

33 For a provocative argument along these lines, see John Mueller, Is there still a terrorist threat? The myth of the omnipresent enemy, *Foreign Affairs* (September/October 2006).

34 Pew Research Center, Muslim Americans: Middle class and mostly mainstream, 22 May 2007, http://pewresearch.org/pubs/483/muslim-americans (accessed 17 April 2008).

35 J Michael McConnell, Director of National Intelligence, Statement for the record, Annual threat assessment of the director of national intelligence, Senate Select Committee on Intelligence, 5 February 2008.

36 National Intelligence Council, National Intelligence Estimate, *The terrorist threat to the US homeland, Washington: Office of the Director of National Intelligence,* July 2007, n.p.

37 Office of the Inspector General, *A review of the Federal Bureau of Prisons' selection of Muslim religious services providers,* Washington DC: US Department of Justice, April 2004.

38 Quoted in Justin Rood, Animal rights groups and ecology militants make DHS terrorist list, right-wing vigilantes omitted, *CQ Homeland Security – Intelligence* (on-line edition) (25 March 2005).

39 See for example General Intelligence and Security Service (*Algemene Inlichtingen-en Veiligheidsdienst* – AIVD), *Recruitment for the jihad in the Netherlands: Incident to trend,* The Hague: AIVD, December 2002.

40 Quoted in Maria Glod and Jerry Markon, Tracking hate groups aids terrorism fight, *Washington Post,* 19 May 2003, B01.

41 Michelle Garcia, Animal rights activists step up attack in NY, *Washington Post,* 9 May 2005; Robert S Mueller, III, FBI Director, Statement before the Senate Select Committee on Intelligence, 11 January 2007.

42 Bron Taylor, Threat assessment and radical environmentalism, *Terrorism and Political Violence,* 15(4) (Winter 2003), 180–181.

43 Frank Davies, Domestic terrorism threat continues, *Knight-Ridder Newspapers,* 19 April 2005; Southern Poverty Law Center (SPLC), Monitoring hate and extremist activity, http://www.splcenter.org/intel/intpro.jsp (accessed 2 November 2007).

44 Larry Copeland, Domestic terrorism: New trouble at home, *USA Today,* 15 November 2004, 1.

45 For more on the origins and development of the World Church of the Creator pagan racialism and the 'de-Christianisation' of the extreme right, see George Michael, RAHOWA! A history of the World Church of the Creator, *Terrorism and Political Violence* 18 (2006).

46 Mark Potok, Meltdown: Once-powerful group loses key leaders, *Intelligence Report,* SPLC, http://www.splcenter.org/intel/intelreport/article.jsp?aid=547 (accessed 3 January 2008); Anti-Defamation League (ADL), The Creativity Movement in 2005, 14 March 2005, http://www.adl.org/learn/extremism_in_america_updates/groups/creativity_movement/Creativity_Update_3_14_05.htm (accessed 2 April 2008).

47 Anti-Defamation League (ADL), Ku Klux Klan rebounds, 2007, http://www.adl.org/learn/ext_us/kkk/intro.asp?LEARN_Cat=Extremism&LEARN_SubCat=Extremism_in_America&xpicked=4&item=kkk (accessed 4 April 2008).

48 See for example Robert J Art and Louise Richardson (eds), *Democracy and counterterrorism: Lessons from the past,* Washington DC: US Institute of Peace Press, 2007.

49 Bruce Hoffman, *Inside terrorism,* New York: Columbia University Press, 1998, 38.

50 Richard E Rubenstein, *Alchemists of revolution: Terrorism in the modern world,* New York: Basic Books, 1987.

Part Four

Impact of domestic terrorism on Africa's development

The economic impact of domestic terrorism in Africa

Kunle Ajayi

INTRODUCTION

Terrorism has become a common device utilised by groups at both national and international levels to further political and socioeconomic interests. The terrorist attacks of 11 September 2001 demonstrated some cogent lessons. One is that no nation, however powerful, is above terror attacks. In fact, powerful nations are even more vulnerable to attacks than the weak ones. The second lesson is that terrorism has assumed major proportions – it has globalised. However, while international terrorism has become the global focus, domestic terrorism is being given limited attention. International terrorism is likened to big wars, the threat of which to global peace and security is receding in the post-Cold War era. In contrast, domestic terrorism can be likened to small wars which are manifested in varying forms at the intrastate level. While international terrorism targets mainly the powerful nations, domestic terrorism is basically a national concern with global implications. The weaker regions of the world such as Africa, Latin America, Asia and the Middle East suffer domestic terrorism more than the developed regions, mainly owing to the latter's maturity of internal democratic politics – specifically a significant concern for equal resource allocation and control – and the inclusion of various sectional interests in government.

This study aims to examine the economic impacts of domestic terrorism in Africa with special focus on Nigeria's Niger Delta, which has been a flashpoint of protracted oil-related violence for about two decades. This paper has seven sections. Section one is the introduction. Section two examines the meaning, philosophy and properties of terrorism generally, while section three investigates the concept, typology and epidemiology of domestic terrorism in Africa. Section four situates the oil crisis by identifying the underlying motivations for and patterns of domestic terrorism in the Niger Delta. Section five examines the establishment of counter-terrorism measures. Section six discusses the economic impacts and the opportunity costs of domestic terrorism in the region and their implications for global economic relations and sustainable democracy in Nigeria. Lastly, section seven suggests possible interventions for lasting peace in the subregion.

MEANING, PHILOSOPHY AND PROPERTIES OF TERRORISM

The most prominent feature of terrorism is the use of violence, often accompanied by the wanton destruction of property, and maiming and killing of victims. The conceptualisation of terrorism is enmeshed in controversy. Perception and misperception are often dictated by the side of the divide on which the interpreter sits. Defining the term, therefore, would depend on whether the definer is a state authority, an onlooker and analyst, victim or terrorist.

To the state authority, terrorism is the premeditated threat or use of violence by subnational groups or clandestine individuals intended to intimidate and coerce governments, promote political, religious or ideological outcomes, and inculcate fear among the public at large.[1] It is within this prism of perception that Adeniran[2] explains terrorism as a brutish tactic that thrives on the use of violence, generally in an indiscriminate way, to harm, cause distress and inflict fear upon the population. Shaw conceives of terrorism as a criminal act directed against a state and intended to create terror in the minds of particular persons, a group of persons or the general public.[3] According to these views, terrorism endangers the orderliness and peace of the state.

To the onlookers and analysts, terrorism is an antisocial behaviour which poses great threats to peaceful daily life.

Terrorists, on the other hand, see the use of the word 'terrorism' as a misnomer. Most terrorists believe that their acts are justified, and that they are delivering a political message to the authorities. The end is considered a justification of the means.[4] Terrorists do not see themselves as terrorists, but as nationalists, liberators, freedom fighters, emancipators and revolutionaries.

These contending views show that there is no consensus or unanimity on the definition of terrorism. The definition of the concept depends on who is defining it, the attitudes of the definers and the prevailing circumstances. As Whittaker (2002:10) points out, all these variables alter with time.

Terrorists do not just attack: they have motives, inducements and motivations. Various reasons have been advanced for terrorist actions. Often terrorists aim to avert the official oppression or marginalisation of a group to which they belong. The group could be ethnic, religious or political. Exclusion from power politics and economic injustice have caused prolonged domestic terrorism by Islamic fundamentalists in Algeria, who are protesting the annulment of their electoral victory in 1992. Other instances of domestic terrorism include almost two decades of civil war in Liberia between the Afro-Liberians and the Americo-Liberians, the fighting for diamonds in Sierra Leone, unrest in apartheid South Africa, and the wars for political control in Cote d' Ivoire, Sudan, DRC, Guinea Bissau. The inter-ethnic contestations for power between the Sunni Arabs, Kurds and other opposition groups in Iraq during the Saddam regime and the counter-offensive oppression and ethnic cleansing by Saddam's regime, as well as the attacks on the post-Saddam regime and that regime's counter-offensives are also cases of domestic terrorism.

Terrorism can also be ignited by ideological beliefs. Many terrorist groups are motivated by passionate idealism and powerful ideological convictions.[5] Most terrorist groups are ideologically anti-capitalist and therefore generally anti-American and anti-Western. These groups see capitalism and those who practise it as evil because of their overt accumulation of wealth and infliction of poverty on what Paul Collier calls 'the bottom billion'.[6]

Terrorists can also seek to defend religious purity. Many terrorists, particularly those from the Islamic world, belong to religious fundamentalist sects. The many terrorist attacks since 1992 by Islamic extremists indicate that religious influences and impulses are a driving force for many terrorist activities.[7] Blind adherence to certain religious precepts has also inspired terrorism. Some of these precepts foster terrorism by advocating the punishment of those who fail to adhere strictly to religious codes.

In addition, there is a belief that those who help mete out this punishment and die while promoting the true faith will be rewarded in the afterlife, which prompts hard-core religious terrorists to sacrifice their own lives through suicide attacks.

The need for global publicity is yet another motivating factor for terrorists. The media plays a significant role here. For instance, the 11 September 2001 attacks on the USA constituted a media event of unprecedented scale: there were round-the-clock radio and cable television news broadcasts and worldwide reaction and debate were facilitated by the internet and the global system of mobile communications. The advances of information technology, particularly the internet, have assisted terror groups, who often have their own websites in addition to their radio and television stations through which to propagate their ideals and activities. For instance, on the sixth anniversary of the 11 September attacks both President G W Bush and Osama bin Laden addressed the world on television and the internet. The publicity accorded Bin Laden and his group, Al Qeada, is astounding. In fact, it may not be wrong to say that Bin Laden is the most publicised non-state actor in the last century.

Further motivation is martyrdom. Acquiring martyr status not only motivates religious fundamentalists, but their supporters often expect and honour the death of a terrorist.[8] In addition to the terrorist being remembered, martyrdom also ensures good media coverage and publicity.[9] In this vein, if Bin Laden dies or is captured and sentenced to death today, he is most likely to be seen as a martyr by terrorist groups.

The motives, aims and beliefs of terrorists are very diverse and hence no theory can adequately explain terrorism. However, terrorism is characterised by a number of dynamic properties. It is a very different form of violence in the sense that it is unconventional in its approach to attacks. Terrorists are averse to the rules and moral ethics of war, and they often do not distinguish between civilian and military targets. Because they are by nature subversive, they are also immune to public outcries and condemnations that states might encounter. Another important feature is that terrorist groups usually lack a permanent base and are therefore very mobile, difficult to detect and unpredictable. These properties make it very difficult for the conventional military to combat terrorists.

CONCEPT, TYPOLOGY AND EPIDEMIOLOGY OF DOMESTIC TERRORISM IN AFRICA

Domestic terrorism constitutes nationally based acts of violence. Terrorist acts are perpetrated by nationals and directed at state institutions, the citizenry and private

enterprises that have political and/or economic links with the state. Terrorism, in its original usage and application, implied a reign of terror involving acts or threats of violence by a state against its domestic enemies.[10] However, since the 20th century, the term has been applied most frequently to violence aimed, either directly or indirectly, at governments in an effort to influence public policy or topple an existing regime.[11] According to Adeniran, the psychodynamics of terrorism at the national and international levels are basically the same: terrorism takes root where there is relative deprivation of fundamental resources, and poverty, political frustration, religious intolerance or fanaticism exist.[12]

Terrorism, either by groups against the government or by the government against groups within its state, can be situated within three major typologies: revolutionary terrorism, sub-revolutionary terrorism and establishment or state terrorism.[13] Revolutionary terrorism seeks the complete abolition of the political system or the overthrow and replacement of the existing regime. The Marxist or Communist desire to facilitate a withering of the state fits into this typology. Sub-revolutionary terrorism aims to modify the existing sociopolitical structure by deposing an existing regime. Establishment or state-sponsored terrorism is employed by a government against its own citizens, or against factions within the government, or against foreign governments or groups.[14] Terrorism imposed by the state on local populations may include the use of atomic weapons, poisonous gas, internment camps, genocide and chemical weapons. Programmed state terrorism may also take the form of selective reprobation and instrumental violence. A major character of state terrorism is its secrecy – states often deny its use. Repressive regimes, such as Stalin's Soviet Union, Idi Amin's Uganda and Saddam Hussein's Iraq, were noted for the widespread use of terror against their populations. In all three variants of terrorism, the local population is directly or indirectly affected by the use or threat of violence.

The result of establishment counter-terrorism may be negative or positive. It is negative if the counter-attack succeeds only in presenting the terrorists as heroes or martyrs and motivating new recruits. It is positive when it makes it unattractive to continue with terrorism and the terrorists suffer a setback arising from the counter-measures.[15]

Terrorism within the nation-state is widespread in Africa. The subregions have suffered from or are still experiencing one or a combination of the following conflicts:

- Separatism/wars of autonomy by subnational groups e.g. the post-independence Biafran civil war in Nigeria; the Eritrea/Ethiopia war, and the Morocco/Saharawi Republic separatist crisis
- Struggle for political power or state control with inter-ethnic war in Liberia, Sierra Leone, Cote d'Ivoire, Guinea Bissau, Algeria, Nigeria, Angola, DRC, Somalia, Burundi and Rwanda
- Violent agitations for resource control in Sierra Leone, Nigeria and Angola
- Anti-racist violence, such as that in apartheid South Africa
- Violent clashes by social miscreants (gang warfare and vigilante groups in Nigeria and Kenya)
- Cultism in the Nigerian universities involving the use of violence and terror
- Religious violence
- Coups and counter-coups with the attendant military dictatorship and the abuse of human rights

Separatism, agitations for autonomy, struggles for state power and agitations for resource control have often led to protracted civil wars on the continent. Conflict constantly circulates in Africa, giving the continent an image of permanent regional instability and unpredictability.

SITUATING THE NIGER DELTA CRISIS

The ethnic militancy in the Niger Delta is a war over oil remittance and resource control arising from environmental terrorism and corporate violence by the Nigerian state and foreign oil multinationals. The Niger Delta subregion produces the nation's oil and gas wealth. It has a reserve of 27 billion barrels of crude oil, which is over 2,6 per cent of proven global reserves.[16] It accounts for 3 per cent of global oil production and is the sixth largest oil producer in the world. Apart from oil, Nigeria has 177 trillion cubic feet of gas reserves located in the subregion, which is also the sixth largest in the world.[17] Nigerian oil constitutes 14 per cent of USA oil consumption. As an oil-based economy, revenues from oil provide 80 per cent of Nigerian government income, 95 per cent of export receipts, and 90 per cent of foreign exchange earnings.[18] The receipted oil wealth yearly amounts to US$40 billion. After half a century of oil production, the nation has earned almost US$300 billion from oil.[19]

In spite of the huge amount of petrodollars, the living standards of most Nigerians have remained low, falling far below the levels experienced at independence in 1960. Most of the oil revenue has been squandered and diverted to the private overseas accounts of the ruling military and civilian elites. High levels of corruption in the oil industry have had particularly adverse effects in the Niger Delta region which produces the oil wealth.

This region suffers from decades of neglect and its peoples are marginalised. It has been subjected to enormous environmental and corporate terrorism arising

from oil exploration and exploitation. The farmlands and water resources are polluted by leakages from aged oil pipes which have burst and oil spills from tankers. Drinking water is contaminated and fishing – a mainstay of the traditional diet and economy –is made difficult. Oil-soaked land impedes crop farming and agriculture in the area. The region is also subject to air pollution as a result of incessant gas flaring. The damage to the ecosystem in general and the destruction of the means of livelihood for the region's people are nothing short of establishment and corporate-sponsored ecological terrorism and economic warfare.

The region is also one of the least developed in the country, despite generating the nation's massive oil wealth. It lacks basic social amenities such as potable water, good roads, hospitals, primary health care facilities, schools and adequate shelter. There are no industries other than oil production. People live in abject poverty and suffer from hunger, illiteracy, poor health and unemployment and their associated ills. Youths in the area are jobless, idle and angry.

Opposition and resistance include the following:

- Efforts made by the states in the Niger Delta, primarily championed by Delta and Bayelsa states, for resource control and expanded local access to oil revenues by the Niger Delta ethnic communities
- The struggle for self-determination by minority ethnic groups and calls for a national conference to engineer a new constitution
- The emergence of militant youth movements, which act against state and corporate violence in the area to raise awareness about their situation

These peaceful attempts to resolve the regional crisis have not achieved their goals. Instead, leading activists for the environmental and economic rights of the Niger Delta people have been systematically eliminated or incarcerated by the state. For instance, Ken Saro-Wiwa and eight other Ogoni activists were extrajudicially killed by the Abacha regime in 1995. Marshall Harry was also assassinated. Ex-Governor Dieprieye Alamieyeseigha of Bayelsa state in the Niger Delta was impeached, selectively convicted of corruption and substantial parts of his wealth were confiscated by the federal government. Other notable leaders, such as Dokubo-Asari, were permanently detained. Eventually, the militants' demands for the release of their leaders became the basis of their movements.

Prolonged environmental terrorism and the withholding of economic, political and social rights by the state and corporate oil companies led to the formation of various subnational ethnic groups and the emergence of

a violent youth culture. Ethnically based, militant youth groups have about 26 000 members and include[20]

- The Niger Delta Peoples Volunteer Force, led by Mujadin Asari-Dokubo
- Ateke Boys, led by Ateke
- Clansmen
- Islanders
- Bush Boys
- Town Boys
- Movement for the Survival of Ogoni People (MOSOP), originally led by the late Ken Saro-Wiwa
- Movement for the Emancipation of the Niger Delta (MEND), led by Jomo Gbomo
- Grand Alliance of the Niger Delta
- Martyrs Brigade
- Joint Revolutionary Council

They employ the following terror strategies:

- Kidnapping
- Hostage taking, with or without demands for ransom
- Vandalisation of oil infrastructure
- Roadside car bombing
- Sporadic urban shooting (hit-and-run)
- Arson
- Speedboat coastal raids
- Artillery attacks on the armed forces and the police
- Abduction
- Extrajudicial killings
- Use of victims as human shields
- Attacks on transportation facilities and threats to bomb bridges such as the Third Mainland Bridge in Lagos.
- Use of the internet for information dissemination

Kidnapping and hostage taking have a definite pattern. Foreign expatriates (and local employees) were the first targets. More than 200 foreigners from the West, Asia and North Africa, who were employees of the oil multinationals, were kidnapped and taken as hostages with or without ransom demands in 2006.[21] Where ransom demands were made, the amounts ranged from US$160 000 to US$4 000 000 (2 million to 5 million Naira). Later, attention shifted to local residents of the target communities with elderly women and mothers of ruling political dignitaries and legislators as prime targets. Much later, toddlers and teenagers from the rich families also became targets. Currently, fathers of prominent political personalities in the oil states are the preferred targets.

The targets have been from the most vulnerable groups in society, namely foreigners, children, women and the elderly. Often kidnappings and hostage taking are

intended to publicise the region's militant movements and attract attention from the government, the local public and the international community. However, hostage taking for ransom is a lucrative business. Unfortunately, because of this, members of the Joint Military Task Force, who are responsible for ending the violence in the sub-region, often collaborate with the militants to get a share of the ransom. Soldiers involved in this crime have been dismissed by the defence and police authorities.[22]

COUNTER-MILITANCY MEASURES

To ensure domestic security and stability and an uninterrupted oil outflow to the international market, the post-Abacha federal government set up a joint special armed forces and police task force to confront domestic terrorism in the subregion. However, the Joint Task Force (JTF) has not been able to restore peace in this region. It attacked local communities suspected of being terrorist strongholds and abused the rights of and killed innocent civilians. Soldiers engaged in indiscriminate arrests and detention, and carried out sporadic shootings. They also raped women, and burnt the houses of people suspected of being militants or cult members. Eight communities were obliterated in the area, including Odi village. In addition to the casualties, thousands became internal refugees.

The atrocities of the JTF imply that the government's approach to the Niger Delta crisis is to counter terrorism with terrorism. The government's intervention, rather than building peace, has actually increased the violence and militant grievances.

THE ECONOMIC IMPACT OF THE OIL VIOLENCE

Terrorists often aim to attack economic interests that are of symbolic importance to the target system. This can reduce state revenue flows and discourage foreign investment, both of which weaken the government's financial support base. In oil-producing countries like Nigeria, oil infrastructure is often a prime target. Brynjar Lia, a defence professor, and Ashild Kjok, a diplomat, both of whom have vast experience in Middle Eastern oil politics, identified seven of these vulnerable oil targets. [23]These are oilfields, wells, platforms and rigs; refineries and other processing plants; transportation facilities, including pipelines, pumping stations and tankers; depots; corporate offices; distribution points, both wholesale and retail; and personnel employed at any of these places.

Terrorists also target service industries in tourism and hospitality sectors. For instance, the 11 September terror attacks, the deadliest in human history, had profound impacts on the tourism sector. In the USA, tourism

provides about 280 000 jobs and generates about US$25 billion a year. In the week following the attacks, hotel occupancy fell below 40 per cent and 3 000 employees were laid off.[24] The insurance industry also suffered losses from the attacks. Insurance claims for damages totaled US$20,72 billion, the third largest insurance claim ever.[25] About 5 000 causalities were recorded in the attacks.[26] According to the USA's Partnership and Comptroller's Office, the estimated financial cost of the 5 000 human lives lost is between US$10 billion to US$11 billion (in foregone lifetime income).[27] In direct and indirect total losses, the attacks on the two World Trade Centre buildings cost US$83 billion (in 2001 dollar value).[28]

In the same way the endemic crisis on the Africa continent is not without costs. According to Oxfam International and Saferworld, the region has lost US$284 billion to war and political violence in the last 15 years.[29] The continent's average yearly loss is about $20 billion.[30]

Domestic terrorism in the Niger Delta has affected the economy negatively. An evaluative analysis of such effects should start with the general environment. Decades of oil production have caused irreparable damage to the soil through repeated oil spillages and leaks from burst and old pipelines. Farming has been virtually destroyed, with farmers having lost their main sources of income and therefore lacking the economic capacity to feed themselves and their families. Oil pollution has threatened the flora and fauna in the forest, and the sea and rivers, which serve as sources of drinking water to the communities, have been contaminated by spilled oil. An impaired fishing economy has left fishermen economically disempowered and without any other sustainable means of livelihood. Air pollution caused by gas flaring also affects the health of people in the Niger Delta.

This damage to the environment and its negative economic effects are not quantifiable in terms of financial losses. As noted by the Delta state government, one of the oil-producing states of Niger Delta, 'the resources from oil may be palliatives, in relation to the damage done, but they are not enough'.[31] The devastation to and neglect of the environment have indeed been the main reasons for the emergence and rise of militancy and terrorism in the subregion. Loss of lives owing to environmental pollution and fighting between militants and the special military forces in the subregion can also not be quantified in financial terms.

However, some aspects of the continued disturbances and unrest in the Delta can be measured in quantifiable and verifiable losses. One is the damage to oil infrastructure and pipelines when the installations and facilities of major oil companies are attacked. For instance, between 1994 and 1999, Shell Oil recorded 1 136 cases of vandalisation to its installations.[32] In January 2006, it had to close

down at least four of its facilities in the area.[33] Shell Oil's 1 million barrels a day production capacity in 2004 was reduced to 500 000 barrels per day in 2006. All western operations in the Niger Delta have been shut down while it continues its eastern operations with caution. Similarly, the Shell EA Fields and Offshore Gas Gathering Project Asset, which produced 115 000 barrels of oil per day, shut down in February 2007 because of attacks from the MEND militants.[34]

The continued attacks on oil infrastructure have reduced production capacity and caused a shortfall in the country's total crude oil exports by at least 20 per cent. The hostilities cost the nation about 800 000 barrels per day in 2006.[35] However, since 1999, the nation has lost an average of 300 000 barrels of oil per day owing to the violence. This translates into a loss of about US$18 million daily and to an awesome US$58,3billion (N7 345 trillion) over nine years.[36] This massive annual loss of revenue has affected the nation's gross domestic product (GDP) by 2,79 percent.[37] The losses in revenue and reduction in GDP have further implications for the nation's projected development and budget deficits.

The spillover effect of this decrease in oil production capacity is a reduction in jobs. Since the shutdown of some oil facilities and the reduction in daily production, oil companies have had to cut production costs and reduce underutilisation of workers. For instance, Shell Oil fired about 1 000 workers.[38] Such actions also have social and economic effects in an economy with about 40 million unemployed youths according to official statistics.[39]

Tourism is also adversely affected. The patronage of hotel and catering services, restaurants and travel services has fallen drastically as a result of general restiveness and insecurity. Social life, especially nightlife, is often perceived as dangerous because of the threat of violent crime. This severe level of insecurity has also hamstrung other vital business activities in the major towns and state capitals in the subregion. For instance, banks are constantly robbed by militants and consequently no longer operate beyond certain hours of the day.

Damage to electricity infrastructure has resulted in power shortages in the Niger Delta. Nigeria has no stable and efficient power supply system. The nation currently can generate only 3 000 megawatts of the 375 000 megawatts needed to meet its industrial needs.[40] Alternative power sources supplied by the oil companies have also been destroyed. For example, Shell Oil's gas power plant at Cawthorne Channel, with about 50 000 megawatts production capacity, was attacked by the militants.[41] This attack inflicted serious suffering on the people and caused the oil company's operations to stop. The nation's electricity supplier, Power Holdings Company of Nigeria, has publicly declared that about 1 000 megawatts out of

its present national capacity of 34 000 are being lost to the crisis.[42] Economic activities beyond the oil industry have been paralysed in all towns and communities in the Delta because of the inadequate power supply resulting from the attacks.

The constant hostage taking and kidnapping of expatriates and the wives, children and parents of oil workers and notable personalities in the Niger Delta also have implications for the nation's political economy. Ransoms ranging from US$400 000 to US$4 000 000 (N50–500m) have been paid by oil firms, foreign embassies and families of the hostages to secure their freedom. Because of the secrecy involved in negotiations, the exact amounts eventually paid to the terrorists are not often disclosed. However, findings show that ransoms have become a lucrative source of money for the militants and serve to compensate for the environmental injustices inflicted on the indigenous people of the Niger Delta. They also provide income for the region's unemployed youths. For example, MEND revealed that it collected US$1 600 000 (N200 million) from the Agip Oil Company and the Bayelsa state government to effect the escape of some abducted oil workers in February 2007.[43]

The last significant impact is the destabilisation of international oil flow from the region and oil prices on the world market. The protracted disturbances in the region have resulted in companies' missing oil production targets because of installation shutdowns and reduced production capacity. Production shortages result in higher oil prices on global markets. Disruptions to oil production and supply in the region by militants have always caused price increases. For instance, the face-off between the Turkish government and the Kurdish rebels in Northern Iraq with Turkish threats to unleash full-scale war on the Kurds caused oil prices to shoot up to the then all-time high of US$89 per barrel in October 2007. The rise in the oil price led to domestic inflation and an increase in the cost of consumer goods and services, which increased the cost of living and exacerbated daily hardships, particularly in poorer countries. The rising price of oil on the world market also increases the external expenditures of non-oil-producing industrial economies and the debts of producing developing countries.

Overall, the calculated cost of the Niger Delta oil violence to the nation's economy is not as much as the time expended by both the government and militant groups, the psychological trauma and instability suffered by victims, and the loss of lives. In addition to these human losses, there is the financial loss of psychologically traumatised victims who cannot contribute to economic development any longer and therefore depend on the state and their communities. In general, war and violence, because of the enormous resources they demand

and the economic activities they disrupt, significantly contribute to both local and state underdevelopment and degradation.

THE WAY FORWARD AND CONCLUDING REMARKS

The terrorism and counter-terrorism by the state and militant groups in the Niger Delta are burdens to the Nigerian state and challenges to the whole world. The oil violence should be seen as a revolutionary and counter-revolutionary struggle between minority ethnic groups and the Nigerian state and its corporate oil allies. The people of the Niger Delta, whose land provides the oil wealth of the nation, have been subjected to decades of environmental injustice, deprivation and marginalisation. Their oil wealth has become a curse rather than a blessing because, apart from not receiving the benefits of oil revenues, the subregion's land and water, which serve as alternative sources of economic survival, have been devastated by oil spillage.

Generally, some deductions can be made from the Niger Delta crisis. The emergence and continuance of oil violence reflects bad governance and the lack of responsiveness and responsibility that characterises public administration at all levels in the Nigerian government. The lingering conflict in the Niger Delta is a product of successive regime failures coupled with the absence of a national democratic strategy for conflict management and resolution. The reason for the latter is that before the advent of democratic governance in 1999 the nation had mostly been governed by military dictatorship which, at its eventual departure, left a highly militarised Nigerian society. Many of those who assumed post-military regime leadership were retired military elites without any past experience of a democratic culture. The post-military president, Olusegun Obasanjo, was a retired army general; many state governors, members of parliament and chairmen of local governments were ex-soldiers.

The continuing terrorism shows that the nation's counter-terrorist military campaigns have failed. The government should take a much needed step in the right direction by acknowledging the plight of the Niger Delta people and the abuse of their environmental rights arising from oil exploration, especially the detrimental effects on the local economy. The government should examine the environmental issues being raised by the people properly and do a thorough evaluation of the extent of damage. Thereafter, it should embark on an aggressive land and water rehabilitation exercise. This would enable the people to earn a living from their land and empower them economically.

The state in general (at federal, state and local levels) must embark on an urgent and aggressive human capital development and literacy programme in the area. The subregion is saturated with youths who are outside the school system. Most parents cannot send their children to school because of abject poverty. Many teachers hate working in the area because of the poor environmental situation, lack of social amenities and endemic disturbances. Teachers need to be given special and attractive salaries as well as hazard and risk allowances to encourage them to take up jobs there. The youth also must be enticed to go to school. Some sort of free education and books programme could be established to facilitate this.

In addition to providing more schools and educational benefits for the youths of the subregion, other basic social amenities should be provided. The area is noted for dirty and undrinkable water, impassable creeks, swamps and lagoons. Nearly all the communities are without electricity, and basic health facilities are missing. The dearth of these facilities contributes to the miserable life of the Niger Delta people. Providing these amenities would improve their living conditions and make the people feel more fulfilled. This would help to lessen tension in the subregion. In essence, the government should allocate substantial special funds to the subregion for its urgent infrastructural and human development, rather than for security purposes.

Youths in the subregion need to be economically empowered by being employed. Many youths engage in militancy because they are jobless and idle. The best way to ameliorate this is to diversify industries in the subregion. Currently, the only industry in the area is the oil industry, which is dominated by foreign oil giants. Unfortunately, the indigenous people of the area are not favoured in the staff recruitment drives of the oil firms. All jobs, including low-level positions, such as gatemen, drivers, cleaners and messengers, are occupied by Nigerians from other states. The indigenous people of the subregion are discriminated against in staff recruitment policies, partly because they often lack the prerequisite educational qualifications owing to the absence of schools in their region. Establishing more industries in the area and officially mandating that oil firms reserve a certain quota in all job categories for indigenous Niger Deltans could alleviate unemployment and marginalisation. In addition to creating jobs, a micro-credit scheme should be established to enable youths to start their own businesses. The emphasis should be on combining the physical development of the Niger Delta (environment and infrastructure) with its human development educational and employment opportunities.

The Niger Delta subregion is the stronghold of establishment corruption in Nigeria; leadership corruption is one of the primary factors responsible for the crisis in the Niger Delta. Most political leaders in the region, especially since 1999, have been involved in bad governance. The state

governors, local government chairmen, parliamentarians and members of boards of parastatals have been serving their own interests rather than public interests. Official funds meant to provide social amenities and establish industries have been embezzled and diverted to private accounts overseas. Currently, not less than three of the last six governors of the subregion are being investigated by the anti-corruption agency – the Economic and Financial Crimes Commission (EFCC). For instance, Dieprieye Alamieyeseigha, the ex-governor of Bayelsa state, was impeached and convicted of corruption while his property was confiscated and used to replenish empty government coffers. James Ibori, the ex-governor of Delta state, is currently facing trial in Britain for money laundering. Some of his property, including £25 million worth of assets in the United Kingdom, has been frozen by the Crownwalk Court in London.[44] Ex-governor Odili of Rivers state is also facing charges of corruption and embezzlement. The 13 per cent special oil derivation fund for the area has been squandered by governors and local government chairmen. The EFCC needs to go beyond probing the governors. Searchlights should be beamed on former and serving local government chairmen, chairmen of boards, especially the Niger Delta Development Corporation (NDDC) and the Oil and Minerals Producing Areas Development Commission (OMPADEC).

There is an immediate need for oil exploration law reforms. Oil exploration in the Niger Delta lacks enforcement of national and international standards. In the Western world and other regions, oil firms have codes of conduct regulating their oil exploration and processing. The Nigerian state disregards oil laws such as the Minerals Act, Petroleum Act, Oil Pipeline Act and the Land Use Act and, consequently, they have become ineffective in regulating oil activities. This disregard invariably encourages the oil corporations' *laizze-faire* attitude and neglect of their responsibilities to host communities. The Nigerian state should enforce the necessary standards for oil firms so that they guard against environmental pollution at all times. To ensure firm compliance by these companies, the existing oil exploration contracts will need to be urgently reviewed.

A major grievance of the people relates to the pollution of their land and water resources. Adequate compensation should be given to all farmers whose lands and waters are polluted and these should, if possible, be rehabilitated. In addition, oil firms should adhere fully to their social responsibilities to their immediate communities. The oil firms have a shared and supplementary responsibility to develop their host communities by assisting the government in providing certain essential social amenities. Providing electricity and treated water, establishing and maintaining schools, health centres and rural roads, and stimulating economic production by providing incentives

to farmers, fishermen and women would improve corporate–community relations and thereby reduce community hostilities towards these firms.

Finally, the government needs to engage in constructive dialogue with militant groups and all stakeholders in the subregion. The intractability of the oil violence is obvious evidence that the government's counter-terror approach of meeting violence with violence has failed. A peace dialogue and consultation with all the ethnic groups would go a long way to resolving the lingering crisis. The government should instill confidence in the people and especially the militant groups regarding its readiness to be genuinely involved in the development of the area. This approach could encourage militant groups to lay down their arms voluntarily. Achieving peace through genuine dialogue and consultation must be followed by a regime of disarmament. The subregion is full of arms. According to Amnesty International, over 70 000 sophisticated weapons are circulating in the subregion.[45] An effective disarmament campaign might involve compensation incentives to ensure cooperation. The disarmed youth should be rehabilitated and economically empowered through employment, so that they do not relapse into violence out of idleness and poverty.

NOTES

1   D J Whittaker, *Terrorism: Understanding the global threat,* London: Longman, 2002.

2   T Adeniran, *International relations,* Lagos: Macmillan Nigeria Publishers Limited, 2007.

3   M N Shaw, *International Law,* New York: Cambridge University Press, 1997.

4   Whittaker, *Terrorism: Understanding the global threat.*

5   P Wilkinson, Terrorism versus liberal democracy: The problems of the response, in William Gutteridge (ed), *Contemporary terrorism,* New York: Facts on File Publications, 1986.

6   P Collier, *The Bottom Billion,* Oxford: Oxford University Press, 2007.

7   Whittaker, Terrorism: *Understanding the global threat.*

8   Ibid.

9   Ibid.

10 Encyclopaedia Britannica, Definitions of Terrorism (from Terrorism), *Encyclopaedia Britannica,* Deluxe Edition, [CD-ROM], London: Encyclopaedia Britannica Library, 2004.

11 Ibid.

12 Adeniran, *International relations.*

13 Encyclopaedia Britannica, Definitions of Terrorism (from Terrorism), *Encyclopaedia Britannica,* Deluxe Edition, [CD-ROM], London: Encyclopaedia Britannica Library, 2004.

14 Ibid.

15 Adeniran, *International relations*.

17 A Oluwatoyin,. Addressing Nigeria's economic problems and the Islamist terrorist threat, Nigeria, 2006, http://www.on-linenigeria.com/articles/ad.asp?Blurb=29 (accessed 13 October 2007)

17 AllAfrica, 2006, Nigeria has 177 trillion cubic feet of gas reserves, http://www.highbegin.com/dox/1p1-124942064.hhtm (accessed 6 September, 2006)

18 O Douglas, V Kemedi, I Okonta, and M Matts, Alienation and militancy in the Niger Delta: A response to CSIS, on petroleum, politics, and democracy in Nigeria. Foreign policy in focus, Special report July 2006, http//:www.fpif.org/papers/nigeria2003-body.htm (13 October, 2007)

19 Ibid.

20 J Babatope, Espionage: How list of financers of Niger Delta violence put Juditu Asuni in trouble, *Sunday Tribune,* 14 October 2007.

21 C Azuatalam, JTF to begin manhunt for cultists in Rivers, *The Nation,* 17 September 2007, 5.

22 C Azuatalam and I Ombe 2007, Three JTF soldiers dismissed over extortion in Bayelsa, *The Nation,* 11 September 2007, 7.

23 J Pham, Strategic interests: Vulnerability of Nigerian oil infrastructure threatens U.S. interests, *World Defense Review* 2007, http://worlddefensereview.com/pham051707.shtml (13 October 2007)

24 Wikipedia, Non-American casualties of the September 11, 2001 attacks. *The Free Encyclopaedia,* New York:Wikipedia Foundation, Inc., 2007.

25 Ibid.

26 General Accounting Office, GAO, Impact of terrorist attacks on the World Trade Centre. New York: GAO, 2002.

27 Ibid.

28 Ibid.

29 Editorial Opinion, The cost of war, *The Nation,* 23 October 2007, 13.

30 Ibid.

31 Can Delta survive without oil, *The Nation,* 17 October 2007a, 40.

32 K Ajayi , International administration and economic relations in a changing world. Ibadan: Majab Publishers, 2006.

33 J K Fedorowicz, The ten-thousand mile target: energy infrastructure and terrorism today. *Critical Energy Infrastructure Protection Policy Research Series* (2), Winnipeg, Canada: CCISS, 2007, 3.

34 *The Nation,* Militants kidnap seven oil workers in Bayelsa, 22 October 2007b, 12.

35 D Oyewale, Siege of the militants, *Broad Street Journal,* Education 20, (26 June 2006), 10.

36 E Ugwuanyi, Fed govt loses $58.3b to Niger Delta crisis in nine years, The Nation, Vintage Press, 17 October 2007, 42.

37 Oyewale, Siege of the militants, 11.

38 Oyewale, Siege of the militants, 14.

39 S Fagbemi and C Idoko, 40 million Nigerian Youths unemployed, FG Plans summit on youth unemployment-80% Nigerian graduates unemployable-Education Minister, Nigerian Tribune, Ibadan, African Newspapers Limited, February 2009, 1.

40 A Oyedele, Nigeria needs 375,000 MW of electricity to meet global standard, *The Punch,* 13 July 2007, 11.

41 Oyewale, Siege of the militants, 11.

42 Ibid.

43 Abduction: The new biz in Niger Delta, *Sunday Tribune,* 21 October 2007, 19.

44 T Fagbenle, Lessons on life, *Sunday Tribune,* 14 October 2007, 3.

45 Amnesty International, Nigeria: Are human rights in the pipeline? 2007, http://www.amnestyusa.org/news/document.do?id (accessed 22 October 2007)

Impact of domestic terrorism on human rights in Africa

Cephas Lumina

INTRODUCTION

Terrorism is not a new phenomenon, nor are state responses to it.[1] 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 then-existing order in the quest for liberation were decried by the colonial administrations as terrorists and subjected to penal sanctions, ranging from lengthy periods of incarceration to the death penalty.

It is notable, however, that acts of terrorism on the continent are not confined to the colonial era. Thus, in the post-independence period, many African states have experienced acts of terrorism in one form or another. During the last two decades, for example, there have been various incidents of terrorism in several countries, including the 1996 spate of bomb blasts in Zambia which were blamed on a shadowy group called the 'Black Mamba' and which 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, to mention but a few.

Acts of terrorism also seem to be endemic in the continent's numerous armed conflicts. For example, acts of terrorism, such as systematic rape and wanton destruction of property and food stocks, have been committed by the various factions in the context of the conflicts in Angola, the DRC, Cote d'Ivoire, Liberia, Sierra Leone and Uganda. These conflicts have been characterised 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.

Since the 11 September 2001 attacks in the USA, terrorism has been a pre-eminent concern of the international community, both with regard to how to confront it and its impact on human rights. In the aftermath of the attacks, a number of countries around the world, including in Africa, have introduced anti-terrorist legislation, often under pressure from the USA and its ally, the United Kingdom, as part of their global anti-terrorism campaign.[2] Others have revived draconian colonial anti-terrorism legislative measures. Almost invariably, these laws have greatly impinged upon, or have serious implications for human rights, particularly those of criminal suspects, political oppositions, migrants, refugees and asylum seekers.[3]

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 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.

The paper begins with some brief reflections on the definition of terrorism and then explores the impact of domestic terrorism on human rights, focusing on the impact of acts of terrorism on human rights on the one hand, and state responses to terrorism and their impact on human rights on the other. Next, the paper provides an overview of counter-terrorism legislative measures adopted or existing in some African countries, with an emphasis on the common characteristics of these measures which have implications for human rights. The paper concludes with a note on the desirability of countries adopting counter-terrorism legislation that reflects local circumstances and respects human rights standards.

TERRORISM: AN ELUSIVE CONCEPT

Studies on terrorism commonly start with the issue of definitions. While this paper does not seek to follow this approach, it is instructive to make a few remarks concerning the definition of terrorism.

It should be noted from the outset that there is no universally accepted definition of terrorism.[4] 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.[5] While the use or threat of violence for the achievement of political ends is common to both states and non-state groups, there is no agreement on when the use of violence may be considered legitimate.

With regard to the definition of domestic terrorism, it has been asserted that there are presently 'few instances of domestic terror completely without international linkages'.[6] 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 simplistic 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.[7] Thus, the definition adopted here 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

It is notable that there are two dimensions to the relationship between terrorism and human rights. One dimension concerns the impact of acts of terrorism on human rights, while the other relates to the impact of counter-terrorism measures on human rights, or the implications of such measures for human rights. This paper addresses both dimensions.

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 the enjoyment of several rights, including the right to life, rights to physical integrity, women's rights, children's rights,

and freedom from discrimination. Acts of terrorism also impede a range of socioeconomic rights, such as the rights to health, food and housing.[8] 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'.[9]

Women and children are particularly vulnerable to acts of terrorism, especially those committed in the context of armed conflict. In the several conflicts in Africa over the last few years, thousands of women and girls have been systematically raped and sexually enslaved, while thousands of children have been abducted from their homes and families. For example, as Okumu points out in his paper, the Lord' Resistance Army (LRA) has committed egregious abuses against civilians, including wilful killings, looting or 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.[10] Child abductees have often been terrorised into beating and killing civilians, and abducting other children. Abductions have also occurred in the conflicts in, among others, Cote d'Ivoire, the DRC, Liberia and Sierra Leone.

All the acts of terrorism mentioned at the beginning of this paper have resulted in serious violations of human rights. In particular, thousands of people all over the world have lost their lives as a consequence of acts of terrorism. However, it must be recognised that state efforts to curb terrorist activities have also culminated in the compromising of many rights and freedoms, not only of the 'terrorist' suspects but also of innocent civilians. Some of the rights and freedoms infringed upon in the quest to curb acts of terrorism include the rights to life, liberty, human dignity, privacy, expression, association, and several procedural rights in cases of 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.

State responses to terrorism and their impact on human rights

General

States commonly respond to the terrorist threat through the adoption of a range of legislative and administrative measures. It is noteworthy, however, that national or domestic counter-terrorism legislation and administrative measures are not a new phenomenon in Africa. In many countries, the colonial governments maintained all kinds of legislation 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. Almost invariably, these activities were criminalised through penal codes based on some draconian law drafted in the far away colonial capitals of Brussels, Lisbon, London and Paris, and which were prescribed for each colony.

In South Africa, for example, a plethora of laws enacted by the apartheid regimes prior to the democratic changes of 1994, ensured that the legitimate activities of the liberation movements – the African National Congress (ANC), the Pan Africanist Congress (PAC) and the South African Communist Party (SACP) – were curtailed and penalised through a range of criminal sanctions, from restrictions on movement to imprisonment and the death penalty. Under cover of the anti-terrorist legislation, such as the Terrorism Act, 83 of 1967, and the Internal Security Act, 74 of 1982, apartheid state security agents routinely and with impunity ignored the human rights of suspected freedom fighters (branded 'terrorists') and members of their families, through arbitrary arrests, imprisonment without trial, torture and extrajudicial executions. [11]

Similarly, in other African countries the colonial governments used repressive measures (including declaring states of emergency) to thwart the liberation struggles. For example, on 20 October 1952 the British colonial administration in Kenya declared a state of emergency in response to the Mau Mau uprising in that country. The emergency remained in effect until January 1960 and saw a number of leaders of the Mau Mau arrested and hanged.

It is also important to note that most African states are parties to the international conventions and protocols relating to terrorism as well as to the OAU Convention on Preventing and Combating Terrorism. These instruments oblige the states parties to take measures, including legislative measures, to address terrorism. Thus, for instance, the OAU Convention requires 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'.[12] However, the Convention cautions as follows:

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.[13]

Further, Resolution 1373 (2001) adopted by the UN Security Council in the immediate aftermath of 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 measures to combat terrorism, but such measures must not override international law. However, the fact that most new anti-terrorism laws in Africa have been introduced under pressure from the USA and the UK makes it improbable that such legislation would 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. In southern Africa, only three (Mauritius[15], South Africa[16] and Tanzania[17]) of the 14 member states of the Southern African Development Community (SADC) have enacted specific anti-terrorism legislation. The remaining 11 states assert that their existing criminal laws already cover the specific conduct referred to as terrorism. For instance, in a response to the UN Counter-Terrorism Committee in June 2002, the government of Zambia stated that it had a number of provisions under its Penal Code (Cap 87 of the Laws of Zambia) that could be used to fight against terrorism in accordance with Resolution 1373. In similar vein, Algeria treats terrorism as a criminal offence within its penal code.

Given the limitations of space, it is not possible to present more than an overview of the common characteristics of counter-terrorism legislation adopted in selected African countries.[18]

Common characteristics of counter-terrorism legislation

Definition of terrorism

The statutory definition of terrorism in many African countries is problematic: it is generally vague and overly broad. To illustrate, section 3(2) of the Prevention of Terrorism Act, 2 of 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.

Amnesty International and other human rights groups have expressed concern that most of the provisions of the Act are too broad and do not meet the international standards of fairness. In particular, Amnesty International has expressed concern that the term 'acts of terrorism' could be broadly interpreted to undermine fundamental human rights.[19]

In similar vein, section 7 of Uganda's Anti-Terrorism Act, 14 of 2002 provides that terrorism is any act which involves serious violence against a person or serious damage to property, endangers a person's life (but not only 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 for the safety of others or their property. The section lists numerous acts that constitute terrorism.[20]

Sections 8 and 9 of the Act provide 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 procedure to challenge being classified as a terrorist organisation.

South Africa's Protection of Constitutional Democracy against Terrorist and Related Activities Act, 33 of 2004, which creates the offence of terrorism, does not define the term but defines terrorist activity and terrorist-related acts.[21] Nevertheless, 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.[22]

Under the Egyptian anti-terrorism law, 97 of 1992, which, inter alia, amends the country's Penal Code and Code of Criminal Procedure, terrorism is defined as:

> [A]ny use of force or violence *or threat or intimidation* resorted to by the perpetrator in implementation of an individual or collective criminal undertaking *aimed at disturbing public order or jeopardising the safety and security of society,* which is of such a nature

as to harm or sow fear in persons or imperil their lives, liberty, or security; or [of such a nature as] to damage the environment; or to damage, occupy or take over communications, transport, property, buildings or public or private realty; or to *prevent or impede the exercise of the functions by public authorities … or to thwart the application of the Constitution or of laws or regulations*[23] (author's emphasis)

It is notable that both the UN Human Rights Committee and the Special Rapporteur on Human Rights and Terrorism have expressed serious concern at this 'broad' and 'general' definition of terrorism.[24] 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'.[25]

Algeria's definition focuses on domestic terrorism and the threat it poses to state security. Article 1 of Legislative Decree 93-03,[26] which amends and supplements Ordinance 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 other things, 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.[see comment concerning citation of statutes Full reference of Decree 93-03 needed, with page/para or section number of above passages.]

Critics argue that the broad and vague definitions of terrorism, which are a common feature of anti-terrorism laws, make the concept open to abuse. The definitional problem is aptly captured in the comments of the chairman of the Kenyan Human Rights Commission on the Kenyan Suppression of Terrorism Bill of 2003:

The Bill defines terrorism in such broad and vague terms that it cannot withstand the scrutiny of logic. Terrorism is such an innocuous bogeyman that it can be used as an open-ended excuse to deny suspects a broad range of constitutional guarantees.[27]

It is therefore important that terrorism is described 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 lesser penalties.[28]

Law enforcement powers

Most anti-terrorism legislation confers extensive powers on law enforcement agencies including 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 of Mauritius allows the police to detain terrorism suspects without access to legal counsel for 36 hours and gives the government the right to extradite them or 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 the prevention or detection of offences, or the prosecution of offences under the Prevention of Terrorism Act 2002, give directions to service providers for the retention of communication data. Further, the police may obtain a court order authorising a communication service provider to intercept, withhold or disclose to the police information or communications.

Under the Prevention of Terrorism (Special Measures) Regulations 2003, which came into effect on 25 January 2003 and gives effect to Part II, section 10 (6) of the Prevention of Terrorism Act 2002, 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 funds or economic resources directly or indirectly to listed individuals or entities.

Under the Ugandan anti-terrorism legislation, law enforcement officials have extensive powers to monitor bank accounts, e-mails, telephone calls and other electronic communications of suspects. Employers are obliged to report absent employees where they suspect such employees of involvement in terrorist activities.

In terms of Egypt's Emergency Act,162 of 1958 (as amended by Act 50 of 1982), suspects may be detained without charge for up to 30 days. It is notable that 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. Thus, for example, the freezing of assets before determining a suspect's guilt by a competent court may infringe upon the right to protection from the arbitrary deprivation of property.

Sanctions

A common feature of African domestic counter-terrorism legislation is the introduction of penalties that are generally more severe than those under the ordinary penal laws for comparable conduct. Usually, the punishment for terrorist offences includes lengthy periods of incarceration (including life imprisonment) and the death penalty. In many cases, heavy fines or the forfeiture of assets may accompany imprisonment.

For example, section 18 of South Africa's Protection of Constitutional Democracy against Terrorist and Related Activities Act provides for life imprisonment or a multimillion rand fine to be imposed on convicted terrorists. In addition to any such punishment, courts are empowered, under section 19, to order the forfeiture of property reasonably believed to have been used in the commission of an offence or in connection with the commission of an offence.

Under the Ugandan Anti-Terrorism Act, 14 of 2002, 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'. (section already provided i.e. s 9(2) – see comment above concerning referencing of statutory provisions in law)

In terms of section 86 of the Egyptian penal code (as amended), life imprisonment or the death penalty is the applicable punishment 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

Most of the anti-terrorism laws have serious implications for human rights, especially procedural rights. However, there are laws that provide for some safeguards, albeit in limited form. Thus, for instance, some anti-terrorism laws 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).[29]

Under South Africa's anti-terrorism legislation, there is also a requirement that the national director of public prosecutions promptly communicate the outcome of any prosecution to, inter alia, the UN Secretary General.

Nevertheless, the question remains as to how effective these safeguards are in practice. This is an assessment that can only be properly made once the anti-terrorism laws have been tested in courts of law.

Counter-terrorism legislation and human rights

Since the events of 11 September, a number of African states have adopted draconian new anti-terrorism measures, including new legislation and more severe criminal laws, which are in breach of their international obligations and pose a serious threat to human rights.[30] The pressure on states to respond to the international terrorist threat

has resulted in some states adopting domestic legislative and administrative measures which effectively compromise or threaten to compromise human rights.[31] These include the 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, these national legislative responses to terrorism are 'eroding human rights principles, standards and values'.[32] 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. This has resulted in 'thousands of women and men suffering unlawful detention, unfair trial and torture – often solely because of their ethnic or religious background'.[33]

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

Terrorism and states' obligations under human rights law

States have the primary responsibility of protecting 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 has emphasised, international law requires that states adhere to basic human rights standards in their fight against terrorism.[34]

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 cooperation with the Organisation for the achievement of the purposes set forth in article 55'.[already provided – see comments above concerning referencing of legal provisions] It is therefore clear that UN member states are obliged to respect human rights. The pre-eminence of this obligation is confirmed by article 103 of the Charter:

> In the event of a conflict between the obligations of the Members of the United Nations under the present Charter and their obligations under any

other international agreement, their obligations under the present Charter shall prevail.[see comment concerning referencing of legal provisions]

Both the UN General Assembly and the former Commission on Human Rights have adopted resolutions focusing on 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.[35]

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 Charter of the United Nations and international law'.[36] It has also reminded states that 'they must ensure that any measures 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'.[37]

It is noteworthy that Security Council 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'. In its preamble, the resolution also reaffirms the need to combat by all means, 'in accordance with the Charter of the United Nations', threats to international peace and security.[38]

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'.[39]

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'.[40]

At the regional level, all 53 member states of the African Union (AU) 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, 1981 (ACHPR);[41] 41 are parties to the African Charter on the Rights and Welfare of the Child, 1990 (ACRWC); 37 are parties to the AU Convention Governing Specific Aspects of the Refugee Problem in Africa, and 37 have ratified the OAU Convention on the Prevention and Combating of Terrorism, 1999. These treaties not only impose legal obligations on the states 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.

Further, most of the African states have guarantees of fundamental rights and freedoms 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.[42] Consequently, any anti-terrorism legislative measures adopted by the state have to be consistent with the constitutional guarantees of human rights.

It is notable that terrorism may, under certain conditions, lead to a state of emergency. It is also important to 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 (ICCPR), any derogation measure must be of an exceptional nature, temporary, subject to regular review, consistent with the state's other obligations under international law and must not be discriminatory.[43] There are also some rights which are specified as non-derogable under any circumstances.[44] Under the ICCPR, these non-derogable rights include the right to life; freedom from torture and cruel, inhuman or degrading treatment or punishment; 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.

Freedom from torture, etc

The right to freedom from torture and cruel, inhuman or degrading treatment is, under both the universal and regional human rights systems, absolute and non-derogable under all circumstances.[45] In its concluding observations on Egypt's report in 2002, the Human Rights Committee 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.[46]

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.[47]

In his statement to the Third Committee of the UN General Assembly, the Special Rapporteur spoke of 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, inhuman 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 their having access to legal representation.

As the Special Rapporteur has rightly 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. It should be noted that the prohibition against torture is now firmly established as a rule of customary internationally law and, arguably, has the character of jus cogens.[48]

In Africa, there have been reports of the torture of individuals suspected of having committed acts of terrorism. For example, in 2003, a number of people detained in a facility controlled by the government's Joint Anti-Terrorism Task Force in Uganda were tortured.[49] In its annual report for 2004, Amnesty International stated that, in 2003, torture continued to be widespread in Algeria, particularly in cases which the government described as 'terrorist activities'.[50]

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, but there is no limit to

the period of detention if a judge upholds the legality of the detention order.

It is notable, however, that while pre-trial detention is not per se prohibited under international human rights law, there are certain principles that a state must adhere to. These include the right of accused persons to be informed of the charges against them, limits to 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, 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 ACHPR. [51]

Preventive detention may also violate the presumption of innocence. Thus, in *Pagnoulle (on behalf of Mazou) v Cameroon,* the African Commission held that detaining a person on the mere suspicion that he or she may cause problems constitutes a violation of the detained person's right to be presumed innocent. [52]

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 his or her detention and the right to seek legal advice.

Anti-terrorist legislation often curtails 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.

To illustrate, the Prevention of Terrorism (Denial of Bail) Act, 3 of 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 offences related to terrorism, such as 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 a number of 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 who are accused of terrorism without fair trial guarantees. [53]

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 a fair trial before an independent judiciary. [54]

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 ACHPR because the composition of the special tribunal, established under the Civil Disturbances (Special Tribunals) Decree, 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 ACHPR. [55]

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. Anti-terrorism legislation threatens to undermine democracy not only in Africa but also across the world. 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 following concern:

> 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. [56]

To illustrate this, the Ugandan government has been criticised for using the Anti-Terrorism Act of 2002 to 'repress political dissent and strictly limit freedom of expression'. [57] In September 2002, Ugandan radio stations were warned against giving publicity to an exiled political leader whom the government had labelled a terrorist and were threatened with prosecution under the Act, in terms of which it is an offence to give publicity to terrorists.

Since the 11 September attacks, Egypt has arrested hundreds of suspected opponents of the government for alleged membership of the Muslim Brotherhood, a proscribed but non-violent group, and for possession of 'suspicious' literature.[58]

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 may thus be a means for the destruction of democracy. This makes it 'difficult to draw a line between too much limitation and appropriate restrictions'.[59]

Refugees and asylum seekers

Some governments have used anti-terrorism legislation to suppress not only political oppositions but also minority groups. Some have used this legislation to evade their international obligations towards asylum seekers and refugees.[60] For example, section 28 of Tanzania's Prevention of Terrorism Act, 21 of 2002 gives immigration officers the power to arrest, 'without warrant', any person suspected of being a terrorist or having been involved in international terrorist activities. Under section 47 of the Act, the minister responsible for immigration is empowered, in the interests of national security and public safety, to refuse asylum to anyone where he or she has reason to believe that the applicant 'has committed a terrorist act or is or is likely to be, involved in the commission of a terrorist act'.

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 around the continent and the attendant flow of displaced persons, it may be contended that such powers are too extensive and offend against the well-established international legal principle of non-refoulement.

Privacy

The right to privacy is guaranteed in constitutions of a number of African countries.[61] However, as seen above, anti-terrorism legislation commonly confers powers on law enforcement agencies that potentially threaten this right. Some of the anti-terrorism laws give the police extensive powers to combat terrorism including the use of electronic surveillance to identify terrorists.[62] As stated above, the Ugandan Anti-Terrorism Act gives law enforcement officials extensive powers to monitor bank accounts, e-mails, telephone calls and other electronic communications of suspects.[63] The potential for abuse under these provisions is considerable. Thus, it has been argued, for instance, 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'.[64]

The Financial Intelligence and Anti-Money Laundering Regulations of Mauritius provide for the verification of the 'true identity of all customers and other persons' with whom banks, financial institutions and cash dealers conduct business. 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, inter alia, the movements of terrorist suspects throughout the period of their detention. A video recording made in terms of this section is admissible as 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. As indicated above, there is 'probably not a single human right' that is untouched by terrorism.

According to the UN Special Rapporteur on Religious Intolerance, anti-terrorist measures in a number of states have unduly limited the freedom of religion or belief, in violation of international human rights standards.[65] 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.[66] This has spawned new forms of racism that render it more difficult to combat racial discrimination and xenophobia.

Some of the domestic anti-terrorism legislation mentioned also poses a threat to the rights of the child. For example, while the Uganda Anti-Terrorism Act prescribes 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. In view of the low age of criminal responsibility in Uganda, this lacuna is a matter of serious concern.[67]

There are also concerns about the lack of procedural safeguards concerning the extradition or the surrender of suspects. Extradition enables states to ensure that persons responsible for serious criminal offences, including acts of terrorism, can be held accountable. Nevertheless, the extradition process should incorporate adequate and

effective safeguards against violations of fundamental rights of the individual concerned. Thus, in many countries, the extradition process involves several phases and different sets of authorities, including a preliminary phase which usually consists of an assessment of technical requirements[68]; a judicial determination whether the extradition request satisfies the substantive conditions elaborated in the relevant national legislation and/or extradition treaty; and a final executive decision on whether to grant the extradition request.

CONCLUSION

Acts of terrorism (whether domestic or international) and state measures to counter terrorism, particularly legislative measures, have the potential to impact negatively on human rights and freedoms such as the rights to freedom of expression, association, security of the person, religion, belief, opinion, assembly and demonstration.

The fact that many governments have been forced or induced to introduce 'anti-terrorism' legislation by powerful states, without due regard to their local circumstances, not only enhances the likelihood that these countries have not given much thought to the implications of such legislation for human rights but also increases the risk of abuse by these states.

For these reasons, it is important that each state should have, in cooperation with others and in accordance with the dictates of international law, the freedom to adopt anti-terrorist legislation that not only helps it ensure the security of all persons subject to its jurisdiction and helps it address the scourge of terrorism, but also enables it meet its human rights obligations. In sum, national legislative efforts to curb domestic terrorism should reflect local circumstances and take account of the relevant international and national human rights standards.

NOTES

1   For a historical background, see the following: M C Bassiouni (ed), *International terrorism and political crimes,* Springfield IL: Thomas, 1975; A Cassese, *Terrorism, politics and the law: The Achille Lauro affair.* Cambridge: Polity, 1989; J Murphy, Defining international terrorism: a way out of the quagmire. *Israel Yearbook on Human Rights* 19 (1989), 13-37; H H Han (ed), *Terrorism and political violence.* New York: Oceana, 1993; W Laqueur, *A history of terrorism,* New Brunswick, NJ: Transaction, 2001; A Sinclair, *An anatomy of terror: A history of terrorism,* London: Pan Books, 2004; H Duffy, *The 'war on terror' and the framework of international law*, New York: Cambridge University Press, 2005; J M Lutz and B J Lutz, *Terrorism: Origins and evolution.* New York: Palgrave Macmillan, 2005; B Hoffman, *Inside terrorism.* New York: Columbia University Press, 2006; B Saul, *Defining terrorism in international law*, Oxford, New York: Oxford University Press, 2006; A Botha, Politics and terrorism: An assessment of the origin and threat of terrorism in Egypt.

ISS Paper 131. Pretoria: Institute for Security Studies, 2006; O Y Elagab and J Elagab, *International documents relating to terrorism* 3rd ed, London, New York: Routledge-Cavendish, 2007; C Lumina, Counter-terrorism legislation and the protection of human rights: A survey of selected international practice, *African Human Rights Law Journal* 7(1) (2007), 35–67.

2   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, e.g. J Mulama, East Africa: The church slams anti-terror bills. Inter press service, 5 February 2004, http://www.lewrockwell.com/ips/mulama.html (accessed 13 December 2004).

3   In October 2001, Amnesty International raised the concerns 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 include 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. See Amnesty International, *Amnesty International Report 2001,* London: Amnesty International, 2001.

4   Duffy, *The 'war on terror' and the framework of international law*; Saul, *Defining terrorism in international law*; Lumina, Counter-terrorism legislation and the protection of human rights: A survey of selected international practice.

5   Lumina, Counter-terrorism legislation and the protection of human rights: A survey of selected international practice.

6   C Goredema, Initiatives against terrorism in Southern Africa: implications for human rights. *African Security Review*, 12(1) (2003), 91-100.

7   The UN Working Group on Terrorism 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.' See United Nations, *Report of the Policy Working Group on the United Nations and Terrorism,* Annex to Doc.A/57/273, S/2002/875, Washington DC: United Nations, 2002, para 13. Annex to UN Doc.A/57/273, S/2002/875, para. 13 [online], available at http://www.un.org/terrorism/a57273.htm (accessed 28 July 2007.

8   See, e.g. United Nations, *Report of the Policy Working Group on the United Nations and Terrorism,* Annex to UN Doc.A/57/273, S/2002/875 [online], available at http://www.un.org/terrorism/a57273.htm (accessed 28 July 2007). See also OAU Convention on the Prevention and Combating of Terrorism 1999, preamble, para 10.

9   See K K Koufa, *Terrorism and human rights*, Progress report prepared by Ms Kalliopi K Koufa, Special Rapporteur, UN Doc.E/CN/Sub.2/2001/31, 27 June 2001, para 102.

10 See United Nations, *Report of the Secretary-General on Children and Armed Conflict in Uganda,* UN Doc.S/2007/260, Washington DC: United Nations, 7 May 2007 paras 10 and 22. See also Human Rights Watch, *Stolen children: Abduction and recruitment in northern Uganda,* March 2003, http://www.hrw.org/reports/2003/uganda0303 (accessed 28 July 2007). According to The Redress Trust, *Victims, perpetrators or heroes? Child soldiers before the International Criminal Court,* September 2006, http://www.iccnow.org/documents/Redress_childsoldiers_report_Sep06.pdf (accessed 14 August 2007), between 70–80% of the LRA's forces are abducted children.

11 For example, one of the world's most respected statesmen, Nelson Mandela, was considered a terrorist for a long time not only by the apartheid regime but by countries such as the USA as well.

12 Article 4, OAU Convention on Preventing and Combating Terrorism, 1999. See also article 5, which requires the states parties to cooperate 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'.

13 Article 22, OAU Convention on Preventing and Combating Terrorism, 1999.

14 Security Council Resolution 1373 (2001), *Threats to international peace and security caused by terrorist acts,* UN Doc.S/Res/1373 (2001), adopted by the Security Council at its 4385th meeting on 28 September 2001, para. 2.

15 Counter-terrorism legislation in Mauritius includes the Prevention of Terrorism Act 2 of 2002, the Financial Intelligence and Anti-Money Laundering Act 6 of 2002, the Prevention of Corruption Act 5 of 2002, the Prevention of Terrorism (Special Measures) Regulations 2003 (as amended), the Financial Intelligence and Anti-Money Laundering Regulations 2003, the Anti-Money Laundering (Miscellaneous Provisions) Act 34 of 2003, and the Convention for the Suppression of Financing of Terrorism Act 37 of 2003.

16 Protection of Constitutional Democracy Against Terrorist and Related Activities Act, 33 of 2004.

17 Prevention of Terrorism Act 21 of 2002.

18 The countries in question have been chosen on account of the fact that their counter-terrorism legislation is readily accessible.

19 Amnesty International, *Amnesty International Report 2004,* London: Amnesty International, 2004.

20 See also section 4 of Tanzania's the Prevention of Terrorism Act, 21 of 2002 (Tanzania).

21 Protection of Constitutional Democracy against Terrorist and Related Activities Act, 33 of 2004, section 1.

22 M Scheinin, *Report of the Special Rapporteur on the promotion of human rights and fundamental freedoms while countering terrorism*, UN Doc.A/62/263, 15 August 2007.

23 Article 86 of the Penal Code as amended by Law No. 97 of 1992, *Official Gazette* No. 29 *bis* of 18 July 1992.

24 See Human Rights Committee, *Concluding observations of the Human Rights Committee: Egypt.* UN Doc.CCPR/CO/76/EGY, 28 November 2002, para 16.

25 M Scheinin, *Report of the Special Rapporteur on the promotion of human rights and fundamental freedoms while countering terrorism*, UN Doc.E/CN.4/2006/98/Add.1, 28 December 2005.

26 Legislative Decree No. 93-03 (1 Mar. 1993) (Alg.)

27 M Mutua, Perverse Legislation: Kenyans must reject anti-terrorism bill, *Daily Nation*, 2 July 2003 [online] available at http://nationaudio.com/News/DailyNation/02072003/Comment/Comment020720034.html

28 Robert (Goldman, *Report of the Independent Expert on the protection of human rights and fundamental freedoms while countering terrorism,* UN Doc.E/CN.4/2005/103, 7 February 2005.)

29 See, for example, section 29(1) of the *Prevention of Terrorism Act 2002* (Mauritius) and section 3 of the Anti-Terrorism Act, 14 of 2002 (Uganda).

30 The United Nations has recognised the threat to human rights posed by anti-terrorism measures through, inter alia, the appointment of an Independent Expert on the Protection of Human Rights while Countering Terrorism.

31 See also the Berlin Declaration adopted by the International Commission of Jurists (ICJ) on 28 August 2004.

32 Amnesty International, *Amnesty International Report 2004.*

33 Ibid. Amnesty International, *Amnesty International Report 2004.*

34 See United Nations, *Report of the Policy Working Group on the United Nations and Terrorism,* 2002, para 26.

35 See also Commission on Human Rights resolution 2003/68, *Protection of human rights and fundamental freedoms while countering terrorism,* adopted by the Commission on Human Rights at its 59th session on 25 April 2003, UN Doc.E/CN.4/Res/2003/68, adopted by the Commission on Human Rights at its 59th session on 25 April 2003.

36 See UN Security Council Resolution 1566 (2004), *Threats to international peace and security caused by terrorist acts,* adopted by the Security Council on 8 October 2004, UN Doc.S/Res/1566 (2004), preamble, para. 3.

37 Ibid, preamble, para. 6.

38 It is interesting to note, however, that the UN Security Council's Counter-Terrorism Committee (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.

39 Security Council Resolution 1456 (2003), *High-level meeting of the Security Council: combating terrorism,* Annex adopted by the Security Council at its 4688th meeting on 20 January 2003, UN Doc.S/Res/1456 (2003), Annex. This position has been reaffirmed in subsequent Security Council resolutions on terrorism.

40 See United Nations, Statement of Secretary-General, Kofi Annan, to the Security Council, 18 January 2002, UN Doc.S/PV.4453, para. 3.

41 The Charter protects a number of fundamental rights and freedoms, including equality before the law (article 3); the right to dignity, and the prohibition of slavery, torture, cruel, inhuman and degrading treatment or punishment (article 5); right to a fair trial, including the right to be presumed innocent

(article 7); freedom of expression (article 9); and freedom of association (article 10).

42 For example, section 2 of the Constitution of Mauritius 1968 proclaims: '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, section 2; and Constitution of Uganda, 1995, section 2.

43 It is interesting to note 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'. See Human Rights Committee, *Concluding observations of the Human Rights Committee: Egypt.* UN Doc. CCPR/CO/76/EGY/Add.1, 4 November 2003, para 7.

44 It is notable that, unlike the ICCPR and the other regional instruments, the ACHPR contains no general derogation.

45 See United NationsHuman Rights Committee, *International Covenant on Civil and Political Rights General Comment No. 20: Prohibition of torture or cruel, inhuman or degrading treatment or punishment on (article 7),* 10 March 1992, para 3.

46 See Human Rights Committee, *Concluding observations of the Human Rights Committee: Egypt* 2002, para 4.

47 See T van Boven, *Report of the Special Rapporteur on the question of torture and other cruel, inhuman or degrading treatment or punishment,* Doc.A/57/173, 2 July 2002, para 5.

48 Rules or principles of international law having a higher status and from which no derogation is permitted.

49 Human Rights Watch, *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 2003.

50 See Amnesty International, http://web.amnesty.org/web/web.nsf/print/2004-dza-summary-eng> (accessed 24 November 2004).

51 *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.

52 *Pagnoulle (on behalf of Mazou) v Cameroon* (2000) *AHRLR* 57 (ACHPR 1997).

53 Human Rights Watch, *In the name of counter-terrorism: Human rights abuses worldwide.*

54 Human Rights Committee, *Concluding observations of the Human Rights Committee: Egypt.*

55 See also Amnesty International, *Amnesty International Report 2007: The state of the world's human rights,* London: Amnesty

International in which the organisation condemns the 2006 sentencing of 12 people in Tunisia to lengthy prison terms on terrorism-related charges after 'unfair' trials.

56 United Nations, *Report of the Policy Working Group on the United Nations and Terrorism.*

57 M Kagari, Anti terror Bill an affront to human rights, *Daily Nation*, 18 November 2003.

58 Human Rights Watch, *In the name of counter-terrorism: Human rights abuses worldwide.*

59 See Scheinin, *Report of the Special Rapporteur on the promotion of human rights and fundamental freedoms while countering terrorism*, para 9.

60 See Human Rights Watch, Opportunism in the face of tragedy: Repression in the name of anti-terrorism, [online], available at http://www.hrw.org/campaigns/september11/opportunism-watch.htm (accessed 25 November 2007).

61 Constitution of Mauritius 1968, section 9; Constitution of South Africa, 1996, section 14; Constitution of Uganda 1995, section 27.

62 Such provisions are not unique to African anti-terrorism legislation. For example, the Canadian Anti-Terrorism Act also gives the police extensive powers of surveillance. Under the Anti-Terrorism, Crime and Security Act 2001 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.

63 Anti-Terrorism Act of 14 of 2002 (Uganda) section 19(4)).

64 S B Bossa and T Mulindwa, 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 2004, http://www.icj.org/news.php3?idarticle=3517&lang=en (accessed 22 September 2005).

65 Statement by Asma Jahangir, Special Rapporteur on Freedom of Religion or Belief to the Third Committee of the UN General Assembly, 3 November 2004, Doc. GA/SHC/3798 [online], See GA/SHC/3798, http://www.un.org/News/Press/docs/2004/gashc3798.doc.htm (accessed 27 August 2007).

66 Statement of the Special Rapporteur on Mercenaries to the Third Committee of the UN General Assembly, 3 November 2004, Doc. See GA/SHC/3798 [online], available at http://www.un.org/News/Press/docs/2004/gashc3798.doc.htm (accessed 27 August 2007).

67 Bossa and Mulindwa, The Anti-Terrorism Act, 2002 (Uganda): Human rights concerns and implications.

68 Examples of these requirements include whether the request is addressed to the responsible authority; whether it is duly signed; whether it contains information required to identify the wanted person and the offences imputed to him or her; whether it is accompanied by the documents required under the relevant national legislation and/or extradition treaty.

Impact of domestic terrorism on civilian-government relations

Ikenna Obi

INTRODUCTION

The emergence of terrorism as an issue of global concern and public discourse especially since 11 September 2001 tragic incident in the United States of America seems to have engendered the popular perception of terror or terrorism as an exclusive instrument of the civil populace against the apparatus of the state either within national borders or across state territories. This presentation is premised on the understanding that the nature and dynamics of domestic terrorism in Africa or any part of the globe cannot be understood if the incidence of terrorism is largely explained or perceived as a tool deployed only by disenchanted civil population or religious fundamentalists. This popular notion is mythical, and simplifies or obstructs the proper comprehension of a multi-dimensional and complex phenomenon.

It is against this background that this paper focuses on the impact of state acts of terror on civilian-government relations in Nigeria, in order to draw attention not only to state complicity in the use of terror, but to show how state acts of terror in Africa has frustrated the cherished ideals of partnership between the civil populace and government. This presentation dwells on the Nigerian state under the governments of Sanni Abacha and Olusegun Obasanjo covering the period 1993-1998 and 1999-2007 respectively.

CONCEPTUALIZING TERRORISM

Terrorism is an ambiguous concept that is subject to differing interpretations. In this essay, terrorism is considered as the use or the threat of the deployment of violent or non violent methods through which fear is instilled within the mind-set of individuals or communities or within the corridors of power with a view to coerce a real or imagined opponent (s) to adopt a desired behavioural pattern. This phenomenon is common to all human societies across time and space. Terrorism is not restricted to any ideology, group, race, polity or clime. It is a tool that has been, and can be deployed to achieve political, economic, social or religious aspirations by both state and non state actors.

Terrorism has been categorised in diverse ways highlighting the role of different kind of actors or agents, the purpose for the perpetration of terror or the territorial space or spaces in which such acts of terror. While this work is concerned largely with the acts of terror perpetrated within the territorial space of the African continent, it however dwells on the acts of terror conceived and unleashed by the State on the citizens, a dimension of domestic terrorism in Africa that has in recent times been overlooked.

State Terrorism

Monarchs, states and governments have never hesitated to use fear instilling methods to coerce opposing parties, subjects or the civil populace into slavish consent and loyalty. In the course of the evolution of the modern French state- history has bountiful records on the flagrant use of force and the mechanisms of fear to bring the French in to subjection. This was most typified in the Jacobins era in France and the absolutist rule of Napoleon Bonaparte. The use of terror as a means of governance and state control was further exemplified during the authoritarian and fascist regimes of Adolph Hitler and Benito Mussolini in Germany and Italy respectively.

Beyond the European State, the state system in Africa was founded on the flagrant use of terror unleashed not only in the period of European conquest of African societies, but also during the forceful subjection of African peoples in the violent years of colonialism- when the

subject populace was ruled outside the norms of popular consent. Taxation and labour were exacted by force. Recruitment into the armies of the colonial masters was forcefully executed, and subject peoples were coerced to fight in wars they knew nothing about. Also subjects were coerced into the full scale cultivation of crops they did not consume and constrained to consume what they did not produce. Such was the nature and impact of the kind of terror that came with colonialism in Africa. It was on this foundation of terror and force that boundaries were set for colonial states in Africa, and post colonial African states were founded. The forceful and violent manner through which many modern African states were formed has haunted their growth and adversely affected the conduct of these states in their interface with the populace. This is equally the root cause of intra-state violent conflicts and widespread insecurity in Africa.[1]

DIMENSIONS OF STATE TERROR IN NIGERIA, 1993-2007

On 1 October 1960, Nigeria gained her independence from Britain after over sixty years of colonial rule. At independence, hopes were indeed very high about the fortunes of a multi-cultural and populous African state seen as the beacon of hope for not only Africans, but the entire black race. However, six years after independence, Nigeria became embroiled in a political crisis that brought in the military into governance and prepared the way for a violent inter-ethnic conflict that manifested in a civil war. Post civil war reconstruction coincided with an economic boom that was badly managed and which gave rise to the emergence of a greedy ruling class in a rent- seeking polity. Politics and government became instruments of oppression, wealth accumulation and alienation and vendetta. Nigeria's post-independence experience has been a tale of failed aspirations and of stunted or misdirected growth.

The central focus in this section is on the forms of terror perpetrated by either the government of the day or supported by agents of government during the leadership of Sanni Abacha (1993-1998) and Olusegun Obasanjo (1999-2007). It is important to note that the two leaders under scrutiny were all military men. The former became a leader following a military coup, while the latter came into power as an elected President through a selection and election process that was marred by parochial class interests and electoral fraud respectively.

Sanni Abacha's Reign of Terror (17 November 1993 – 8 June 1998)

In the event of the public outcry against the annulment of the results of June 12 1993 presidential election, widely believed to have been won by M.KO. Abiola, Ibrahim Babaginda, who had been in power since 27 August 1985, and had expended stupendous state resources on a spurious political transition programme, had to step aside on 26 August1993, handing over the reins of government to an interim government. From the outset, the interim government headed by Ernest Shonekan, a stranger to the rough and violent terrain of Nigerian politics, was ill-fated. On 17 November 1993, Sanni Abacha the Chief of General Staff and Defence Minister seized power following widespread strikes and an uneasy political atmosphere. Thus he became the 10th Head of State of Nigeria. He died on 8 June 1998, while in office.

In line with the customary practice of military regimes, Sanni Abacha disbanded all democratic institutions and assemblies, suspended political activities and dismissed elected state Governors and replaced them with military administrators. He set up a Provisional Ruling Council consisting mainly of military men. The Nigerian state during the regime of Sanni Abacha was a terrorist. This was exemplified in the emasculation of political opposition, intimidation of the media, extra-judicial killings and gross insensitivity to public opinion.

From the beginning, Sanni Abacha never feigned to tolerate any form of political opposition to his government or his bid to transform himself into a democratically elected President. Thus he did not hesitate to arrest and accuse of treason members of the National Democratic Coalition (NADECO) who demanded he hand-over the reins of government to the presumed winner of 12 June 1993 presidential election, M.K.O. Abiola. The latter on proclaiming himself President in 1994 was arrested and charged with treason. He was detained under tortuous conditions and against the rule of law until his death on 7 July 2007, about a month after the death of Sanni Abacha. Pro-Democracy activists who rose in protest against the Abacha regime were either killed by the Police or arrested and detained unlawfully. Virtually every outspoken critic of the Abacha regime was charged of either treason, detained incommunicado, beaten and harassed. Some got themselves killed like one of the wives of M.KO. Abiola, Kudirat Abiola who was assassinated in June 1996.

Trials of suspected coup plotters were conducted secretly and not in consonance with the rule of law. As a fall out of these trials, journalists were accused of treason and imprisoned, suspected coup plotters were incarcerated like Olusegun Obasanjo and Musa Shehu Yar'Adua. The latter died in prison under suspicious circumstances. Newspaper houses were closed down; Guardian, Punch and Concord presses were shut down in 1994.

The extra-judicial killing of writer, human and environmental rights activist, Ken Saro-Wiwa alongside

Baribor Bera, Saturday Doobee, Nordu Eawo, Daniel Gboko, Barinem Kiobel, John Kpuinen, Paul Levura and Felix Nuate on 10 November 1995[2], following their alleged complicity in the murder of notable Ogoni Chiefs, sparked off a spate of international condemnations that turned Nigeria into a pariah state of some sort.

Sanni Abacha's political transition programme was programmed in a way that he could succeed himself. He wanted to be transformed to a civilian democratically elected leader. His skilful use of terror to instil fear and coerce the political class- a community of self-serving and parochial political brokers and jobbers made the approved five political parties to adopt him as their presidential candidate. If not for his sudden demise all was in place to enable him realise his dream.

Olusegun Obasanjo: Zero Tolerance for Opposition (29 May1999 – 29 May 2007)

Olusegun Obasanjo has the unparalleled achievement of having been Nigeria's Head of State under both military and civilian regimes. During military rule, he succeeded Murtala Mohammed after the latter was slain during the Dimka led coup of 13 February 1976, and handed over to the civilian regime of Shehu Shagari on 1 October 1979. On the release of Olusegun Obasanjo from prison, following his incarceration as a result of his alleged involvement in a coup plot against Sanni Abacha's military dictatorship, he was selected by a ruling cabal that considered him a convenient choice for the Presidency.

His selection may have been motivated by the perceived need to placate the Southwest supposedly infuriated by the annulment of M.K.O Abiola's victory at the 12 June 1993 Presidential polls. Also, it is not unlikely that his record as a military ruler and a Southerner who willingly handed over power to a civilian and a Northerner in 1979 may have rightly positioned him for the position of President once again. It was probably the hope of this political cabal that he will make a repeat performance of such political game. Olusegun Obasanjo served two consecutive terms (1999-2007) as civilian President.

The comportment of Olusegun Obasanjo as President in a democratic atmosphere had the trappings of a Military General commanding forces in a war. He did not tolerate dissenting voices and treated the opposition as enemies of the state. His conduct in the execution of matters of state and governance revealed his intolerance for opposition. In the bid to checkmate opposing voices, his regime neglected due process and the rule of law, and applied methods of terror while pursuing its objectives.

In November 1999, barely six months after he was sworn-in as President under a democratic dispensation, the fishing town of Odi in Bayelsa state experienced a spate of killings and destruction perpetrated by soldiers as reprisal for the killing of some policemen by local bandits. Such a violent spree of vendetta that left a community of unarmed civilians in ruins with human corpse littered everywhere was not proper even in a state of war. This kind of reprisal killing was repeated by soldiers in October 2001 in Benue State leaving over 200 unarmed civilians dead and property destroyed. This violent operation by the army was in reaction to the abduction and killing of certain soldiers who were sent to maintain peace during a conflict between the Tivs and the Jukuns. During the eight years of Obasanjo's presidency over 11,000 persons were killed in violent inter-communal conflicts[3] and many assassinations that were politically motivated were recorded. In the case of politically motivated assassinations the government and the police have always failed in fishing out the actual culprits.

One other feature of Obasanjo's presidency was his covert and overt support of the political brigandage sponsored and executed by persons who are either close to him personally or highly influential in the Peoples Democratic Party-the ruling party. The glaring cases of the terror unleashed by Chris Uba's thugs on Anambra State following the refusal of Chris Ngige-then Governor to abide by an unwholesome agreement he had with Chris Uba his political godfather before receiving his sponsorship for the contest of the governorship position in Anambra State.

On 10 July 2003 Nigerians woke up to hear that the Governor of Anambra State had been asked to vacate his office as Governor by a team of policemen led by an Assistant Inspector General of Police, Raphael Ige. The team of police men took the Governor to a hotel in the state where he was held hostage. Such brazen travesty of the rule of law under a democratic atmosphere, and the use of the apparatus of state- the police- to pursue the illegitimate desires of Obasanjo's cohorts was common during Obasanjo's regime.

In Oyo state, the activities of Lamidi Adedibu, (referred to as the Godfather of Ibadan Politics) and his flagrant use of political thugs to terrorise and coerce people to vote for his godsons in politics and his deployment of such terror against such godsons whenever they refuse to grant him the required political rent or control in governance. The violent and unlawful activities of Adedibu in the politics of Oyo state during Obasanjo's tenure did not receive appropriate reaction from the Police or the government.

The likely manipulation of the Economic and Financial Crimes Commission (EFCC) by the Obasanjo regime prior to the 2007 elections to accuse, investigate and harass opposition members and opponents of Olusegun Obasanjo in the bid to disqualify or discredit them in the elections was a terrorist ploy in accordance with the regime's style of zero tolerance to dissenting voices.

The irregularities that characterised the conduct of the 2007 elections which were evident in both local and foreign observers reports in addition to the annulment of certain electoral victories by both the Elections Tribunals and the Supreme Court rulings appeared to be an indication of the way and manner the elections were orchestrated in the bid to impose governance on the Nigerian peoples or to make them pay dearly for a failed ploy of ensuring that the Obasanjo regime is allowed a third term.

This vaulting ambition of self-succession and the voracious taste for the unending hold on state power has been the Waterloo of Nigerian rulers and a major cause for the employment of terrorist methods in governance in order to guarantee a slavish consent from the people.

THE EFFECTS OF STATE TERROR DURING ABACHA AND OBASANJO REGIMES ON CIVILIAN-GOVERNMENT RELATIONS IN NIGERIA

In order to properly situate the discourse on the impact of state acts of terror on the relationship between the civil populace and the government in Nigeria, it is useful to first provide an insight into the perception of government by the Nigerian citizenry.

Government as an apparatus of state in post-Independence Nigeria has never evoked confidence, trust or unalloyed loyalty from Nigerians. This distrust of government is a major unwholesome legacy of the colonial experience in Nigeria. The colonial situation provided a master-servant relationship: the colonialist being the master and the subject population the servants. Masters were superior breeds while the servants were inferior 'natives' or 'brutes'. Unfortunately this order of society created and sustained by the policies of colonial government was maintained by post-independence Nigerian leaders and government officials. As housing and the provision of infrastructure was segregated under colonial rule to favour the European masters, so did such segregation continue after independence with leaders and government officials relishing the same largesse and lavish facilities at the expense of the citizenry. The architecture and planning of urban administrative centres were deliberately done to create and maintain separate and unequal living quarters for the rulers and the ruled.[4] This creates a feeling of envy and jealousy amongst the subjects and citizenry- an emotional state that predisposed colonial subjects or Nigerian citizens to revolts or violent reactions and created a perverse perception of official positions in government as a veritable means to the accumulation of riches and comfort.

On another plane, the apparatus of force- the Police and the Army which were instruments of imperial control and aggression during colonial rule in Nigeria continued in similar role since the end of colonial rule and served the sectional interests of the ruling class. Thus in the event of internal conflicts or security situations they dealt with the civil populace as subject populations and not as citizens. This posture of the Police and the Army in post-colonial Nigeria has been duly manipulated to serve dictatorial and unpopular interests evident during the regimes of the two Nigerian leaders discussed above. Consequently it is not surprising that the Police or the Army in Nigeria is not viewed by the civil populace as institutions serving public interests.

Service in government as alluded earlier is at best perceived by the people as a means of self-aggrandisement and wealth accumulation. Nigerian peoples have sayings that reflect their perception of government service- highlighting that one should not kill oneself for the sake of service to the government. This is so because the conduct of government either in the colonial or post-colonial period keeps it aloof from the people. Thus government is perceived as an apparatus of domination over a people and not of service to the people. The point that is being made here is that this perverse perception of government is popular mainly because the conduct of government activities and its approach to issues provokes fear and distrust rather than trust and confidence. The environment of fear and distrust created and sustained by government in Nigeria is injurious to a healthy civil society - government relations.

Civil Society - Government Relations

The acts of terror perpetrated under the two regimes discussed above provoked varied forms of negative reactions from the civil populace and engendered a frosty and unwholesome relationship between a civil populace that sought for positive change and a government that resented any attempt by the citizenry to either criticize its activities or resist its dictatorial and selfish pursuits.

Firstly, the annulment of 12 June 1993 presidential elections results by Ibrahim Babaginda and the consequent establishment of the Interim Government which gave way for the dictatorship of Sanni Abacha provoked an unparalleled level of conscious reaction from the civil populace. Many civil society groups which were established prior to the crisis period or were formed in the wake of resistance during the political crisis, used protests, demonstrations, strikes, press conferences and even violent operations to register their disenchantment or to provoke widespread civil disobedience. The Media, especially the Lagos print media was both a medium for the expression of grievances, and an active participant in the struggle against the travesty of the rule of law,

dictatorship and acts of state terror. It is noteworthy that the travesty of the rule of law perpetrated by he subject governments and their violent insensitivity to dissent and opposition in addition to their bid to manipulate the political transition programmes to their favour, were the major factors that gave rise to intense activism by civil society groups.

These civil society groups have been classified into five major categories.[5] These are: (a)Those involved in human rights monitoring and protection, like the Civil Liberties Organization,(CLO), Committee for the Defence of Human Rights(CDHR), Constitutional Rights Project(CRP) etc; (b) associations seeking the enthronement of democracy and accountability as Campaign for Democracy(CD),National Democratic Coalition(NADECO); (c) professional associations and trade unions that became more po-litically conscious as Academic Staff Union of Nigerian Universities(ASUU), Nigerian Bar Association(NBA)and Nigerian Labour Congress(NLC); (d) Associations that sought for the provision and protection of economic and social security as Manufacturers Association of Nigeria and Women in Nigeria(WIN);and (e)Associations that represented ethnic, cultural and religious interests like Ijaw Youth Congress(IYC), Oodua Peoples Congress, Arewa Peoples Congress, Ohaneze Ndigbo, Christian Association of Nigeria and Movement for the Actualization of the Sovereign State of Biafra (MASSOB).

Beyond the civil society groups that resisted, and were also victims of, state acts of terror were pro-government civil society groups that sang the praise of government and showed symbolic support for dictatorial ambitions of the rulers. In pursuit of Sanni Abacha's self-succession bid, a youth association known as Youths Earnestly Ask for Abacha (YEAA) led by Daniel Kanu along with other pro-government civil groups like National Youth Council of Nigeria (NACYAN), National Youth Organization (NYO), and African Youth Congress (AYC) organized a two-million march to in support of Sanni Abacha's desire to transform himself into a civilian president.[6] In Katsina State, the NYO with government support held over 12 pro-Abacha rallies between late 1997 and 1999.[7] It would also be recalled that an amorphous civil society group The Arthur Nzeribe led Association for Better Nigeria (ABN) was an instrument in the annulment of the results of the Presidential elections of June 12, 1993 that sparked off the political crisis that ushered in the Abacha regime, and equally supported Abacha's bid for self-succession in 1998. The traditional rulers were not left out as 74 traditional rulers from different parts of Nigeria thronged the Presidential Villa to give their support to Abacha's presidential dream.[8]

The pro-government civil groups and visitations became useful instruments of an oppressive government for the purpose of countering the bad publicity it received locally and internationally through the activities of pro-democracy civil society associations and as a way of giving an impression of public support for its activities. However, it is noteworthy that these pro-government civil society groups were avenues through which political jobbers enriched themselves and created an opportunity for a mass of unemployed youths to have a piece of the proverbial national cake. The public demonstration of support by certain political figures or groups was equally motivated by fear of terror or vendetta being unleashed upon them in the event of Abacha's success in the self-succession bid.

Generally, the two governments under discourse did not relate with the pro-democracy civil groups as partners in the pursuit of public good, but considered them as adversaries. Thus these civil groups became real targets of state acts of terror as their leaders were often harassed, beaten up by police and detained without trials.

The complicity of the Police in the perpetration of state acts of terror in Nigeria is remarkable. The Police in Nigeria which is federally controlled and is directly under the control of the Head of State are more often than not, even in a democratic dispensation, an instrument of state oppression and a veritable tool for the ruling party in curbing the influence and activities of its opponents or critics. The careless use of lethal weapons in the control of crowds during civil protests by unarmed civilians which have always resulted in the killing of many protesters, the use of the police to intimidate opposition politicians or 'enemies' of the ruling class, and the complicity of the police in electoral frauds are pointers to the fact that the Nigerian Police has not been in the service of public good but is still haunted by its colonial roots, treating Nigerians as a subject population. The way and manner the Police stood aloof in the face of the violence perpetrated by thugs loyal to Chris Uba in the fight between him and his godson Chris Ngige the then Governor of Anambra state in 2003, and the active role it played in the unlawful detention or abduction of a sitting Governor is no doubt a glaring testimony to the fact that the Nigerian Police is an instrument of state terrorism.

This role of the Nigerian Police during the periods of study and generally has not endeared the Police to the civil populace. It equally portrays the Police as an enemy of the peoples of Nigeria. Police- Community relations in Nigeria have been marred not only by its complicity in state acts of terror but also by its own terrorist methods of unlawful arrest and detention, torture and illegal kill-ings. The activities of the Army as a state institution and an agency of government during the regimes of Sanni Abacha and Olusegun Obasanjo reveals that it was equally an effective instrument of terror that that made the civil

populace to conceive of the Army and the government as destructive.

One major obstacle to effective mobilization of Nigerian peoples towards a common goal of national development is the feeling of apathy expressed by the civil populace towards government activities, plans and aspirations. This apathy is a veritable consequence of the distrust provoked by the way and manner government treats the citizenry, as if they are a conquered population. In such atmosphere it is most unlikely that any contract or mutuality of interests exist between the Nigerian State and the people. Rather, what has been experienced even under a civilian regime is an imposition of government on the people.

CONCLUSION

This paper has drawn attention to a somewhat neglected aspect of domestic terrorism in Africa - State Terrorism. It has highlighted how this form of terrorism has adversely affected civilian - government relations in Nigeria, Africa's most populous country. State acts of terror in Nigeria have not only provoked and nurtured a feeling of distrust of government in Nigeria among the citizenry, but have created a wide gulf between the state and civil populace. The Nigerian state during the repressive regimes of Sanni Abacha and Olusegun Obasanjo created conditions for an adversarial rather than a co-operative relationship between the civil populace and government.

Though autocratic governments in Nigeria have been duly resisted by the civil populace through the activism of a few progressive pro-democracy and human rights organizations at the risk of the safety of the lives of its leaders, there exists a few other reactionary civil society groups have yielded to the manipulations of such autocratic governments. This divergent and contradictory re-action of the civil populace to acts of terror perpetrated by the governments reveals the way and manner dictatorial regime can manipulate civil society against itself, with a bid to weaken civil resistance to dictatorship, and confuse the opinion of the international community.

The Police and the Army in Nigeria have reneged on their proper role of securing the lives and property of Nigerians. Instead, these supposedly protective institutions have been deployed by government to terrorise and subjugate the civil populace. This aberration is a result of the nature of government and governance in Nigeria. Government in Nigeria is an imposition by a ruling cabal on the civil populace either through the barrel of a gun or through orchestrated elections.

In conclusion, it is important to emphasise that in so far as the structures of governance are managed in the spirit of imposition and terror, and not on that of representation and popular consent, there will continue to be a wide gulf between the government and the civil populace in Nigeria. Such a gulf is a recipe for political turbulence, 'vendetta-terrorism' by the civil populace, and even state collapse. The need to create a bond between the civil populace and governments in Nigeria and across Africa is imperative. Such bonding would guarantee cohesion, and enthrone stability without which development goals cannot be achieved.

NOTES

1   M. H. Brons, 2001. *Society, Security, Sovereignty and the State in Somalia-From Statelessness to Statelessness*? Utrecht, International Books, pp 39-71.

2   Amnesty International, Nigeria: Ten years on- Injustice and violence haunt the oil Delta http://www.amnestyusa.org/document.php?lang=ENGAFR440222005, November 3 2005 (accessed 19 0ctober 2007).

3   Human Rights Watch, "Rest in pieces"- Police Torture and Deaths in Custody in Nigeria, <http//hrw.org/reports/2005/nigeria0705/, July 27 2005, (accessed 19 October 2007.

4   A. Olukoju, 2003.The Segregation of Europeans and Africans in Colonial Nigeria in L.Fourchard and I.O. Albert(eds), *Security, Crime and Segregation in West African Cities since the 19th Century*, Paris, Editions Karthala, , pp 263-286.

5   A. Ikelegbe, 2001. The Perverse Manifestation of Civil Society: Evidence from Nigeria, *The Journal of Modern African Studies*, 39, 1, pp 9-10.

6   J.Igbokwe, 1999. *Heroes of Democracy*, Lagos, Clear Vision, p182.

7   J. Walker, 1999. Civil Society, the Challenge to the Authoritarian State, and the Consolidation of Democracy in Nigeria*, Issue: A Journal of Opinion*, 27, 1, p57.

8   O. Adeniyi, 2005. *The Last 100 Days of Abacha*, Lagos, Bookhouse Company, p 69.

Approaches and strategies for dealing with domestic terrorism in Africa

Law enforcement approaches and strategies dealing with domestic terrorism in South Africa

Anneli Botha

INTRODUCTION

In discussing law enforcement approaches and strategies for dealing with domestic terrorism it is probably essential first to consider the legitimacy of governments in Africa and then the perceived status of law enforcement on the African continent. While this may be true when one focuses on domestic terrorism, this paper does not discuss this very important element.

What is important in the following discussion, however, is a brief assessment of how states in Africa often react when confronted with domestic terrorism. Unfortunately, it is a reality that a number of countries in Africa have a weaker police force or service than their military. A probable explanation may be rooted in their history when the military was better structured and received more resources to deal with insurgencies and other more severe domestic security challenges. Ultimately these challenges led to a legitimacy crisis in the relationship between the state (including its security forces) and ordinary citizens. However, of more relevance to the topic is the use of the military to deal with domestic terrorism. On this topic one also needs to recognise that the situation in, for example, Algeria was completely different from the threat presented by the *Boeremag* in South Africa. Using the South African [National] Defence Force (SANDF) to deal with PAGAD, on the other hand, served as an example that even in countries with an established police force the assistance of the military may be required. An important lesson, however, is concentrated in interagency cooperation and partnership in which law enforcement takes a leading role.

Because of the perception that domestic terrorism represents an immediate threat to the state, a number of countries on the continent have allowed and used the following:

- Force and torture
- Mass arrests, often as a result of insufficient information, hence arrest and interrogation are often used to gather information instead of first building a case on investigation and information gathered
- Ethnic, racial and religious profiling also as a result of insufficient intelligence
- Disregard for human rights and due process

On a domestic level these practices have disastrous consequences for predominately two reasons:

- They contribute to a breakdown of trust between the people and the state and its security forces. This impacts negatively on the possibility of ordinary citizens becoming a source of information. As a result of fear (of the state and its security forces) communities establish structures to deal with crime themselves. In other words, instead of going to the police whom they do not trust and do fear, cultural or religious-based communities investigate and punish offenders themselves.
- The state and its security apparatus, including the police, become the enemy. In other words, with the state losing its legitimacy, terrorists may capitalise on the resulting void to build a support base among disgruntled community members. Fighting terrorism, whether transnational or domestic, always starts with winning hearts and minds in a chess game for support between the state and dissidents. Without legitimacy, the state and its security forces will find it extremely challenging to convince ordinary citizens that its

strategies and policies were implemented in the best interest of its citizens.

Taking account of the impact the above may have in implementing a successful strategy to deal with domestic terrorism, this paper examines the challenges facing security forces in combating terrorism. It emphasises that counter-terrorism, particularly domestic terrorism, should be addressed in an integrated, holistic approach. In implementing this approach, governments confronted with limited resources would not have to choose between counter-terrorism activities and addressing crime, but rather their security forces would complement the existing focus of law enforcement in dealing with acts of terrorism as criminal acts. Nonetheless, the focus of this paper is not on the negative, but rather it provides examples in which a police agency was successful in dealing with a domestic threat. Essentially reference is made to the South African Police Service (SAPS) in dealing with People Against Gangsterism and Drugs (PAGAD) and the *Boeremag*.

LAW ENFORCEMENT AND INTELLIGENCE IN COUNTER-TERRORISM

The duty of law enforcement agencies all over the world is to maintain law and order in any given state and/or country. In other words, basically law enforcement is an agency or structure sanctioned by government through legislation that enforces the laws of that particular country. For example, the South African Constitution in Section 205 stipulates that

> The objects of the police service are to prevent, combat and investigate crime, to maintain public order, to protect and secure the inhabitants of the Republic and their property, and to uphold and enforce the law. [1]

According to the preamble of the South African Police Service Act 1995, the SAPS are responsible for the following:

- To ensure the safety and security of all persons and property in the national territory
- To uphold and safeguard the fundamental rights of every person as Chapter 3 article 41 of the Constitution stipulates that

All spheres of government and all organs of state within each sphere must:

- preserve the peace, national unity and the indivisibility of the Republic;

- secure the well-being of the people of the Republic;
- provide effective, transparent, accountable and coherent government for the Republic as a whole;
- be loyal to the Constitution, the Republic and its people;
- respect the constitutional status, institutions, powers and functions of government in the other spheres;
- not assume any power or function except those conferred on them in terms of the Constitution;
- exercise their powers and perform their functions in a manner that does not encroach on the geographical, functional or institutional integrity of government in another sphere;
- and co-operate with one another in mutual trust and good faith…
- To ensure cooperation between the Service and the communities it serves in the combating of crime
- To show respect for victims of crime and an understanding of their needs
- To ensure effective civilian supervision over the Service [2]

However, within these police or law enforcement structures provision is often made for structures concerned with visible policing, detective work as well as specialised units responsible for analysing crime and intelligence gathering. Chapter 6 of the Police Service Act, for example, provides for specialised investigation units to undertake a proactive approach in dealing with organised crime and crime which requires national prevention or investigation. Members of these units have specialised skills in crime prevention and investigation. Owing to limitations of space, not all the legal aspects in the establishment of the SAPS and its task to investigate particular crimes can be discussed.

In summary law enforcement agencies are created to deal with their primary responsibility, namely crime, but associated with this is crime and intelligence analysis. According to Ronczkowski, crime analysis 'allows the analyst to determine who is doing what to whom by its focus on crimes against persons and property (homicide, rape, robbery, burglary theft, etc.)', while intelligence analysis 'aids in the determination of who is doing what with whom by its focus on the relationship between persons and organizations involved in illegal, and usually conspiratorial activities (narcotics, trafficking, prostitution rings, organized crime, gangs, terrorism, etc.)'. [3] The SAPS in its Strategic Plan for 2005–2010, for example, stipulates that the focus of the Crime Intelligence Operations unit is to 'gather and provide intelligence with a view of detecting crimes against persons, institutions and their properties, crimes against the State, crimes aimed at disrupting public order and crimes aimed at

destabilizing democracy'.[4] While the threat of terrorism is clearly included, the focus of the Intelligence and Information Management unit aims to 'provide intelligence on criminal activities, including criminal gangs and enterprises involved in organized crime'. Both, however, aim to prevent such activities or to enhance successful prosecution when such crimes are committed.

In other words, the main duty of a police officer is to combat crimes that are stipulated in legislation. Nevertheless, a police force can, after it has conducted an analysis of the criminal activities of a particular country, present a strategic plan to deal with priority criminal activities. In its Strategic Plan for 2005–2010, the SAPS listed the following four strategic priorities:[5]

- Organised crime: To address organised crime by focusing on criminal organisations involved in crimes relating to drugs, firearms, vehicles, human trafficking, human organ trafficking, prostitution, endangered species, precious metals and stones, corruption, and commercial crime
- Serious and violent crime: To address serious and violent crime by focusing on the proliferation of firearms, and the impact this has on the incidence of murder, armed robbery, farm attacks, heists and vehicle hijacking; crime-combating strategies identified for high and contact crime areas; intergroup violence, taxi and train violence, gang violence and faction fighting; urban terrorism and crimes against the state; and the policing of major events, including the national elections in 2009 and the Soccer World Cup in 2010
- Crimes against women and children: To address crimes against women and children by focusing on rape, domestic violence, assault and child abuse
- To improve basic service delivery to all communities

Both functions within law enforcement agencies were created to establish and maintain law and order – in other words, to protect the citizenry from other human beings within the borders of a particular country. The laws and regulations governing the existence of the law enforcement agencies and establishing their jurisdictional powers could be local, provincial or national. Nonetheless, it is important to realise that the jurisdiction of any law enforcement agency is limited to that particular country. Criminals, including terrorists, have constantly exploited this vulnerability resulting in the creation of Interpol in an attempt to encourage and structure cooperation between law enforcement agencies.

Besides these challenges there are additional obstacles in creating an efficient law enforcement strategy to deal with cases of domestic terrorism:

- Politics: Under ideal circumstances a police force does not serve a particular political party, but rather a particular country (which explains the essential role of the constitution and a legal framework). However, it is a reality that security forces in general are affected by politics.
- Human rights: Intelligence as well as law enforcement agencies constantly request more power to enable them to investigate crimes and to gather information necessary in their investigations or to prevent crime as well as acts of terrorism. It is true that to counter terrorism security forces need to use legal tools. For example, since the investigation of terrorism often includes conspiracy cases, additional legislative and technical tools are required to assist investigators in building a case. In addition requested longer detention periods are often used not primarily to interrogate a suspect, but rather to have sufficient time to go through documents on computer hard drives and this may mean accessing vast quantities of information.
- Competition and rivalry among government organs: Like most governmental organisations, security forces have large bureaucracies that often make it difficult for employees to cooperate and coordinate their efforts in the execution of their duties and responsibilities. This situation also has a negative impact on coordination between forces operating in the same theatre. Ultimately this causes serious loopholes in a government's ability to address security threats. Misplaced pride and selfishness and personal differences between colleagues in the intelligence services (and between intelligence services) often lead to an unwillingness to share information with counterparts or colleagues. A lack of trust can also contribute to a similar trend. A further challenge for intelligence agencies is the perception that the information gathered belongs to a particular person, thus resulting in employees' failure to see the bigger picture and ultimate unwillingness to share information. Intelligence services are also hesitant to share information with law enforcement entities because of the impression that it is not safe to share sensitive information with people who do not understand the intelligence gathering process and therefore intelligence services need to protect their sources when testifying in court. Another important point of disparity between the two services is resources allocation. The allocation of resources to these two entities differs in most countries with the balance tilting towards intelligence services. This affects the manner in which the two services regard each other when it comes to joint ventures. If the two entities do not speak the same language, the task of combating

terrorism becomes extremely difficult. In summary, rivalry and an uneasy working relationship between these security forces will continue to affect the quality of cooperation for as long as the missions of these organs remain diverse and basic training and remuneration schemes continue to differ.

PAGAD

PAGAD's decision to do something about the situation in the Western Cape potentially placed it in direct confrontation with the SAPS. This was particularly so since PAGAD members themselves committed crimes against the state (in the form of sedition), against individuals (murder, attempted murder, intimidation and assault) and against property (malicious damage to property and arson). The following discussion therefore focuses on initiatives taken by the SAPS to deal with a group that moved from being a vigilante/pressure group to a group implicated in acts of domestic terrorism.

Initially the SAPS followed a moderate approach towards PAGAD. The reasons for this were, firstly, that the SAPS was in a transitional phase and, secondly, the police did not want to create violent confrontation. In October 1996 this moderate approach began to change to a zero-tolerance approach. The reasons for this were as follows:

From the establishment of PAGAD, members of the SAPS always accompanied PAGAD members during marches in order to prevent violence. Prior to October 1996 PAGAD members disregarded the orders issued

by the SAPS and attacked alleged drug dealers in the presence of the SAPS. For example, on 1 August 1996 a group of approximately 300 PAGAD supporters marched on and petrol bombed the residence of Richard Stemmet. Members of the SAPS monitored the procession, but no police action was taken because the police were outnumbered and more support was not available.

Faced with a growing threat, particularly after demonstrations became increasingly violent and were followed by a campaign of domestic terrorism, the government opted for an integrated approach involving other state departments. This ultimately led to *Operation Recoil* and through this initiative the Multi Agency Delivery Action Mechanism (MADAM) was implemented.

On 16 October 1996 a meeting took place between President Mandela, several cabinet ministers, the national commissioner of the South African Police Service (SAPS) and the head of the South African National Defence Force (SANDF) about the security and crime situation in the Western Cape (specifically the Cape Flats). Through the National Operational Coordinating Committee (NOCOC) and the Provincial Operational Coordinating Committee (POCOC) (Western Cape) *Operation Recoil* was launched. The objective was to stabilise the security and crime situation in the Western Cape (Cape Flats) from 27 October 1996 onwards by conducting intelligence-driven high-density crime prevention operations. The following diagram illustrates the different committees and structures involved in managing the situation in the Western Cape.[6]

Figure 1 Operation Recoil's operational framework
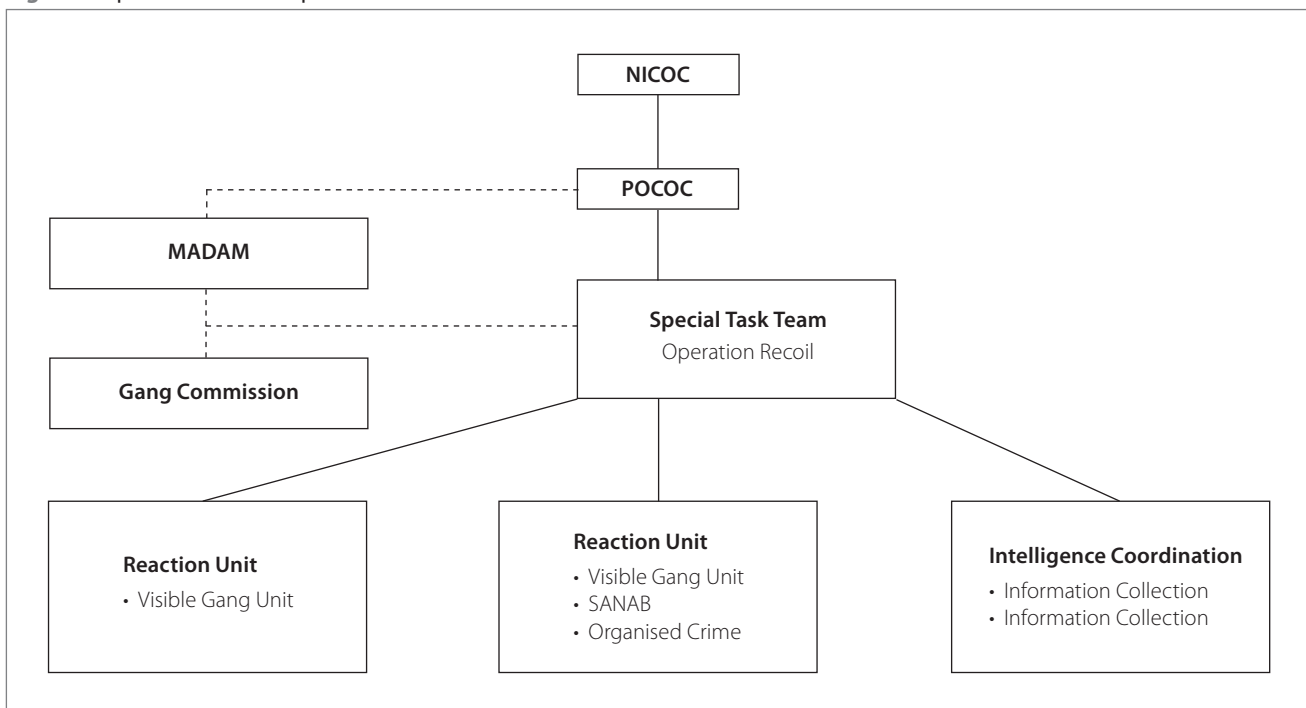
In reaction to an escalation of PAGAD's unconstitutional activities the following statement was made '

The South African Police Service and the National Defence Force have launched a special operation in the Western Cape, under the name of *Operation Recoil*. This operation will target drug trafficking, criminal activities perpetrated by elements within PAGAD and crime in general, through search and seizures conducted in terms of the Police Act of 1996. Tactically this operation includes an increase in police roadblocks, the cordoning off of particular street(s) and/or residential areas, as well as the searching of individuals, vehicles and houses.[7]

*Operation Recoil* included the following operational principles:[8]

- Intelligence-driven operation with the intelligence focus on:
  □ Crime patterns to determine hot spots for higher-density crime prevention operations
  □ Tactical intelligence for the purpose of high-density crime prevention operations
  □ Intelligence for the purpose of court-directed investigations, and intelligence provided by specialised investigation units which could be used for any of the above purposes
- High-density crime prevention and visibility operations conducted by:
  □ Crime prevention task teams (crime prevention and visibility)

- □ Visible gang unit (crime prevention)
  □ Public order policing (high-density operations)
  □ South African (National) Defence Force (high-density operations)
- Investigations conducted by:
  □ Gang investigation task group (concentrating on inter-gang conflict)
  □ PAGAD investigation task group (concentrating on PAGAD activities)
  □ Specialised investigation units (concentrating on issues emanating from gang activities, conflict between PAGAD and gangs, etc)

With the implementation of *Operation Recoil* on 27 October 1996, Simon Mpembe, in command of the Visible Policing Component of the task team assembled to crack down on the violence between gangsters and PAGAD, led about 100 defence force and police personnel on a raid of ten properties. According to the police, the first nine-hour operation was successful as large quantities of drugs and alcohol were confiscated and people arrested.[9]

The operational aim of *Operation Recoil* was to establish stability in the Western Cape, through tactical and intelligence operations that included roadblocks, cordon operations and search operations. Although these measures focused on the security situation in the Western Cape, the parties involved realised that gangs and PAGAD were a manifestation of a bigger problem, namely that of poor socioeconomic conditions and that the security and intelligence community are not responsible for the management of these situations. Under the management of the Minister

Figure 2 Operational strategy of Operation Recoil
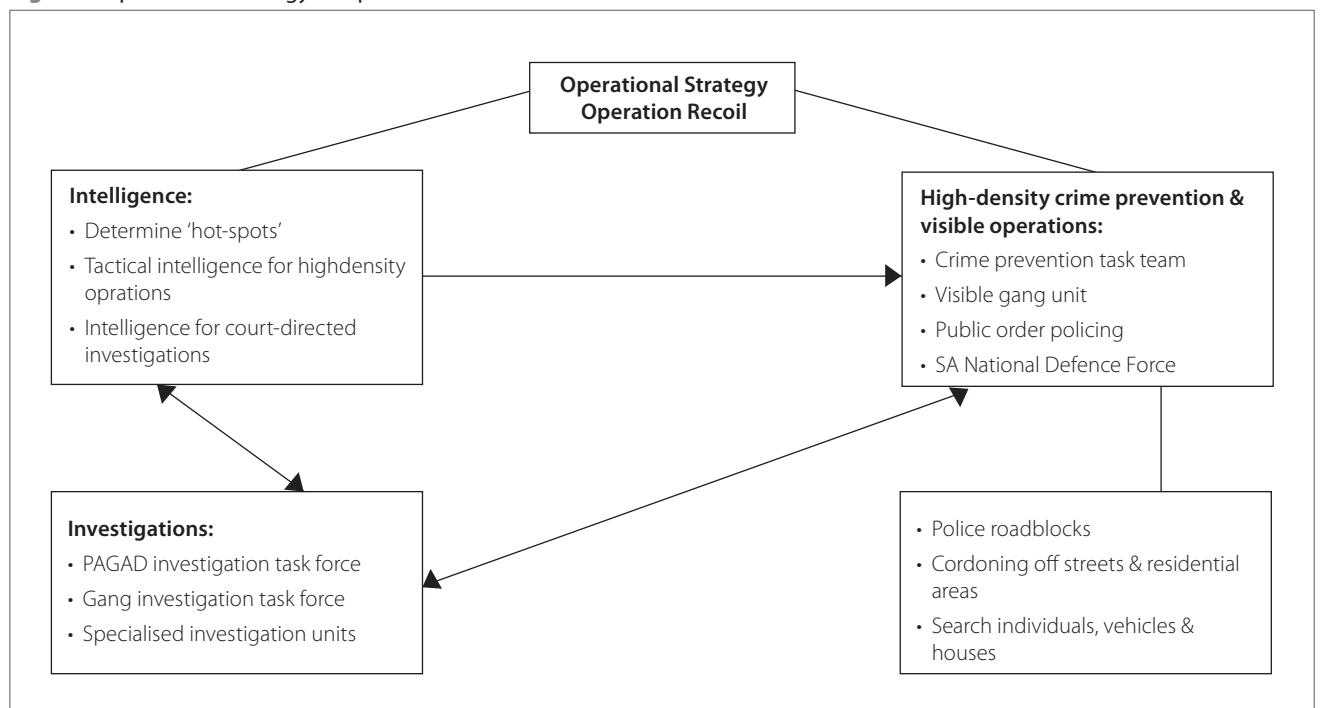
for Community Security a Multi-Agency Delivery Action Mechanism (MADAM) was initiated on 24 April 1998. The most important role players (excluding the SAPS and the SANDF) included the office of the Attorney-General in the Western Cape, the Department of Education, and so on. In coordination with the SAPS the objective included a more suitable witness protection programme and the evaluation and improvement of current bail and detention mechanisms.[10] Other objectives under MADAM were to include welfare, education, housing and local government authorities in an attempt to find long-lasting solutions to the identified problems.[11]

Operation Saladin came into effect on 12 January 1998 in reaction to an escalation in drive-by shootings and pipe bomb attacks directed at the police, drug dealers and outspoken community members. Intelligence was gathered on the ground by monitoring the movement of potential suspects; potential targets were made less accessible by a visible presence of the police and defence force, and attacks prevented by intercepting perpetrators. This operation was coordinated through the Joint Operational Centre or JOC based in Cape Town.

Frustrated by *Operation Saladin*, PAGAD members changed their modus operandi to indiscriminate attacks. For example, the PAGAD special task force base in Bellville was bombed on 6 August 1998, followed by Planet Hollywood on 25 August 1998, and the V & A Waterfront suffered an attack on 1 January 1999. As a result of PAGAD's changes in the *modus operandi* and target selection *Operation Good Hope* came into effect on 23 January 1999. This operation had three basic principles:

- Area-specific driven intelligence as well as dedicated court-driven intelligence operations
- Investigations, especially forensic investigations to identify specific perpetrators and link them with the device(s) or firearm(s)
- Liaison with local communities by taking advantage of the loss in community support for PAGAD's new tactics and targets. Up to this time PAGAD had received community support in principle for taking care of the crime and drug problem particularly on the Cape Flats. This had led to a limited number of community members being willing to come forward with information. By building relationships with the community and demonstrating that PAGAD's indiscriminate tactics were a threat to innocent civilians, more people were willing to come forward with information.

Operation Crackdown came into effect on 1 April 2000, but did not focus specifically on PAGAD, However, it is essential to refer to it briefly as it was part of a national crime prevention strategy (NCPS). The strategy had three main components:[12]

- A geographical approach, in which areas affected by high rates of crime, and particularly violent crime, were clustered into 'crime-combating zones', which were then targeted by high-density street-level policing.
- An intelligence-driven focus on organised crime syndicates operating in these areas. This was aimed at disrupting syndicate activities by arresting syndicate

Figure 3 Operational principle of Operation Saladin
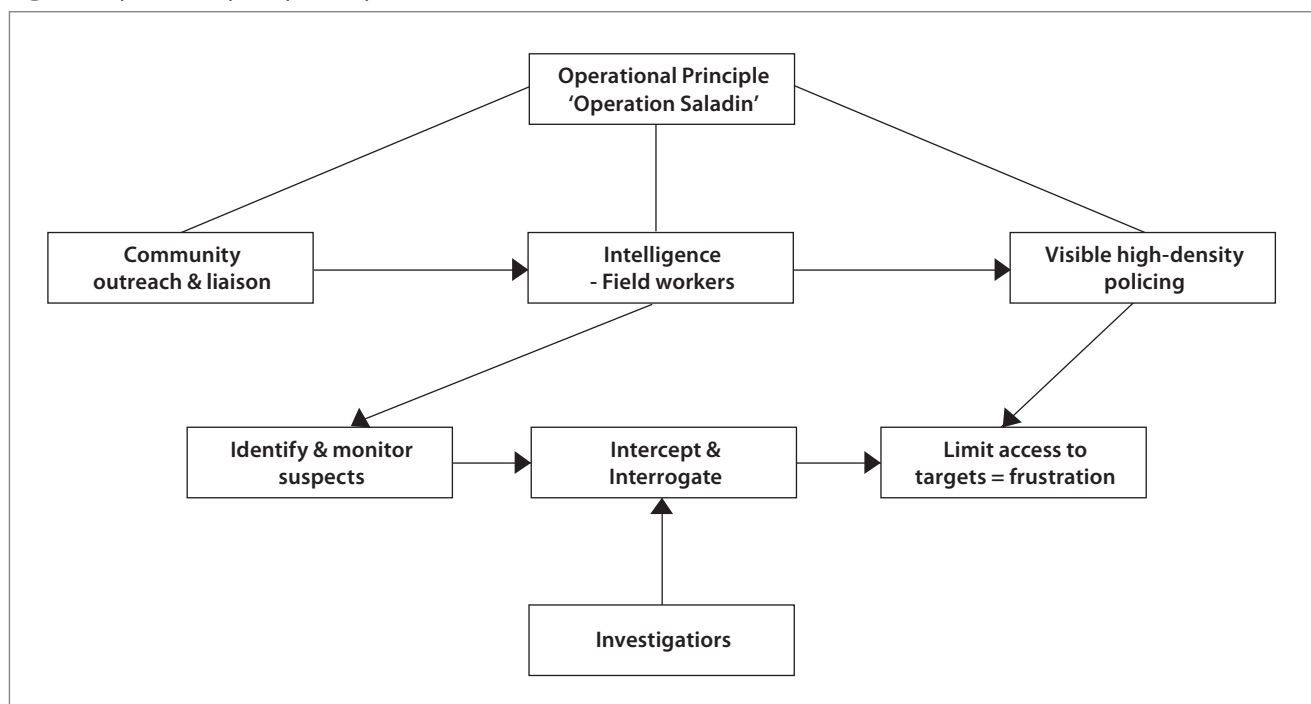
leaders and 'runners', and by closing down the flow of stolen goods and the markets for illegal goods.

■ These operational activities were to be supported by medium-term social crime prevention initiatives aimed at addressing the social, economic and development deficits conducive to high rates of criminal activity in these areas.

In summary the strategy had two primary objectives:

■ To reduce and stabilise crime in the targeted areas to the extent that station-level policing could be normalised. To support this, SAPS projects aimed at improving station-level performance.
■ To improve public confidence in the police and to improve public perceptions of safety.

This holistic approach focused on both gang violence and urban terrorism in the Western Cape and definitely enhanced the credibility of SAPS to address the primary issues that initially led to the formation of PAGAD: gang violence, and drug trafficking and abuse.

Subsequently a number of PAGAD members were charged with murder, attempted murder and the illegal possession of firearms and explosives. Between July 1996 and December 1997, 296 cases were registered in which members of PAGAD were allegedly involved and 153 arrests were made. As at September 2000, 42 PAGAD members had been convicted, while cases were pending against 78 other suspected PAGAD members.[13] As at 9 November 2005, 67 cases against PAGAD members had been finalised and five cases were still on the court roll.[14]

In summary the following known PAGAD members were convicted:[15]

■ Moegamat Fakier was convicted on 15 February 1999 and sentenced to 18 months' imprisonment.
■ Abdul Heuwel was the first PAGAD member to be convicted. In the first case he was convicted in the Mitchell's Plain regional court of intimidation.
■ N Abrahams was sentenced to five years' imprisonment for the possession of an explosive device.
■ M Kamaldien was sentenced to five years' imprisonment for the possession of an explosive device.
■ S Bester was sentenced to five years' imprisonment for the possession of an explosive device.
■ Abduraghman Thebus was sentenced to eight years' imprisonment, suspended for five years on two conditions: that he do community service of eight hours a week for a period of three years at a police station and that he is not convicted of a violent crime or a crime against the state during the period of suspension. Along with Moegamat Adams, he was convicted of killing Chrystal

Abrahams (6); attempting to murder her cousin, 15-year-old Riaan van Rooyen; and attempting to murder another boy, Lester September.[16]

■ Moegamat Adams was convicted of the murder of Chrystal Abrahams (6 years old), and two charges of attempted murder and received the same sentence as Abduraghman Thebus.
■ E Hendricks was convicted of the illegal possession of ammunition and fined R3 000 in November 1998.
■ Dedrick Botha paid an admission-of-guilt fine of R1 500 on charges of possession of an unlicensed firearm.
■ Nasieg Pietersen was convicted of charges of attempted murder after a pipe bomb attack and sentenced to eight years' imprisonment, three of which were suspended.
■ Moegamat Fakier was convicted of the possession of an unlicensed firearm on April 20 and sentenced to three years' imprisonment.
■ Afzal Karriem was convicted of the illegal possession of ammunition and fined R3 000,
■ Zainab Ebrahim, wife of PAGAD national coordinator, Abdus-Salaam Ebrahim, was convicted of possessing an unlicensed firearm and fined R4 000.
■ R Shaik was convicted of possessing an explosive device and sentenced to seven years' imprisonment suspended for two years.
■ Ismail Edwards was sentenced to 25 years imprisonment after being convicted on charges of armed robbery and attempted murder.
■ Moegamat Isaacs, Nasroedien Gamieldien, Achmat Abrahams, Loegmaan Sapat and Gabiebodien were acquitted of the murder of two suspected drug dealers and the attempted murder of Godfrey Wilkenson's wife, Joan, in a shooting on 1 January 1999 which targeted Godfrey 'Gottie' Wilkenson and Washief Crieghton. However. Moegamat Isaacs, Nasroedien Gamieldien and Achmat Abrahams had already been sentenced for other offences.[17] Moegamat Isaacs was sentenced to 180 years' imprisonment for three murder charges and related charges.[18]
■ Moegamat Zain Cornelson and alleged G-force member Anees Adams went on trial for the murder of Sedicka Hendricks (aged 4) and the attempted murder of her father. In May 2002, Judge Louw sentenced Anees Adams to 25 years' imprisonment for Sedicka's murder, the attempted murder of her father, Faizel Hendricks, and two counts of the illegal possession of firearms and ammunition. Cornelson was acquitted of all charges.[19]
■ PAGAD's national coordinator, Abdussalaam Ebrahim, and the chief of security (G-Force), Salie Abader, were charged with the murder of Hard Livings gang leader, Rashaad Staggie. Abdussalaam Ebrahim was also charged with nine other cases, including

terrorism, murder and attempted murder. Although the state was not able to secure a conviction against Salie Abader, on 1 October 1999 it found his son, Moegamat Yusuf Abader (28 years of age), guilty of murdering Ebrahim Satardien in Grassy Park in August 2007. His co-accused, Abdulatief Abrahams, had, however, been acquitted two weeks earlier.[20]

- Likewise the state was able to sentence Francisco Flandorp to 15 years' imprisonment for murder, ten years for attempted murder and three years for the illegal possession of a firearm and ammunition. Originally Flandorp, Ricardo Arendse and Donovan Richards had been hired by Rashied Staggie to kill PAGAD supporter Faizel Ryklief after he was allegedly identified as one of the killers of Staggie's twin brother Rashaad. When the hitmen were unsuccessful in finding Ryklief, they targeted his taxi-driver son, also Faizel Ryklief.[21]

- Ismail Edwards and Faizel Waggie were sentenced to 45 and 35 years' imprisonment respectively for the pipe bomb attack on the Lansdowne police station on 25 January 1998.[22] Edwards was, however, acquitted along with Ebrahim Jeneker for the murder of PAGAD investigator, Captain Bennie Lategan, in April 2003.[23]

- Ebrahim Jeneker faced a number of charges that included eight of murder, seven of attempted murder, eight of robbery, one for the illegal possession of explosives and several for being in illegal possession of firearms and ammunition. In December 2002, Jeneker was found guilty on 17 charges including three of murder, while his co-accused, Abdullah Maansdorp, was found guilty on 18 charges. Originally facing 138 charges, Jeneker and Maansdorp were convicted for their involvement in three incidents – the hijacking of a delivery van in March 1999, a hold-up at a radio and TV shop in Athlone in April 1999 and an attack on a Grassy Park hair salon, also in April 1999, in which three people were shot dead. Both were given three life sentences. In addition Maansdorp was given an additional 150 years' imprisonment and Jeneker an additional 116 years on charges ranging from kidnapping, attempted murder to the illegal possession of firearms and ammunition.[24]

- Faizel 'Bunnylick' Samsodien, a known PAGAD hitman, was sentenced to 25 years' imprisonment for attempted murder after he was found guilty of shooting at a rugby team in Kraaifontein on 10 January 1999.[25]

- Mansoer Legget faced 11 charges of murder and seven of attempted murder. In April 2001 Mansoer Legget was sentenced to 11 life-term sentences on 11 counts of murder committed in 1999. He was also sentenced to 10 years for each of the seven attempted murders he had committed and three years for the unlawful possession of firearms and ammunition.[26]

- Moegsien Barends, Riedewaan Hendricks, Lionel Jacobs and Farried Mohammed were charged on two counts of attempted murder, the bombing of the Wynberg synagogue, the illegal possession of a shotgun and two counts of motor theft. In October 2001 the accused were acquitted for the synagogue bombing, illegal possession of a shotgun, stealing a car and malicious damage to property. They were, however, convicted of stealing a delivery van and sentenced to four years' imprisonment of which three were suspended for four years except in the case of Lionel Jacobs who was sentenced to the full four years imprisonment.[27]

- Faizel Waggie, Nazeem Davids, Michael Snyders, Yusef Enous and two other PAGAD members were arrested after a bomb was defused under a potplant at the Keg and Swan on 3 November 2000. The accused were charged with sabotage, or alternatively with intimidation, attempted murder and the possession of explosives. Charges against Naziem Davids, Faizel Waggie, Haroon Orrie and Shahied Davids were, however, provisionally withdrawn in October 2003.[28]

- Dawood Osman was convicted of the murder of Shaheem (Schubert) Daniels, a member of the Junior Mafia gang at the entrance to the Waterfront and sentenced to 32 years' imprisonment.[29]

- Mogamat Fadiel and Samier Orrie, the sons of Haroon Orrie – who was one of several men arrested for an attempted bombing of the Keg and Swan pub in Durbanville – were convicted of the murder of Yusuf and Fahiema Enous (originally co-accused who turned state witnesses) who were supposed to testify in that case and so were placed in the safe house in Gouda. However, on 26 December 2000 they were found murdered. While Samier was acquitted, Fadiel was convicted of the murders, housebreaking, defeating the ends of justice and the unlawful possession of firearms. He was subsequently sentenced in October 2004 to life imprisonment on the first charge of housebreaking with intent to murder and on the second charge of murder, Orrie also received a life sentence, plus two years for the illegal possession of a firearm and ammunition.[30]

The arrest and conviction of a few key PAGAD members led to a period of relative calm. In addition to a number of convictions, PAGAD lost support owing to its indiscriminate tactics directed at restaurants and places of public interest. It is, however, important to note that public support for PAGAD's confrontational stance

against drug dealers and gangsters led ordinary citizens mainly on the Cape Flats to call for PAGAD's return after 2000.

Lessons and recommendations can be drawn from the PAGAD experience, particularly the possible re-emergence of PAGAD-associated structures in the Western Cape:

- It was expected that PAGAD-related activities would re-emerge, since the state focused all its attention on a short-term solution during the 1990s, without addressing the underlying causes. That which is currently being witnessed in the Western Cape did not develop overnight. This fact reinforces the need to focus attention on adopting a proactive strategy to address the underlying reasons, instead of waiting too long and thereby forcing all to adopt a reactive strategy again. In other words, the government addressed the symptom and not the underlying cause that led to the initial success of PAGAD.
- Relations between the state and community members in the affected areas are clearly at a crossroad. Instead of targeting 'suspected PAGAD members', the police need to initiate a campaign of dialogue with the community followed by concrete action against suspected drug dealers.
- Despite similarities with the early development of PAGAD, it will be a grave mistake simply to dismiss current developments as a re-emergence of PAGAD. In view of the negative sentiments in the government and security forces with regard to PAGAD, a state-centred instead of a holistic strategy will only drive a greater wedge between the state and ordinary citizens. At the heart of current developments is a growing frustration that nothing is being done to address crime, the growing narcotic trade and gangs in the Western Cape.
- At the same time, community-based organisations, which have a valuable role to play, should guard against becoming part of the problem, despite a growing urgency on the part of ordinary citizens to protect themselves against a social and criminal onslaught.
- If the underlying circumstances are not addressed and vigilantism therefore fuelled, ordinary law-abiding citizens will become more and more involved in taking matters into their own hands. Ultimately this will allow individuals with ulterior motives to get a foothold as seen in PAGAD's later history.

RIGHT WING

On the strategic level *Operation Zealot*, which included the SAPS, the SANDF Intelligence and the National Intelligence Agency (NIA) within the ambit of the National Intelligence Coordinating Committee (NICOC), came

into effect in reaction to a renewed threat from right-wing extremism. On an operational level a team of investigators was assembled from specialist police units, including bomb disposal, crime intelligence, serious and violent crime, and forensic units. Although the threat presented by PAGAD extended well beyond a small cell, the crime intelligence unit within the SAPS was less willing to share information, the primary reason being fear of possible leaks.

Essentially *Operation Zealot* was prompted by an attempt to steal a large quantity of weapons from Bloemfontein's Tempe military base in May 1998. During the trial of three right-wingers in this case, one of the accused, Marius Swanepoel, claimed it had been the work of a secret organisation called *Die Volk* that had been particularly active in 1998–1999. The reputed leader of *Die Volk*, Johann Niemoller, has denied the allegations. In a news report before the bombings in October 2002 an inmate of the Free State's Grootvlei Prison, former right-winger, Samuel Grobbelaar, claimed that *Die Volk* was associated with the *Boeremag* treason plot. He claimed that the common leaders of the two groups had offered to help him escape from jail because of his expertise with explosives.[31] In May 2001, Under *Operation Zealot* suspected right-wing extremist groups were placed under covert police surveillance. Information gathered during this operation resulted in police raids on homes of suspected right-wingers during October 2001 in Brits, Warmbaths and Krugersdorp during which documents were confiscated. In April 2002 the occupants of the raided residences were arrested on the allegation that they had been linked to plans to topple the government – the group included a former Vista University lecturer, an ex-policeman and a farmer.

- On 13 September 2002 the police discovered an eight-ton truck (linked to the Pretorius family) parked in an industrial area in Lichtenburg in the North West Province. It was equipped with a computer and scanner, medical equipment such as an x-ray machine and developing room, food, sleeping bags, flares, two-way radios and steel army helmets. Other items found on the truck included containers with thousands of R1 rifle, shotgun and .22 rifle rounds, petrol bombs, and an AK47 assault rifle. Police also found ingredients for improvised explosive devices. According to the police, the truck was found abandoned in Lichtenburg after police had traced and lost a convoy of vehicles making its way from Nelspruit in Mpumalanga to Thabazimbi in Limpopo Province.
- In early October 2002 police uncovered a major arms cache, including 16 large cylinder bombs, R1 and R4 assault rifles, handguns, a box containing about 40 hand grenades manufactured from steel pipes and 24

boxes of ammonium nitrate (a basic ingredient for homemade bombs). The cache was found on a farm belonging to a suspected *Boeremag* member in the Modimolle (previously Nylstroom) area of Limpopo.

In reaction to the attacks in October 2002, the police launched *Operation Hopper* on 29 November 2002 and 94 farms and homes of right-wing suspects and possible *Boeremag* sympathisers were raided. The raids resulted in 11 arrests and the seizure of ammunition and 64 illegal firearms. In early December, during the second phase of *Operation Hopper*, the police searched the homes of 43 largely well-known right-wingers such as Barend Strydom (*Wit Wolwe*), Piet Rudolph (*Orde Boerevolk*), Manie Maritz (AWB), Gustav Styles and Dries Kriel (executive members of the South African League of Former Police, Soldiers and Officials) and Willem Ratte. In reaction to the operation, the *Boeremag* threatened revenge attacks during the festive season under *Operation Elohiem of Revenge*.[32] Subsequently potential targets such as Lohatla military base in the Northern Cape, beaches, railway lines and bridges in KwaZulu-Natal and the Western Cape as well as a number of casinos, major airports and taxi ranks that were 'earmarked' by the right-wing network as targets were protected.[33]

■ In mid-December the police arrested five alleged *Boeremag* members who were wanted on charges of terrorism, high treason and sabotage. During the arrests police seized almost 900 kilograms of explosives, firearms including an R4 rifle and pistols, as well as other military-type equipment and time-delay devices in the Limpopo Province and close to Pretoria.[34] During one of the arrests the police captured Herman van Rooyen, who was in possession of a 384-kilogram car bomb allegedly meant for a soccer match between Kaizer Chiefs and Sundowns at Loftus Versfeld in Pretoria. Before Van Rooyen's arrest the police also captured Wilhelm Pretorius and Rudi Gouws, and this was followed by the arrest of Kobus and Johan Pretorius who were hiding on a farm in the Limpopo Province.[35] Gerhardus Visagie was, however, arrested only in February 2003).[36]
■ In late December 2002 police seized 40 kilograms of ammonium nitrate and arrested Johannes van Dyk at a farm in Delmas, in north-eastern Mpumalanga Province. A further 54 kilograms of ammonium nitrate was seized at a house in Port Edward, Kwazulu-Natal.[37]

Operation Hopper IV was launched in March 2003 and was aimed at 25 suspects in Limpopo, North West, the Free State, Gauteng, Northern Cape and Mpumalanga.[38]

The rate at which members of the security forces managed to identify and arrest the first *Boeremag* suspects reflected the level of police infiltration. However, the targeting of other known right-wing activists raised questions of being unfairly singled out without any hard evidence to link these people to the immediate threat. In addition, the retention of a guilty plea on one charge of terrorism while dropping 42 other charges indicated that the state needed Dawid Oosthuizen to become a state witness to strengthen its case.

As a result of the operations summarised above, the following individuals were arrested and prosecuted (ages as at the time of arrest):

■ Michiel Adriaan Burger (46), a former colonel and second in command of the Lohatlha SANDF base in the Northern Cape, was arrested in August 2002. According to the state, he undertook to ensure that all diesel bunkers and artillery vehicles at the base were filled with diesel. Burger also took it upon himself to compile a detailed plan for the base's takeover under the guise of a military exercise.
■ Pieter Gabriël van Deventer (38), a former major in the SANDF, was arrested in August 2002.
■ Jaques Olivier (32), former major in the SANDF was arrested in August 2002.
■ Johan Herman Scheepers (48), a former employee of Eskom, was arrested in August 2002. He died during the trial as a result of a brain virus he contracted while in prison. According to the state he was allegedly responsible for advising the organisation on ways of sabotaging the country's electricity system, as well as building timers for the explosive devices.
■ Adriaan Jacobus van Wyk (37), arrested in August 2002, was, according to the state, a member of the *Boeremag*'s executive committee.
■ Jacobus Christoffel du Plessis (43) was arrested in April 2002.
■ Michael Teshart du Toit (43) was arrested in April 2002 and was allegedly one of the drafters of Document 12.
■ Andre Tibert du Toit (32), brother of Michael, was arrested in April 2002.
■ Jurie Johannes (Ockert) Vermeulen (35) was arrested in September 2002 in possession of an *Afrikaner Weerstandsbeweging* uniform, a stun grenade, about 2 500 rounds of ammunition for an R1 rifle, a homemade gun, and two 20 millimetre ground-to-air rounds of ammunition. Police also found a solar panel, a generator and 200 grams of dagga as well as SANDF apparel.[39]
■ Frederick Johannes Naude (54).
■ Thomas Vogel Vorster (52), one of three leaders of the *Boeremag*, was a former officer in the SANDF. He was

also in contact with white supremacist groups in the United States and was arrested in November 2002.

- Herman van Rooyen (29), a farmer in Bela-Bela (Warmbaths), was arrested in mid-December 2002 in possession of a 384-kilogram car bomb that was allegedly meant for a soccer match between Kaizer Chiefs and Sundowns at Loftus Versfeld in Pretoria. Van Rooyen, who had access to a R40 million inheritance, also allegedly funded the *Boeremag*'s activities. He also provided a safe haven for other right-wing fugitives who were being sought by police in connection with the blasts in Gauteng, the Western Cape and KwaZulu-Natal.[40]
- Dirk Jacobus Hanekom (46) was second-in-command of the *Boeremag*'s *Operation Popeye*, which aimed to create chaos in the country through violence and ultimately to take over the defence force bases.[41]
- Henk van Zyl.

In addition and linked to the earlier arrests, the police also investigated threats against Martinus van Schalkwyk, the premier of the Western Cape. Furthermore, the New National Party leader's office received documents signed by the 'interim president of the South African Boer Republic, Theuns Kruger'.[42]

As already stated, the police then seized a truck in Lichtenburg in the North West Province in September 2002. It was loaded with various types of equipment and provisions as well as armaments and ingredients for explosive devices. Investigations led the police to the following persons:[43]

- Dr Johan (Lets) Pretorius (54), a former member of the police force and a university lecturer before becoming a full-time farmer, and his three sons. He was the owner of the truck mentioned above. He also held the second highest rank in the *Boeremag* – that of a two-castle commandant – and had once, as 'acting chief judge', sentenced two members to death. He had also threatened to 'eliminate' two members who wanted to leave the organisation.[44]
- Johan Pretorius (31), a medical doctor.
- Kobus Pretorius (29), a farmer from Mokapane (Potgietersrus.
- Wilhelm Pretorius (25), a theology student in Pretoria.

In early October 2002, the police uncovered a weapons cache that included 16 improvised explosive devices buried on a farm in Modimolle (Nylstroom). The 16 ammonia nitrate cylinder bombs were between 20 and 45 litres in size. The smallest of the bombs was about 70 centimetres in height and the largest about one metre. They were the same type of bomb a right-wing group had

allegedly planned to use to disrupt the World Summit on Sustainable Development held in Sandton, Johannesburg, in September 2002.[45] Following the October 2002 attacks in Soweto and Bronkhorstspruit police discovered another cache of firearms and explosives near Bela-Bela (Warmbaths) in Limpopo and at Lichtenburg in the North West.[46] Police subsequently directly implicated the brothers Johan, Kobus and Wilhelm Pretorius and Herman van Rooyen in the October 2002 bombings, as well as the following:[47]

- Gerhardus Petrus Visagie (67), who was arrested in February 2003 in Pretoria after he had managed to evade arrest since being implicated in the October 2002 bombings.[48]
- Johannes Dion van den Heever (32).
- Jan Rudolf (Rudi) Gouws (25).
- Dawid Oosthuizen (27), who pleaded guilty to terrorism as part of a plea bargain in May 2003 and was sentenced to 12 years imprisonment of which four years were suspended. Once Oosthuizen turned state witness against the other 22 *Boeremag* members the remaining 42 charges against him were dropped. His role in the plot allegedly included the hiring of ten vehicles in 2002 for the construction of car bombs. The vehicles would have been placed at the Johannesburg Securities Exchange, the Deutsche Bank in Sandton, and the ANC headquarters in Johannesburg.[49]
- Frederick Hendricus Boltman (61) was arrested in early October 2002.
- Theunis Jacobus Jordaan (22), who had become a member of the *Boeremag* only days before his arrest.

In November 2002, the police discovered a weapons cache that included 26 improvised explosive devices on a farm in Keimoes in the Northern Cape.[50] Following these arrests, a period of calm re-emerged.

CONCLUSION

Terrorism poses a variety of challenges to law enforcement agencies across the world. This is not only because it threatens the lives of innocent civilians and disrupts domestic stability, but it also poses important questions about the relationship between the state, its security forces and the public. Competition for public support and ultimately legitimacy can only be described as a complex chess game between the state and terrorists. This is particularly true in the case of domestic terrorism, where the survival of the terrorist organisation depends on it presenting its cause as being in the interest of ordinary people. Without this essential component of support in principle, terrorists are unable to recruit

new members, justify their violent campaigns or secure financial contributions or safe havens from sympathisers. It is therefore essential that the state and its security forces realise from the onset of the campaign to contain the situation that all actions will have consequences. Essentially counter-terrorism is a balancing act between too much and too little. Too much, which often involves extreme tactics, may not only harm the legitimacy of the state, but may also provide justification and legitimacy to that which it wishes to counter. On the other hand, doing too little may reflect on the ineffectiveness of the state to honour two of its essential responsibilities: protection of its citizens and the maintenance of law and order. In addressing terrorism (domestic or transnational), a partnership needs to develop between the state and its security forces and the public. The importance of creating a partnership with the public is demonstrated in the above PAGAD case study: Although the effectiveness of the police in dealing with crime (in particular gang violence and drug trafficking and abuse) led to the formation and the initial ability of PAGAD to secure community support, this trend changed dramatically later in PAGAD's campaign owing to the following:

- Changes in PAGAD's target selection from discriminate attacks directed against drug dealers and gangsters to attacks against outspoken community members and ultimately indiscriminate attacks against the public in its bombing campaign directed at public place.
- The police capitalised on this decrease in community support and through programmes such as Community Forum Policing and operations such as *Operation Good Hope* and *Operation Crackdown* presented itself as a partner of the community. This led to:
  □ A sense of responsibility and ownership in the public, that in turn:
  □ Enhanced public cooperation in providing the police and other intelligence agencies with information. As mentioned, prior to this phase, the police had limited access to information for identifying and arresting those persons directly involved. *Operations Recoil* and *Saladin* reflected this lack in community support – the police assisted by the SANDF had to contain the area physically and monitor potential suspects because the public was unwilling to come forward with information.

In addition to developing a sense of responsibility, a community also needs to trust the police to be able to deal with the situation, and also have trust in the confidential handling of information when provided.

Both the PAGAD and right-wing case studies add a broader element to the effective addressing of domestic terrorism: Although it is the responsibility of the police to maintain law and order, it is the responsibility of the government to address the underlying factors that initially led to the need for ordinary people to resort to violence as a tactic. In both cases, the government was unsuccessful in following these matters through. As mentioned, crime was the central element that led to the formation and initial success of PAGAD, and although *Operation Crackdown* was a step in the right direction to address crime nationally and enhance the image of the police, its success is questionable.

It is also necessary to provide a few general comments when discussing law enforcement strategies to deal with domestic terrorism:

- The police and other intelligence and security agencies are not above the law. Although they may be tempted to resort to extraordinary measures to deal with the often-overwhelming threat of domestic terrorism, acting beyond legal parameters will in the long term harm the legitimacy of these structures. Losing legitimacy, in its turn, may not only harm the state, but can also be manipulated and provide justification for current or future terrorists.
- Countering domestic terrorism should be seen and approached as part of a broader strategy to enhance stability and security in the country. Compartmentalising security-related topics only leads to conflict over often-scarce human and technological resources. Although specialised units should be established, one should be careful not to contribute to friction within the security apparatus and between security agencies. In other words, states will be more successful if they merge counter-terrorism with a broader strategy to address crime and other security threats.
- More work is needed in the restructuring of the police in Africa, particularly in enhancing relationships based on trust with the public.
- Intelligence should be used as a scalpel against identified suspects, instead of as a basis for mass arrests and visible racial profiling. Through a more strategic approach much will be done to prevent further radicalisation and further recruitment of terrorists. In other words, the focus should be on the proactive, but when the police need to react it is essential to prevent further marginalisation.
- The primary responsibility of law enforcement when confronted with domestic terrorism is to focus on court-directed investigations and the intelligence gathered should support this function. In other words, domestic terrorism should be dealt with within the criminal justice system.

■ Partnerships within the police, between intelligence, specialised units and public policing, as well as with other security agencies are essential. This can only be achieved through communication, trust, equality and the exclusion of personal agendas. The PAGAD investigations and dealing with the actual threat serve as an example of relative large-scale cross-agency and interagency cooperation. Despite expected challenges the operations can be considered as successful. The handling of the *Boeremag* threat serves as an example of the strength of an intelligence-driven operation, particularly human intelligence. Although other agencies were involved when needed, inter- and intra-agency cooperation were limited. Ultimately the magnitude of the threat and the question of trust influenced this limitation.

■ The strategy should be related to the threat and practical realities on the ground. It is also important to adapt under the following circumstances :

  □ The strategy is not effective.
  □ Remaining relevant: For terrorists to remain relevant and avoid capture they need to stay one step ahead of the authorities. Essentially the success of both criminals and terrorists lies in their ability to adapt – to change their structures, tactics (modus operandi) and targets. Law enforcement authorities need to do the same in order to contain the situation. However, to be able ultimately to defeat the threat, specialisation and analysis are essential to anticipate the next move and to adopt a proactive strategy.

■ Law enforcement is only one component in a holistic counter-terrorism strategy; the responsibility to provide direction and address the underlying causes remains that of government. Particularly when dealing with domestic terrorism, the police may be extremely effective in containing the situation, but without the essential follow-up from the government to address the underlying factors which led to the use of violence as a strategy in the first place, police action will produce only a period of calm before the next cycle of violence.

NOTES

1   This quotation from the constitution should have a reference: Republic of South Africa, Constitution of the Republic of South Africa, Act No 108 of 1996, Location: Publisher, 1966. http://www.info.gov.za/documents/constitution/index.htm (accessed 10 January 2008).

2   South African Police Service Act, Act No 68 of 1995.

3   M R Ronczkowski, *Terrorism an organized hate crime: Intelligence gathering, analysis and investigations,* 2nd ed, Boca Raton; CRC Press, 2007, 7.

4   South African Police Service, Strategic Plan of the SA Police Service 2005–2010, 2005, http://www.saps.gov.za/saps_profile/strategic_framework/strategic_plan/2005_2010/strategic_plan_2005_2010.pdf (accessed on 10 January 2008).

5   South African Police Service, Strategic Plan of the SA Police Service 2005–2010, 31.

6   A Botha, People Against Gangsterism and Drugs (PAGAD): A study of structures, operations and initial government reactions, MA Thesis, Rand-Afrikaans University, Johannesburg, 1999, 88.

7   South African Police Service, Media release: Issued by Senior Superintendent Sterrenberg on behalf of POCOC (Provincial Coordinating Committee Operation Recoil), 7 November 1997, 2.

8   A Botha, People Against Gangsterism and Drugs (PAGAD), 89.

9   J Aranes, Two killed, 11 injured in war on Flats, *The Cape Argus*, 27 October 1997, 2.

10   A Botha, People Against Gangsterism and Drugs (PAGAD), 89.

11   C Bateman, Upliftment the key in long-term plan, *The Cape Times,* 18 February 1998, 11.

12   E Pelser, Operation Crackdown: The new policing strategy, Nedbank ISS Crime Index, 4(2), March–April 2000, http://www.iss.co.za/Pubs/CRIMEINDEX/00Vol4No2/CONTENTS.HTML (accessed ????)

13   Global Security, SAF Terrorism, 9 November 2000, http://www.globalsecurity.org/military/library/news/2000/09/war-000911-saf.htm (accessed 5 February 2001).

14   National Prosecuting Authority, Meeting with Advocate Willie Viljoen, 9 November 2005, Cape Town.

15   E Ellis, G-force suspects face over 40 murder charges, *The Cape Argus*, 11 October 2000, 1.

16   H Geldenhuys, Community work for Pagad men who killed girl, *The Cape Times,* 18 September 2000.

17   K Maughan, Not guilty verdict sets Pagad men free, *The Cape Argus,* 8 March 2005.

18   F Schroeder, Pagad court havoc quelled with pepper spray, *The Cape Times,* 21 October 2002.

19   F Schroeder, Adams found guilty of murdering Sedicka, *The Cape Times,* 7 May 2002.

20   F van der Fort, Abader's son set to appeal murder conviction, *The Cape Argus*, 2 August 2007.

21   M Witbooi and M Baschiera, Cape hitman sentenced to 28 years in jail, *The Cape Argus,* 27 June 2005.

22   (SAPA 2001) There is no 2001 in refs.

23   F Schroeder, Scorpions: Lategan case is far from over, *The Cape Times,* 24 April 2003.

24   Pagad G-force duo jailed for life, *SAPA*, 20 December 2002.

25   Samsodien gets 25 years for shooting, *The Cape Argus*, 7 May 2004.

26   (Cape Time 2001) No 2001 in refs.

27 L Johns, Pagad members jailed for vehicle theft, *The Cape Argus,* 23 November 2001.

28 K Ajam, State withdraws charges against Pagad accused, *The Cape Times,* 8 October 2003.

29 G Abader, Lawyers kept busy with 55 Pagad cases, *The Cape Times,* 11 January 2000.

30 (Independent Online 2004) No 2004 in refs.

31 The rise of the Boer al-Qaeda, *All Africa*, 1 November 2002.

32 R Munusamy, More rightwingers held after raids on farms, *All Africa,* 2 December 2002.

33 M Wa Africa and R Munsamy, Right-wing plan to seize army base, *All Africa,* 9 December 2002.

34 South African police arrest white radicals: Find explosives, arms, *National Post*, 12 December 2002.

35 More details of rightwing plot emerge, *SAPA*, 15 December 2002.

36 *Boeremag* fugitive arrested, *All Africa*, 24 February 2003.

37 Explosive materials seized in operations against S Africa's far right, *Agence France-Presse (AFP)*, 29 December 2002.

38 S African police launched manhunt for alleged coup plotters in six provinces, *BBC Africa*, 12 March 2003.

39 (SAPA 2002) Not the correct reference

40 More details of rightwing plot emerge.

41 (All Africa 2003a) There is no 2003a. *Boeremag* fugitive arrested = 2003?

42 Doctor named in alleged coup plot to appear in court, *SAPA,* 16 September 2002.

43 (SAPA 2002) [Looks wrong to me; must bee 2002a] Ibid.

44 *'Boeremag* Judge' stays behind bars, *SAPA,* 19 March 2003.

45 Police unearth 'rightwing' arms cache in Limpopo, *SAPA*, 4 October 2002.

46 The rise of the Boer al-Qaeda.

47 Police publish names, photos of six suspects of recent bomb blasts, *BBC Africa*, 10 November 2002.

48 *Boeremag* fugitive arrested.

49 South African rightwinger strikes plea bargain ahead of treason trial, *AFP,* 16 May 2003.

50 S. Africa police find bombs in rightwing plot probe, *Reuters,* 20 November 2002.

Judicial and legal approaches and strategies in dealing with domestic terrorism in Mauritius

Satyabhooshun Domah

CRUCIAL ISSUES FOR COUNTER-TERRORISM LAW IN AFRICA

In no part of the world does the saying 'one's man terrorist is another person's freedom fighter' resound more truthfully than on the African continent.[1] However, what may have been yesterday's fight for freedom against a foreign power may today be a fight for freedom against one's own state, or what have increasingly become 'authoritarian and predatory regimes'.[2] These thoughts were very much in the minds of the Mauritian legislators when they drafted an indigenous law against terrorism for the Mauritian judiciary.[3] The seven main characteristics vital to an indigenous conception of a national law against terrorism include the following aspects of the country:

- its character in relation to its time and space (history and geography);
- its political system as measured by its constitutional set-up;
- its social system – the composition of its population in terms of religion, race, ethnicity, language;
- its dispute resolution culture or justice system (that is, its ability to inspire community confidence in the settlement of disputes in an organized manner, in particular in the administration of law and order, more particularly, its civil and criminal laws and procedures);
- its security system;
- its financial system;
- its domestic and international relations which include its adherence to national and international causes.

These matters determine the national ethos within which a counter-terrorism law flourishes or fails.[4] Model laws,

which have later been adapted to national jurisdictions, have been produced by international organisations in many fields. However, in the case of a law on terrorism, such international efforts have yielded nothing of consequence. Indeed, the General Assembly of the United Nations has been so far unsuccessful in arriving at a universally generally acceptable legal definition of 'terrorism' or 'terrorist act'.

That responsibility, then, has been left to individual countries. To the extent that regional and international efforts have defined the problems associated with producing a reasonably acceptable law against terrorism to assist national draftsmen to compare notes, the attempts are enlightening. But they can be frustrating as well. As one who was directly concerned with drafting such a law and is now concerned with its application and interpretation, I would say that national draftsmen would be better advised to guard against any wholesale importation of a terrorism law from a jurisdiction foreign to their own. That would exacerbate the problem of terrorism rather than resolve it.

Essentially, terrorism is a hyper-dramatic way of expressing discontent against an existing state of affairs that may have been endured over a long period of time. It claims a voice, a right to be heard.[5] The sources and symptoms, the causes and consequences, the degree and gravity, the methods and techniques are, therefore, specific to a country. It is a struggle for competing legitimacies within the context of each country, within each region and within each continent.[6]

This explains why the African Unity Convention on the Prevention and Combating of Terrorism is more adapted to the SADC region than to any other. Indeed, when article 3 of the AU Convention states: '[T]he struggle waged by peoples in accordance with the principles of international law for their liberation or

self-determination, including armed struggle against colonialism, occupation, aggression and domination by foreign forces shall not be considered as terrorist acts,' it is an evocation of African history.

Some countries – especially in the African region – take the view that the ideal way of preventing terrorism is to start addressing the root cause of terrorism: remove the causes of terrorism and terrorism will remove itself. This may be achieved by undertaking a 'task of national reconstruction'. They argue that tinkering with criminal procedures and offences comes too late in the process; it balms the symptom, but ignores the disease. In the context of Africa, if civil, political, social and economic rights have not been adequately addressed, the application of criminal law may exacerbate problems of law and order rather than resolving them. There may be some truth in this thinking and many Africans could agree with it. Therefore, it is important to consider the views of the country's population when deciding what type of terrorism law will prove most effective. For example, the Mauritius has opted for a terrorism law devoid of any political, religious or ideological motive. This, in fact, is the post-11 September conception of terrorism law.

According to Annette Hübschle, there are factors that may be specific to the African continent.[7] These include political structure and stability; socioeconomic conditions within the country; demographic composition of the country; public perception of the country's security forces and the latter's effectiveness; level of organised transnational crime (especially money laundering, narcotics and firearms); and inter/intrastate conflict and its impact on border control. A legal framework, like any other '*projet de société*', has to be homegrown, even if it is inspired by larger regional or international trends.

On 11 September 2001, I, as Parliamentary Counsel, was directly involved in the drafting of the laws relating to terrorism in Mauritius. We found that all the above factors were continually in the minds of the policymakers in the various jurisdictions when discussing a domestic law against terrorism. Therefore, the drafters of the Mauritian terrorism law took into account the following:

- Mauritius has a strong democratic tradition embedded in its history to resolve its disputes by means of words rather than swords.
- It has a multi-racial, multi-religious and multi-cultural population, with a secular constitution based on the Westminster model.
- It enjoys political stability.
- Its economic policy does not change fundamentally and dramatically with a change of government.
- It has institutions that inspire public confidence.
- It is a small island with few border control problems.

- It has its crime rate under control and is committed to combating fraud, corruption, money laundering, drug trafficking and the illegal possession of firearms.
- It has an international image of good governance to treasure and preserve.

Following on from the reasoning above, when Mauritius came to draft its terrorism laws, it avoided falling into the trap of following the existing the Australian, English, Canadian, Indian or United States models. Rather, it drafted a law that suited the character of its own country. For instance, it avoided defining an act of terrorism in political or ideological terms. It could not overlook that it has a multi-racial, multi-communal, multi-ethnic, multi-religious and multi-lingual population. It has a solid history of effecting changes by vociferous advocacy, free press, free and fair elections.

THE CONSTITUTIONAL SET-UP OF MAURITIUS

To many, the first victim of a terrorism law in a democracy may be democracy itself. As a result, the continuing preservation of a country's constitution becomes a vital consideration. Other considerations are whether it is a secular state, whether it professes a separation of powers, and whether it has a Bill of Rights.[8] Further questions include how accountable or unaccountable are those who make coercive state decisions and does the government have the power to limit fundamental freedoms in special circumstances of national threat?[9]

Mauritius is a secular state where the constitution is the supreme law and any other law which is inconsistent with the constitution is void. Drafted along the lines of the Westminster model, it enshrines the separation of powers. It has a president as the head of state in who is vested the executive authority. It has an elected prime minister who is the leader of the House in Parliament, the National Assembly. The judiciary, under a chief justice, comprises the Supreme Court, the Intermediate Court and the district courts, and is independent. One overriding principle for any case brought against a defendant is that he shall be afforded a fair hearing within a reasonable time by an independent and impartial court established by law.[10]

The Mauritian Bill of Rights is contained in Chapter 2 of the Constitution 1968, which is more or less a textual reproduction of the European Convention on Human Rights. Chapter 2 provides for the fundamental rights and freedoms of the individual, such as protection of the right to life, the right to personal liberty, from slavery and forced labour, from inhuman treatment, from deprivation of property, of privacy of home and other property,

provisions to secure the protection of law, the protection of freedom of conscience, of expression, of assembly and association, to establish schools, of movement and protection from discrimination.

Derogations from the core constitutional provisions may be permissible only under emergency powers. It should be noted that classical terrorism law uses this exception. Mauritius has chosen not to do this. Instead, it has preferred to construct its terrorism law under the general criminal law of the land rather than invoking its emergency provision.

The Minister of Internal Affairs, the Director of Public Prosecutions, and the Commissioner of Police are those who make decisions in matters of domestic terrorism. Where it is an international matter, the roles of the Prime Minister, the Minister of Foreign Affairs and the Attorney General are particularly pronounced.

Like most Commonwealth jurisdictions, Mauritius has an Attorney General. Upon him lies the responsibility of legally advising the government on matters of mutual legal assistance and extradition. It would be for the executive, thereafter to make decisions to grant or not grant, and make or not make, foreign requests. He is, according to section 69 (1) of the Constitution, the principal legal adviser to the government of Mauritius.

As with other Commonwealth jurisdictions, there is a Director of Public Prosecutions whose office is a public office, and who is appointed by the Judicial and Legal Service Commission. According to subsection (6), in the exercise of the powers conferred upon him by this section, the Director of Public Prosecutions is not to be subject to the direction or control of any other person or authority.

Section 71 of the Constitution provides for the public office of the Commissioner of Police. Mauritius does not have a military, so all matters of investigation and intelligence gathering fall to the Mauritius police force. Subsection (2) places the police force under the command of the Commissioner of Police. The role of the Minister of Internal Affairs, at present assumed by the Prime Minister, on matters of law and order, is limited to giving the Commissioner of Police general policy directions with respect to the maintenance of public safety and public order as he considers necessary. In such an eventuality, the Commissioner should comply with such directions or cause them to be complied with.

THE MAURITIAN CONTEXT

The population is composed of various races and communities, which come from various parts of the world; namely India (Hindu and Muslim), Africa, China and Europe. The country had no indigenous population (except the dodo, a bird now itself extinct). As such, the risk of xenophobia is remote in a nation of all immigrants. Also, originating as they do from all types of ancient civilizations, both from the East and the West, the communities have accommodated a considerable amount of cross-fertilization in culture, tradition, way of life, eating and dressing habits while remaining faithful to the core values of their forefathers. Inasmuch as all religions from all civilizations have advocated peace and harmony, the threshold of tolerance in the Mauritian society has been appreciably high. The country's independence was not won on blood, but on sustained, if vociferous and impassioned, advocacy. It is a secular state and a host of cultural and religious NGOs are subsidised by the state. It is stated that there is not one day in which one community or another is not holding a fast in the Mauritian society. In the allocation of national holidays, for example, each community is allowed its own quota for the commemoration of religious events.

The Mauritian, irrespective of his origin by country, race or community, mixes fairly easily in society, at his place of work or in public places. Within their homes, Mauritians pursue their cultural traditions to preservation their identity, but social intercourse is conducted as if there was no heterogeneity in the population. Mixed marriages are not common, although they do exist and are not perceived as unusual or unfavourable.

Because of a system of local government which exists right across the country from villages to towns and cities, and because of the continuation of the traditional *Sabha*, temple, *madrassa*, churches and synagogue systems[11] of the diverse communities of Mauritius, Mauritians learn to adopt a democratic means of dispute resolution quite early in their formative years. Furthermore, concerted efforts are made for all communities to be adequately represented in the state legislature.[12]

Poverty can be fertile ground for the inception and growth of terrorism. Mauritius may have pockets of poverty, but its economic situation is among the best in Africa. On this score, therefore, one many say that, unlike many developing countries, Mauritius is spared poverty as a catalyst for terrorism.[13]

The next area to check to assess how well a terrorism law fits or fails a country's legitimate expectations of law and order is the national judicial system. Does the justice system inspire public credibility? Are the rights of defendants ensured? Are the courts independent and impartial and seen to be so?[14]

THE MAURITIAN LEGAL SYSTEM

Despite its origins in French law, the Mauritian legal system is today based on the English justice system. And despite the fact that Mauritius is a republic, it has retained

appeals to the Judicial Committee of the Privy Council based at 9 Downing Street, London.[15] Such an appeal can be brought from decisions of the Court of Appeal or the Supreme Court. In a number of cases appeal thereto is as of right such as questions concerning the interpretation of the Constitution. In others, it is only possible with leave of the Supreme Court. "*where, in the opinion of the Court, the question involved in the appeal is one that, by reason of its general or public importance or otherwise, ought to be submitted to the Judicial Committee.*"

There is a special provision for the protection of the constitutional freedoms of the citizens. Thus, according to section 83(1), when any person alleges that any provision of the Constitution, other than the Bill of Rights, has been contravened that person may apply to the Supreme Court for a remedy.

Sections 84 (1) and (2) state that where any question concerning the interpretation of the constitution arises in any court of law established for Mauritius (other than the Court of Appeal, the Supreme Court or a court martial) and the court is of the opinion that the question involves a substantial question of law, the court is bound to refer the question to the Supreme Court.

A citizen, under a charge, has a number of protections guaranteed to him under the Constitution, including the following rights:

- to be presumed innocent until proved or pleaded guilty;
- to be informed as soon as practicable, in a language that he understands and, in detail, of the nature of the offence;
- to be given adequate time and facilities to prepare his defence;
- to be permitted to defend himself in person or, at his own expense, by a legal representative of his own choice;
- to be assisted by an interpreter.[16]

The executive may very well abuse the powers delegated to them by parliament. The Mauritian Constitution provides for parliamentary control over subordinate legislation.

Sub-laws affecting citizen's rights or that establish new criminal offences or impose new penalties should be laid before the Assembly as soon as is practicable after they are made. Any such law may be revoked by the Assembly by a resolution passed within 30 days after it is laid before the Assembly. There are cases where this rule would not apply: inter alia (a) during a period of public emergency within the meaning of Chapter II of the Constitution; (b) when parliament is dissolved or prorogued.

A terrorism law would impact on the legal professions as well. Where a terrorism law makes it a duty for a citizen to disclose known terrorist activity, the question arises whether the legal professional privilege applies. If yes, then to what extent and in what conditions? It is also important to know who undertakes conveyance in matters in which property is transferred, in law and in equity, to ensure due diligence principles regarding terrorist property.

The Mauritian legal service is not modeled on the English system, but on the French. For historical reasons, three complementary professions exist. Matters of conveyance are handled by public notaries in the French style. Procedural law is attended to by the attorneys-at-law and court appearance is undertaken by barristers, the latter two being based more or less on the English model of solicitor and barrister.

A terrorism law also has an impact on a country's basic civil and criminal law and procedure. The nature of the national civil and criminal law and procedure becomes vital when considerations of attachment, seizure or forfeiture of terrorist property come into play. Whether the hearings are adversarial or inquisitorial or a hybrid of both becomes important. The core civil and criminal law of Mauritius is borrowed from the French civil and penal code. However, the related law is English and the court procedure is based on the English system, with the law of evidence applying. With respect to divisions in criminal law, Mauritius uses the French system of classification of offences. Thus, offences are created with reference to the penalties. Basically they are 'crimes, *délits et contraventions*' commonly called crimes, misdemeanors and contraventions.[17]

The Mauritian Criminal Code dates back to 1838, but there have been a good many amendments since. In 1870, the Criminal Code (Supplementary) was added with further amendments over the course of time. Coexisting with offences under the Penal Code are other legislations such as the Public Gathering Act, the Prevention of Corruption Act, the Prevention of Terrorism Act, the Information and Communication Technologies Act and many more, which are inspired entirely by the English style of drafting. Mauritius also has a certain number of direct imports from England, for example contempt of court, perjury, and so forth.

The Mauritian Civil Code is based on the French Civil Code, and the core of its civil procedure is contained in the Judicial and Legal Provisions Act 2000. A civil case is lodged by a plaintiff and consequently a summons is issued. In matters of urgency, a Judge in Chambers may issue a property restraint order or injunction, including a *Mareva* order.

One must remember that although a good part of our substantive law is French, our procedural law is English. Some examples of this include the Criminal Procedure

Act of 1853 and the District and Intermediate Courts (Criminal) Act of 1888, which set the rules of procedure so as to secure the common law method of trial with its accusatorial as distinct from an inquisitorial method of investigation. Thus, a suspect may be arrested only 'upon reasonable suspicion of his having committed, or being about to commit a criminal offence'.[18] Suspects may be detained but should be presented to court 'as soon as possible'.[19] They have a right to bail, which may be refused on specified grounds. In all cases of imprisonment, habeas corpus is possible. The offence is contained in a charge sheet called an 'Information' to which the defendant pleads before the court at the time of arraignment.

Despite the Continental origins of our law, a good part of which still survives, procedure and evidence today are governed by common law. There is a trial day and witnesses are heard viva voce upon oath or solemn affirmation.[20] Affidavit evidence may be given as well as unsworn personal answers in a limited number of cases.[21]

As such, witnesses are examined, cross-examined and re-examined according to the English system.[22] There is no system of *Juge d'Instructions*; any judicial control of police investigation may only be by way of prior judicial authority for the issue of warrants of search and seizure and warrants of arrest. Once the person is arrested, he has a right to bail under the Bail Act. In the case of bail being declined, he may re-apply or petition the Supreme Court for a habeas corpus. In any case, a prisoner has to be brought to the court periodically when he is on remand.

Section 162 of the Courts Act provides that, except where it is otherwise provided by special laws now in force in Mauritius or hereafter to be enacted, the English law of evidence shall prevail and be applied in all courts of Mauritius for the time being. Computer-generated evidence is admissible in civil proceedings subject to certain specified conditions.[23] On the other hand, as regards the admissibility of sound recording, the sound recording of any evidence given by any person charged with an offence is rendered admissible as evidence in any criminal proceedings where it is given to an investigating officer in the course of an investigation of an offence.

Inasmuch as the Mauritian legal system is based on the Westminster constitutional model, it is the executive branch of government which enters into any international obligations under any treaty. The action of the executive does not by itself become law. For the incorporation into domestic law of any legal obligations imposed by any treaty entered into by the executive, the legislature has to enact a law regarding the specific obligation. Accordingly, all the treaties entered into by the executive in Mauritius in the fight against terrorism have to have the necessary incorporating legislation for them to become law in Mauritius.

The security system of the nation state also determines its capacity or lack of capacity to combat terrorism. Internal as well as external factors promote or discourage terrorist acts. Among the internal factors which promote terrorism are poverty and deprivation, state or political oppression, racial or ethnic persecution, and so on. Among the external factors may be listed the country's foreign policy and its communication and intelligence capability. Mauritius chose not to have a national army at the time of its independence. Bilateral treaties with friendly countries serve the need for its territorial integrity. The result is that there are few people in the streets with arms, ammunition or any type of weapon. Some people comment that Mauritius is a nation of fun culture rather than gun culture, one of words rather than swords. The country's sea-bound borders support this arms-free culture. The single seaport and the single airport are well equipped and controlled so that one may justifiably say that the country does not suffer from particular border vulnerabilities.

It is worth noting that financial institutions are pretty well regulated in Mauritius, with updated and modern laws in the field such as the Banking Act, the Bank of Mauritius Act, the Financial Institution and the Anti-Money Laundering Act. Mauritius is also a member of the Egmont and ESAAMLG[24] groups and may legitimately boast of a vigilant Financial Intelligence Unit (FIU) under the Financial Institution and the Anti-Money Laundering Act.[25]

Mauritius became one of the non-permanent members of the Security Council in 2001 for a period of three years. It has also participated actively in the workings of the Counter-Terrorism Committee established pursuant to Resolution 1373. The country could not have earned a reputation for the values promoted by the United Nations, namely the rule of law, human rights, democracy and peaceful coexistence, without a strong and sustained domestic tradition of running public affairs along the principles of a liberal democracy. It reports regularly to the Human Rights Committee of the United Nations. It has a Human Rights Commission and a Sex Discrimination Commission. It has ratified the Rome Statute and most of the relevant international conventions on human rights and related matters. At the time of writing this document, the state law office was proceeding with an amendment to the Criminal Code to criminalize torture and at the time of going to press that law has already been passed and is in force.

The United Nations Office on Drugs and Crime has been active in assisting Mauritius to reinforce its legislations in transnational crimes, including laws against terrorism. However, one realises more and more that there is not one single model that fits all jurisdictions. As has

been stated: '[W]ithout taking into account the political, economic and development realities of the regions, sub-regions, and states while trying to help them build their counter-terrorism capacities, the UN risks creating a reputation for itself as an insensitive body with generic, imprecise mandates and tendencies.'[26].

Combating terrorism is only partly an issue of law and order. It involves a number of strategies which require coordination in and action from other disciplines. Law alone is an important tool, but is inadequate in dealing with this phenomenon. Combating terrorism is not only the concern of the state. It should be the concern of all: the state, the media, the civil society and each citizen. It is a question not of survival of the civilised society, but of the manner in which civilised society chooses to survive. Accordingly, a strategy involving all the players is of the utmost importance. It is also a question of prioritising those strategies. In some cases, the strategies have to be in stages and, in other cases, they have to be run in parallel to one another. Whatever the strategy, a legal framework is important because, as the French put it, *Là où il n'y a pas de loi, le roi perd son droit*. In other words, even a king would lose his crown for lack of a law to legitimize it.

THE MAURITIAN ROUTE TO A DEDICATED TERRORISM LAW

The close connection between terrorism and organised crime, drug trafficking, money laundering, fraud and corruption, smuggling of arms and deadly weapons has been acknowledged in all fora and documentation on terrorism. The shortage of financial and technical resources, areas of instability and prolonged violence, corruption, weak judicial and financial regulatory systems, porous borders and unregulated coastlines allow persons and illicit goods easy ingress and egress.[27] That is the fertile ground of terrorism.

Mauritius was particularly alert to these considerations and decided on a multipronged and coordinated approach to terrorism, money laundering, corruption, financial services fraud, commercial and economic crime. Before retiring for the December vacations in 2001, the Prime Minister announced in Parliament that the House would reconvene at the end of January 2002 for a Special Session.

This session was reserved for three important laws: the Prevention of Terrorism Bill, the Prevention of Corruption Bill and the Financial Intelligence and Anti-Money Laundering Bill. It was an impossible task to cover all three Bills, but the National Assembly did meet that target, albeit with a two-week delay. Parliament met in early February and the Bills were ready, and they were passed. Soon after, assent was given for the Prevention of Corruption Act (Government Gazette 2002), and later for

the Financial Intelligence and Anti-Money Laundering Act, which was proclaimed on 10 June 2002.

As the Constitution demands, any Bill, after it has gone through the Third Reading, has to receive the assent of the president of the republic before becoming law. It then has to be proclaimed before the law is in force. There was no problem with the proclamation of the Prevention of Corruption Act and the Financial Intelligence and Anti-Money Laundering Act, but that cannot be said of the Prevention of Terrorism Act.

Seldom has a Bill fomented more frenzy in Mauritian political and legal history than the Prevention of Terrorism Bill 2002. The collective hysteria was different from the type that beset other countries, which were under actual threat of terrorist attacks. In Mauritius it was not only public paranoia against the state; but the Bill was badly received by some parliamentarians, the press, some NGOs, the Bar Council (for a while) and some human rights pundits. If this had remained only at the level of rhetoric and demagogy, it may not have much mattered. But it shook the constitutional institutions of the state and resulted in some casualties. When presented for the First Reading at the National Assembly, the opposition walked out. The Bill went through the Third Reading without much ado. It was, accordingly, submitted to the State House for Presidential Assent.

Mr Cassam Uteem, the then President, declined a first assent, sending the Bill back to the National Assembly for reconsideration, as he was empowered to do under section 46 of the Mauritian Constitution. The National Assembly went through the legislative process a second time. This time the opposition was present and had a field day. They were allowed to comment on the Bill in its entirety while the government limited itself to those aspects which had been the concern of the President. According to the Constitution, a reference by the President should be used to concentrate on the amendments proposed by him.[28] However, since no amendments had been proposed, parliamentarians acted as they thought fit. The government at that time was concerned with handling a recalcitrant President and treated the opposition's constitutional impropriety with deference. Finally, the Bill passed a second Third Reading, more or less in its original form.

The President was on his way to *Hadj* the next day, 15 February, when the Bill was returned to him for his second and final assent. According to section 46, when a Bill comes back to him, after a second vote on it, he is bound to signify his assent. Some constitutional lawyers concerned with state ethics hold that the President is bound to give his assent then resign. Others, less concerned with constitutional propriety, take the view that he may resign before giving his assent. He chose the latter

option. It was three months before his thrice renewed three-year mandate was to expire.

With the post of the President vacant, the Vice President assumed office. Just as Cassam Uteem had not been able to hide his personal view that the UN Security Council Resolution 1373 which imposed upon member countries the obligation to take measures against terrorism embodied a tussle between the Western powers and the Arab-Islamist world, the acting President, Angidi Chettiar, could not hide his sympathies for the Opposition in Parliament. (He had been given the post of vice President when the Opposition party was in power.) On 18 February, the new President informed the Prime Minister that he would be equally unable to give his assent. He was not signing: he was resigning.

In accordance with the procedure laid down in section 46 (7) of the Constitution, it fell to the Chief Justice to assume the functions of the President pending the appointment of a substantive President, which takes at least five days. He had hardly been sworn in when he was asked by the national television whether he would give assent to the Bill. 'Wait and see!' he replied. The general public feeling was that he should stay away from the constitutional affray.

Up until then, the Bar Council had remained silent on the issue. A week earlier, it had stated, in a mild *communiqué*, that its members would ensure, by way of challenge in the courts, that the fundamental freedoms of the constitution would not be violated. It was now being pressed to signify its public stand on a matter directly relevant to the profession. On the day the Chief Justice assumed the functions of the President, it took a guarded public stand to set up a task force to examine the provisions of the Bill. Shortly thereafter, the Chief Justice assented to the Bill.

The greatest paradox concerning the Bill is that, even while it was being decried in Mauritius as a charter for the suspension of fundamental freedoms and liberties, a group of legal experts of the Commonwealth was writing a report highlighting the virtues of its provisions as a model to be followed by other Commonwealth countries. Among the virtues were the Bill's concerns for the safeguarding of human rights: constitutional safeguards were absent in the models offered by other countries such as the United Kingdom, Canada or Singapore. In the Mauritian law against terrorism, executive acts are submitted to judicial scrutiny.

However, for all the controversy it generated, the Bill, except for a couple of rare and brief but brilliant exposés in Parliament, received only cursory public analysis and comments by professionals, academics or human rights pundits. It is sad to realise that neither the Mauritian public nor the international community was given, as they had a right to be, a serious, mature and professional analysis of the law. There was a lot of heat generated but little light shed.

The object of the Mauritian Prevention of Terrorism Act (POTA) is to empower the Mauritian legal system to deal adequately with the phenomenon of terrorism. The Act makes provision for the prevention, suppression and combating of terrorism. It creates new offences in the Mauritian criminal law relating to terrorism. It introduces measures with a view to gathering intelligence, carrying out investigations and ensuring enforcement in the matter. It provides for mechanisms of cooperation with foreign jurisdictions. At the same time, it seeks to implement Mauritian international commitments in respect to terrorism.[29]

Underlying the Act runs the philosophy that prevention is better than cure. Mauritius is among those countries which take the view that the ideal way of preventing terrorism is to manage existing law and order. It is a stance slightly different from that taken by some other countries which believe that to fight terrorism one starts by addressing the root cause of terrorism. To them, terrorism is the smoke: the cause is the fire. Once one puts out the fire, the smoke will vanish by itself. This may be achieved, some believe, by undertaking a task of national reconstruction. In this view, the use of criminal law to define offences and create criminal procedures to facilitate investigation, prosecution and enforcement, however important, plays only second fiddle to a political and cultural solution. This attitude is taken by many African states where the people's aspirations and the capacity of the political set-up to meet those aspirations are hard to reconcile and the whims of the minority prevail over the will of the majority.[30] In this sense a proper evaluation of the state of affairs at the grass-roots level becomes a vital consideration in determining what type of political system should be put in place and, consequently, what type of terrorism law best suits the national reconstruction programme.

The question of how the police will use POTA in the name of law and order remains important. While '[t]he ultimate purpose (of terrorism) is not to destroy "civilization" or democratic values but to participate as legitimate participants in the international system', it is reductive to think that state repression will help.[31] It is not good government policy to impose measures of repression with substantial repercussions on the public. The government becomes very unpopular as a result and this fuels the fire of terrorism all the more. In the end the loser is liberal democracy. As has been remarked:

> "Few things would provide a more gratifying victory to the terrorist than [for] this country to undermine its traditional freedoms, in the very process of countering the enemies of those freedoms."[32]

Mauritius was finally able to have its law on terrorism proclaimed on 16 March 2002. Five years have passed and all those fears about possible abuses of the law on terrorism have proved unjustified. One case, in which one Celh Miah was detained to answer a charge of giving instructions to commit a couple of crimes, was investigated under the ordinary criminal law. The director of public prosecutions filed a *Nolle Prosequi* in his favour and he was released and there was no application of POTA.

The present set of laws includes:

- The Prevention of Terrorism Act 2002
- The Prevention of Terrorism (Denial of Bail) Act 2002
- The Constitution of Mauritius (Amendment) Act 2002
- The Prevention of Terrorism (Special Measures) Regulations (GN 14 of 2002)
- The Prevention of Terrorism (Special Measures) Regulations (GN 36 of 2002*)*

The other laws cognate to the terrorism laws include:

- The Dangerous Drugs Act 2000
- The Prevention of Corruption Act 2002 (Annex 7)
- The Financial Intelligence and Anti-Money Laundering Act 2002
- The Mutual Legal Assistance in Criminal and Related Matters 2003

An overview of POTA is given below.

INSTITUTIONAL MECHANISMS TO COMBAT TERRORISM

POTA 2002 does not set up a specific formal mechanism for its operations. However, it mentions some of the key players from whom a distinct modus operandi may emerge. This involves cooperation and collaboration between a number of persons, bodies and institutions. These key players include:

- The Prime Minister as the Minister of Interior and Internal Security;
- The Minister of Foreign Affairs as representing the executive to deal with extraterritorial dimensions of the law in terms of foreign policy;
- The Attorney-General as the principal legal adviser to government
- The State Law Office as the office of professional expertise in the field;
- The Commissioner of Police as the Constitutional head responsible for investigation, intelligence and enforcement;
- The Judge in Chambers as the independent and impartial judicial authority to decide applications;

- The Bank of Mauritius as the central bank;
- The Financial Development Commission;
- The Financial Intelligence Unit;
- The Independent Commission Against Corruption; and
- The Office of the Director of Public Prosecutions.

The following hypothesis provides an example of how this arrangement should work.

El Cand (International), El Cand (Int) for short, is a charitable organisation, duly registered in the state of Nutopia. Its corporate objective is, inter alia, to cater for the needy and the destitute. El Cand (Mauritius), El Cand (Mu) for short, is the Mauritius branch of El Cand (Int). El Cand (Mu) is duly registered with the registrar of associations in Mauritius. Four directors – Eric, Abdool, Seemah and Ng (all Mauritians) – run it. El Cand (Mu) has a countrywide membership. Its resources comprise membership fees, gifts and donations. El Cand (Mu) owns property, holds bank accounts, has set up a couple of trusts and invests its cash with moneychangers. It also trades on the domestic and international stock market, and so on. It grants loans to its members, gives gifts to, or funds projects concerned with the needy and the destitute. However, the police have information to the effect that the official corporate objectives and overt activities of El Cand (Mu) are no more than a sham and façade to hide its real purpose, which is terrorism. It has established and maintains an international network and its terrorist activities are directed against governments that themselves engage in state terrorism anywhere in the world. El Cand (Mu) is a regional branch in that scheme and network of terrorist activity.[33]

Normally, the entity with the intelligence will inform the Secretary for Home Affairs who, in turn, will inform the prime minister. That entity may be anyone but is most likely to be the security adviser or the commissioner of police. The matter may be referred to the Financial Intelligence Unit, the Review Committee or the Independent Commission Against Corruption for further intelligence or investigatory work. The Attorney General as the principal legal adviser to the government and the central authority for mutual legal assistance in criminal and related matters will discuss the matter with the Solicitor General to establish the necessary action. Actions that need to be taken fall into two categories: the urgent and the not so urgent.

Urgent matters of a domestic nature come under the jurisdiction of the Judge in Chambers. Where urgent matters are of an international character, the Judge in Chambers may come in at a very late stage. These

decisions are usually taken at the Executive Level between the Prime Minister, the Minister of Foreign Affairs and the Attorney General.

In an application before the Judge in Chambers, it is the Commissioner of Police who relates the facts in an affidavit drafted by the Senior State Attorney and vetted by a State Law Officer designated by the Solicitor General. After the affidavit is ready, an application is made *ex parte* to the Judge.

The role of the Commissioner of Police is wide-ranging under the Act. He may apply to the Judge in Chambers for a judicial order declaring that El Cand or any similar entity is a proscribed organization. Or he may, on his own, seize cash on reasonable suspicion, and thereafter seek a judicial endorsement of the order for detention. He may also apply for an order of attachment of money and property and give public notice of such attachment. Finally, he may apply for a judicial order for: (a) discovery of document or in common parlance a document search; and (b) property tracking.

Apart from the urgent and immediate orders that may be sought and obtained, the police will seek to fully investigate, and to gather materials and evidence against the persons concerned with a view to possible prosecution. They may arrest and detain persons under the general law or under POTA. The police may prefer to use POTA for the advantages it may offer. They may apply to the court for property restraint orders, including seizure, detention and eventual forfeiture. While preparing the case against suspects, they may need continually to seek advice from the office of the Director of Public Prosecution who is the only person empowered to initiate and to abort proceedings and who is under the control of no other person or authority.

The El Cand investigation would start as a 'terrorist investigation' meaning that it covers the commission, preparation or instigation of an act of terrorism or any other offence under POTA.[34] It might also include the investigation of any act or omission reasonably suspected to have occurred for an act of terrorism or any other offence under this Act. It might likewise investigate the resources of a proscribed organization. It is not quite clear why, in the first case, there is no requirement of reasonable suspicion before a terrorist investigation commences. However, where reasonable suspicion forms the basis for any investigation, that requirement should also hold for an intended inquiry into the commission, preparation or instigation of an act of terrorism as it does with inquiry into any act or omission reasonably suspected to have been done for an act of terrorism. Nonetheless, who is a terrorist, who is involved with terrorism and by which acts and omissions is never obvious.[35]

Which property of El Cand may be the subject of investigation, restraint orders or forfeiture? POTA speaks

of 'terrorist property'. The term has a wide definition and means property which has been, is being, or is likely to be used for any act of terrorism. It also means property which has been, is being, or is likely to be used by a proscribed organization. The term includes all proceeds of an act of terrorism. Furthermore, property which is gathered for the pursuit of, or in connection with, an act of terrorism would be terrorist property. The term occurs in the context of Part 3 of POTA which deals with seizure and detention of terrorist cash, terrorist funding, dealing in terrorist property, attachment of property and property tracking. On this issue, one is referred to the Prevention of Terrorism (Special Measures) Regulations (GN 14 and 36 of 2003).

POTA empowers the police to carry out investigations, if under judicial control, on a number of persons, bodies and institutions, including financial institutions, banks, professionals and trusts, each under statutory and judicial control.

El Cand (Int) may have assets not only in banks, but other financial institutions. POTA provides that terrorist property of any suspect may be tracked, seized or frozen by judicial order at any financial institution. Financial institution in this case means any institution or person regulated by any of the enactments specified in the First Schedule of POTA. This schedule refers to the Financial Services Development Act 2001, the Immigration Act, in so far it applies to section 5A, the Insurance Act, the Securities (Central Depository, Clearing and Settlement) Act, the Stock Exchange Act, the Trusts Act 2001 and the Unit Trusts Act.[36] Should any financial institution where El Cand has deposited money not fall within the purview of the Act on the grounds that that financial institution is not mentioned in the First Schedule, it is open to the minister to amend the schedule by an appropriate insertion.

POTA seeks to criminalize not only a certain type of terrorist behaviour, but also certain abuses of economic or financial activities. Terrorism, it should be noted, has taken on a progressively economic character as an offence. However, a distinction should be made between terrorism and money laundering. In a money laundering offence, the funds invested are dirty and they have to be laundered in legitimate activities. On the other hand, in terrorist funding, the money is clean and it is invested in illegitimate activities. Thus, if the police decide in the El Cand (Mu) investigation to trace the assets of the organisation, they should seek an appropriate judicial order.

Further orders may be sought under the Act for freezing the assets of El Cand suspected of being gathered through offences related to terrorism. The police may also apply for orders for the purpose of tracking suspected property. It does not matter whether the property is in the hands of banks or other deposit takers.

Where property restraint orders are sought against a bank, the question arises as to the definition of a bank. Section 2 provides the answer: a 'bank' is defined as in the Banking Act; and in this Act it is

> "a company incorporated under the laws of Mauritius, or a branch of a company incorporated abroad, which is licensed under this Act to conduct

- domestic banking under the Domestic Banking Licence in Mauritius and, in the case of a foreign branch of a local bank, abroad; or
- offshore banking, under the Offshore Banking Licence, from within Mauritius, as the case may be."[37]

Both domestic and foreign banking are defined. Domestic banking refers to banking business other than foreign banking; foreign banking is banking business or investment banking business conducted in currencies other than the Mauritian rupee, except to the extent permitted by the central bank for trading on the foreign exchange market of Mauritius and investment in money market instruments.

Banks are specifically concerned with laws relating to mutual legal assistance as now stipulated in the Mutual Legal Assistance in Criminal and Related Matters Act 2003 (the MLA), effective as from 15 November 2003.[38] These laws relate to applications for a provisional order of attachment, property tracking and mutual legal assistance. On receiving a provisional order of attachment of any property in the hands of anyone, the commissioner of police should notify, inter alia, the banks. The Commissioner may seek a Judge's order requiring a bank, any financial institution, trustee, cash dealer, and custodian to make disclosures on reasonable grounds. In the case of mutual legal assistance for property tracking or attachment, the bank should be specified. Property restraint orders may be sought against any person engaged in the deposit-taking business and authorised to do so under the Banking Act and any person who carries on any business or activity regulated by the Bank of Mauritius or otherwise.

The Bank of Mauritius acts as the central bank for Mauritius and directs its policy towards achieving monetary conditions conducive to strengthening the financial system and increasing the economic activity and the general prosperity of Mauritius.[39] As such, it also has the power to require cooperation from authorised banks and other credit institutions to regulate the banking and credit system so as to ensure a proper distribution of credit and a sound financial structure.[40]

Soon after the enactment of UNSCR 1373, the Bank of Mauritius issued directives to the banking and non-banking deposit-taking institutions, the money changers and foreign exchange dealers falling under its jurisdictions to gather intelligence and to report to it to ensure that their systems were not being abused by perpetrators of terrorist acts. The lists used for checking and control are the US Executive Order List, the list of the UN Sanctions Committee on Afghanistan pursuant to Resolutions 1267, 1269, 1333 and 1390, the list of Council of European Union, and so on.

Property restraint orders may also be sought against a cash dealer. Suspected property may be attached, tracked or frozen (see sections 16 and 17 of POTA and the MLA). A cash dealer is a person authorised under the Foreign Exchange Dealers Act to carry on the business of foreign exchange dealer or moneychanger.

The Financial Services Commission regulates the activities of the offshore management companies, the stock exchange, foreign insurance companies, fund management companies and trusts, and international companies under the Financial Development Act.

The police would also need to pry into the trusts created by El Canda (Int) and El Cand (Mu). The word 'trustee' means the same as in the Trusts Act 2001. Although 'trustee' itself is not defined, 'trust' is, so that trustee should mean the beneficial owner of a trust. A trust exists under the Trusts Act 2001 where a person (trustee) holds or has vested in him, or is deemed to hold or have vested in him, property of which he is not the owner in his own right, with fiduciary obligation to hold, use, deal or dispose of it -

- for the benefit of any person (a 'beneficiary'), whether or not yet ascertained or in existence;
- for any purpose, including a charitable purpose, which is not for the benefit only of the trustee; or
- for such benefit as is mentioned in paragraph (a) and also for any such purpose as is mentioned in paragraph (b).

It needs also to be noted that a reference to a trust includes a reference to trust property as well as the functions, interest and relationships under the trust. The definition of whoever has deposited property with another is so wide as to cover any type of custodian or agent.

In a hybrid jurisdiction like that of Mauritius, which accommodates continental concepts alongside common law concepts, objection may be raised to a trust with certain articles of the civil code. The Trusts Act 2001 comes to the rescue of property transfers created under the Act, providing that, notwithstanding those certain articles in the Code Civil Mauricien, property and rights may be transferred to or vested upon a trust in accordance with the Act.[41] Further, subject to the Act, a trust shall

be recognised as valid and enforceable under the laws of Mauritius.[42] A trust may also arise voluntarily, or may result from the operation of law or by judicial decision. Whichever type it is, the Trusts Act applies.[43] The police may require any trustee, to the same extent that they would require any bank, other financial institution, cash dealer or custodian, to produce all information or deliver all documents regarding any business transaction conducted by or on behalf of a suspect.

While a domestic aspect of an investigation is under strict judicial control, the international aspect is under executive control. In cases of international terrorism, three ministers would be concerned: the minister of internal affairs or national security, the minister of foreign affairs and the minister of justice. Responsibility for national security is at present with the prime minister. Thus, he may declare El Cand (Int) a proscribed organisation. The question may arise as to whether El Cand (Mu) or El Cand (Int) needs to be proscribed. Inasmuch as POTA has competence to declare both a terrorist organisation, both could be proscribed. Because El Cand (Mu) is taken as a terrorist organisation in its own right, the procedure for its proscription will be different from that of El Cand (Int). In this case, the domestic proscription will be through the judge in chambers. The role of the prime minister shall not be confused under the Act with that of the minister responsible for foreign affairs. The latter would also be involved, but with procedures for requests of mutual legal assistance either from or to other countries. The minister of finance is also involved at one point, where a decision has to be taken for the return or remittance of forfeited property.

A question might arise at the level of police investigation whether El Cand (Mu) falls under the purview of the Act as it is only a branch of El Cand (Int) whose alleged terrorist actions are directed against governments other than the government of Mauritius. Since 'governments' refers to the government of the Republic of Mauritius or of any other state, this extended definition gives POTA the necessary extraterritoriality it needs to deal with international terrorism. Thus, apart from the possibility of investigating the activities of El Cand (Mu), the Mauritian authorities may also investigate those of El Cand (Int). In so doing they may seek the cooperation and collaboration of other states through formal and informal methods, including diplomatic channels, international organisations and professional networking.

El Cand (Mu) can be made a proscribed organisation by judicial order upon application by the commissioner of police.[44] On the other hand, El Cand (Int) can be proscribed by the Prime Minister. The manner in which an organisation is proscribed under the Mauritian Act is different from that of other countries. In the United Kingdom, for example, it is the secretary of state who proscribes an organisation. An international terrorist group that is declared as such is automatically listed as a proscribed institution. In both countries, however, there is a duty for publication in the Government Gazette.

A Financial Intelligence Unit (FIU) was set up under the Financial Intelligence and Anti-Money Laundering Act of 2002 to gather financial intelligence, which is crucial in the fight against terrorism, money laundering and corruption. The FIU is basically a central intelligence-gathering unit that collects information on its own or through other sources. It is assisted by the Egmont Group that comprises FIUs of over 50 countries. After it has gathered the information, it may make it available to investigative authorities. The Review Committee considers whether it is proper to make available information to investigating and supervisory authorities.

The Independent Commission Against Corruption (ICAC) has been set up under the Prevention of Corruption Act 2002 to fight corruption through a multipronged approach: education; training; standard setting in the public and private sector, investigation and prosecution with the authority of the director of public prosecutions. It has power to investigate cases of both corruption and money laundering.

A Commissioner for Drugs has been appointed under the Dangerous Drugs Act 2000 to investigate, trace and seize the property of drug traffickers. Although the present holder of office has been very active in the field, he has taken the view that legislation needs to be amended to give him greater powers, beginning from the moment a person is arrested instead of from the moment he is convicted.

The El Cand hypothesis raises a couple of interesting questions regarding the application of POTA to deal with a terrorist investigation. Should El Cand be treated as a case of domestic terrorism, triggering the domestic mechanism? Or should it be treated as a case of international terrorism, triggering the international mechanism? A case of domestic terrorism demands different official involvements from a case of international terrorism. The hypothetical example also shows how diffuse the decision-making process can be. Too many people involved at too many places and locations, with little indication of any coordinating figure.

STRENGTHS AND SHORTCOMINGS OF THE LEGAL AND INSTITUTIONAL FRAMEWORK

Many aspects of the Mauritian POTA have been commended by the Commonwealth legal experts meeting on terrorism law. That is not to say that it is perfect. At the moment the Bill was being finalized, the approach being

that the country risked waiting eternally if it waited for a perfect document.

One of the reassuring facts of the Mauritian POTA is that it is constructed within the parameters of a non-emergency legal framework. Basically it does not interfere with the separation of powers and the Bill of Rights is left intact.[45] Even if the constitution was amended to deny bail to some defendants charged with serious offences under the Act, it would not be specific to the core offences relating to terrorism. This also applies to serious drug-dealing offenders. In addition, the procedure for habeas corpus is still available to any defendant denied bail or under a 36-hour restricted access regime.

It was open to Mauritius to invoke section 18 of its Constitution, which allows for the use of emergency powers to deal with situations of public emergency. However, it did not do so. Section 18 of the Constitution allows derogations from fundamental rights and freedoms under emergency powers such as the curtailment of personal freedom and protection from discrimination.

The next virtue of POTA is that all exercise of power is subject to judicial control through the Judge in Chambers. Thus, the proscription of an organisation is possible only upon application to the Supreme Court Judge.[46] That is also the position in the case of matters involving restraint on use of property such as freezing or seizure of terrorist cash, attachment of property and property tracking.

The other salutary feature of the Act is that the exercise of executive discretion is superimposed upon judicial discretion. In both situations the discretion is structured by statute and the parameters therein indicated. Thus, the Commissioner of Police is under a legal obligation to demonstrate the existence of specific facts in his affidavit to the Judge before the latter may decide to proscribe or not an organisation. There is a duty of publication or notification coupled with a procedure for de-proscription. The proscribed organisation is also given a defence that is statutory.

Ministerial powers may not be exercised except under strict conditions set by the relevant sections. Thus, the declaration of a suspected international terrorist has to satisfy set conditions. Even ministerial amendments may not be effected except for the purposes of the Act and not for purposes *ultra vires* the Act that is beyond what the Act permits.

All this also holds true for the Attorney-General and the Commissioner. No application may be validly considered unless and until the conditions laid down in the Act have been satisfied.

Unlike in many countries, there is strictly speaking no incommunicado detention of suspects in Mauritius.[47] However, there is a regime of restricted access. For 36 hours access can be limited to an officer not below the

rank of Inspector of Police or a Government Medical Officer. Even then, the detention is subject to a continuous video recording. The various officers having statutory responsibilities for the filming and the record keeping are not to be directly involved with the enquiry.

The Director of Public Prosecutions (DPP), who is a constitutionally protected officer, keeps exclusive control of proceedings which may be exercised from the moment of arrest and detention. Hitherto, Mauritius has not known any political interference with the powers of the DPP.

The Act has the potential for growth and development because the Minister assigned the duties under the Act (in this case, the Prime Minister) has been given the power to make regulations as he sees fit for the purposes of the Act: Existing definitions may be extended to accommodate novel situations as is evident from the two sets of regulations passed: Prevention of Terrorism (Special Measures) Regulations (GN 14 and 36 of 2003). The Minister may, through regulations, add to the definition of 'financial institution', include other forms of monetary instruments, revisit the manner in which the video conferencing of detained suspects may take place and introduce other types of financial or other related services which may not be provided to proscribed organisations.

Most of the legal comments on the shortcomings were made by the Bar Council when there was an attempt to prevent the Bill from being proclaimed. The queries of the Bar Council were answered in meetings that took place between the executive, the state law office and the Bar Council. Some of the salient comments were as follows: the powers of the Minister and the Commissioner of Police are sweeping under the Act, the definitions of some terms are vague and uncertain (such as 'act of terrorism' and 'unduly compel' in section 3 (2) (b) (ii)), international organisation has not been defined; some of the offences have reverse onus clauses (section. 4 (5)); and some of the clauses might be interpreted as deeming a person guilty until proven innocent (section 4).

The Bar Council also commented negatively upon the power given to the police in cases of urgency when they were allowed to effect search and seizure without first obtaining a judicial warrant. The answer to this was that it was no more than what existed in other areas of the law and was no exception specific to POTA. The Bar Council also commented upon section 24 (8) which provided that a police officer who used such force as may be necessary for any purpose, in accordance with the Act, shall not be liable, in any criminal or civil proceedings, for having, by use of force, caused injury or death to any person or damage to or loss of any property. It argued that this could be interpreted as a denial of liability on the part of the state. The state law office maintained that the only interpretation that could be possible was that it exempted

the police officer and not the state. As was rightly pointed out, if such exemption was not afforded to the police officer, he would be compelled to do nothing so that he be not saddled with liability.[48] It is suggested that it would be a matter of interpretation finally whether this provision would stand the test of constitutionality before the courts especially in the light of the fact that there is a contrary provision in the ICCPR.

The other weakness that may be seen in the Act is the absence of a definition of a terrorist. There is a description of what an act of terrorism is, which may inhibit judicial development as new forms of terrorism emerge over time. For example, some argue that cyber-terrorism may be covered under the Mauritian law in an indirect way only. In criminal law, one needs to be clearer about the definition of crimes, especially when the consequences are long-term mandatory imprisonment for the core crimes of terrorism. Some definitions are with a general reference under section 2 and some under the Schedules under the Act. They may not stand judicial tests, but even if they do, there is no substitute for the clearest text in criminal law. Section 11 of POTA, for example, speaks of the commission of an offence in breach of an enactment specified in the Second Schedule of POTA. The Second Schedule mentions sections 4, 5, 6 and 6A of the Civil Aviation (Hijacking and other Offences) Act as well as section 12 (hostages). This allows for flexibility in making amendments and incorporating new offences as they are identified by international conventions and become part of Mauritian legislation. However, this does not help the quality of the Mauritian criminal justice system which requires clarity, precision and due publicity.

The Bar Council feared that the proposed legislation allowing a minister to give apparently necessary directions to service providers may mean that he could interpret this section as allowing him to tap telephones.[49] The government agreed to clarify the issue by introducing the Interception of Communications Bill in the National Assembly to prevent telephone tapping, except in clear-cut cases warranting such a practice in the higher interest of the state.[50]

Previously, one relied on the POTA for direction in co-operating and collaborating with foreign states in matters of terrorism. Sections 18 to 24 of the Act, even if specific regarding the manner and content of a demand for such collaboration and cooperation, were silent over issues of the nature, quality and sufficiency of evidence, and the applicable court procedure for rendering the cooperation and collaboration truly effective. Details had been given as to how mutual legal and judicial assistance was to be both obtained and provided, whether in civil or criminal matters, but there was not enough mentioned about what would happen after the assistance had been acceded to.

However, the new law, the Mutual Legal Assistance in Criminal and Related Matters 2003 is fairly comprehensive on these issues.

Another weakness involves judicial control. It seems that Mauritius sought to sacrifice prompt action for constitutional security. The weakness with judicial control in terrorism law is that terrorists act and then disappear very quickly. By the time the judge issues an order the suspect will either have fled or the evidence will have disappeared before the police can mobilise.

Terrorism law is a specialized area of law and order. Its successful implementation depends very much on good intelligence, dexterous planning, subtle investigation and trained expertise. At present, officers of the regular force handle terrorist investigations. The absence of a specific unit to deal with law and order involving terrorism is a serious weakness in its management. It is suggested that such a unit be established under the aegis of the security adviser.

The El Cand example illustrates how decision-making at critical times is diffused over too many centres of authority. This is not ideal for matters pertaining to state security, intelligence and terrorism. In the same vein, it may not be too far-fetched to suggest, as POTA omits to do, that, where the investigation into a terrorism case has been completed and a decision taken for prosecution, a fast-tracked hearing would be commendable,

THE CORE LEGISLATIONS ON TERRORISM IN MAURITIUS

Basically, the core enactments dealing directly with terrorism in Mauritian law are the first five given below. The rest are cognate to the terrorism law.

- The Prevention of Terrorism Act 2002
- The Prevention of Terrorism (Denial of Bail) Act 2002
- The Constitution of Mauritius (Amendment) Act 2002
- The Prevention of Terrorism (Special Measures) Regulations (GN 14 of 2002)
- The Prevention of Terrorism (Special Measures) Regulations (GN 36 of 2002)
- The Dangerous Drugs Act 2000
- The Prevention of Corruption Act 2002
- The Financial Intelligence and Anti-Money Laundering Act 2002
- The Mutual Legal Assistance in Criminal and Related Matters 2003

An overview of POTA, the principal Act is given in what follows.

THE PREVENTION OF TERRORISM ACT 2002 (POTA)

The object of the Act is to empower the Mauritian legal system to deal adequately with the phenomenon of terrorism. The Act makes provision for the prevention, suppression and combating of terrorism. It creates new offences in the Mauritian criminal law relating to terrorism. It introduces measures with a view to gathering intelligence, carrying out investigations and ensuring enforcement in the matter. It provides for mechanisms of cooperation with foreign jurisdictions. At the same time, it seeks to implement the international commitments of Mauritius in respect of terrorism.

As yet, there is no universally acceptable definition of terrorism. The UN does not define terrorism and has left it to the individual states to arrive at their own definitions. The question is, however, how does one define terrorism? Various jurisdictions have adopted various definitions, but still a definition that finds unanimity or quasi-unanimity has been hard to find. Most definitions have introduced a motive of 'ideological, political or religious cause' into the meaning. Mauritius, on the other hand, decided not to introduce a motive into its definition of the act of terrorism. The Patriot Act (United States) defines terrorism as 'the premeditated, politically motivated violence perpetrated against noncombatant targets by subnational groups or clandestine agents, usually intended to influence an audience'. To the Commission on Human Rights, by contrast, motivation is immaterial in what constitutes terrorism. As such, Resolution 1997/42 of April 1997, condemns -

> "[A]ll acts, methods and practices of terrorism, regardless of their motivation, in all [their] forms and manifestations, wherever and by whomever committed, as acts of aggression aimed at the destruction of human rights, fundamental freedoms and democracy, threatening territorial integrity, security of States, destabilizing legitimately constituted Governments, undermining pluralistic civil society and having adverse consequences for the economic and social development of States."

For the Mauritian legislators, searching for a definition with reference to a motive meant wrestling or tinkering with the freedom of conscience of the citizens guaranteed by the constitution. What was permissible in 'ideological', 'religious' or 'political' pursuits and what was not? The Mauritian law, accordingly, decided to move away from any value judgement on that score. It considered that there may be some truth in the adage 'One man's terrorist is another man's freedom fighter' when one considers that some states indulge in terrorism as much as their citizens do.

POTA does not define terrorism as such any more than the Mauritian Criminal Code defines murder. However, section 2 refers to section 3 which defines an act of terrorism to the same extent that the criminal code defines what constitutes murder.

Thus, the formulation that obtained consensus was that an 'act of terrorism' means an act which -

- may seriously damage a country or an international organisation, and
- 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 organization; or
  - otherwise influence such government or international organization; and
- involves or causes, as the case may be,
  - attacks upon a person's life which may cause death;
  - attacks upon the physical integrity of a person;
  - kidnapping of a person;
  - extensive destruction to a government or public facility, a transport system, an infrastructure facility, including an information system, a fixed platform located on the continental shelf, a public place or private property, likely to endanger human life or result in major economic loss
  - the seizure of an aircraft, a ship or other means of public or goods transport;
  - the manufacture, possession, acquisition, transport, supply or use of weapons, explosives or of nuclear, biological or chemical weapons, as well as research into, and development of, biological and chemical weapons;
  - the release of a dangerous substance, or causing of fires, explosions or floods, the effect of which is to endanger human life;
  - interference with or disruption of the supply of water, power or any other fundamental natural resource, the effect of which is to endanger life.

There have been a number of public misinterpretations of the law by professionals, politicians and the lay alike. In this regard, the existence of the two conjunctives 'and' must be noted.

There will be no offence unless and until all three limbs existing in paragraphs (a), (b) and (c) have been fully satisfied. There is no offence under the Act where the stipulations of only one paragraph or one subparagraph

are satisfied. An interpretation which would have it that one commits a terrorist act where one causes an 'interference with or disruption of the supply of water, power or any other fundamental natural resource, the effect of which is to endanger life' is plainly perverse. It would be equally perverse to say that the offence of terrorism is committed where there is -

- an attack upon a person's life which may cause death, or
- an attack upon the physical integrity of a person, or
- the kidnapping of a person, or
- extensive destruction to a government or public facility, transport system, an infrastructure facility, including an information system, a fixed platform located on the continental shelf, a public place or private property, likely to endanger human life or result in major economic loss, or,
- the seizure of an aircraft, a ship or other means of public or goods transport, or
- the manufacture, possession, acquisition, transport, supply or use of weapons, explosives or of nuclear, biological or chemical weapons, as well as research into, and development of, biological and chemical weapons, or
- the release of a dangerous substance, or causing of fires, explosions or floods, the effect of which is to endanger human life.

AN OVERVIEW OF POTA OFFENCES

Section 2 is the interpretation section dealing, inter alia, with the critical definitions such as act of terrorism, banks and financial institutions, proscribed organisations, terrorist investigation, terrorist property, and so forth.

Profound consideration has been given to the definitions so as to prevent arbitrary interpretations of those and other keywords and phrases.

Part 2 deals with acts of terrorism and all related offences. Section 3 establishes the nature of the offence of acts of terrorism. Section 4 sets out the judicial procedure required for the proscription of organisations and section 5 details the offences related to terrorist meetings, while offences related to supporting terrorist acts and organisations are formulated in section 6. The harbouring of terrorists is also an offence under section 7. Under section 8 the Act imposes a duty on persons to disclose information related to terrorism. The offence of obstructing a terrorist investigation is set out in section 9, while section 12 deals with the offence of taking hostages. International terrorism and suppressing the financing of terrorism are dealt with under sections 11 and 12.

Part 3 deals with terrorist cash and terrorist property. Section 13 sets out the procedure for seizure and detention of terrorist cash. Section 14 creates a set of offences

related to terrorist funding and solicitation, while section 15 describes the offence of dealing in terrorist property. Section 16 provides for the attachment of terrorist property. Provisions for tracking terrorist property are found in section 17.

Originally, Part 4 of POTA dealt with mutual legal assistance and extradition. While section 18 dealt with the procedure regulating requests from foreign states, section 19 regulated procedure for requests to foreign states. The type of evidence that may be required was dealt with under section 20. The form in which requests may be made was provided for under section 21. Section 22 dealt with the matter of extradition which is now covered in the dedicated Act, the MLA 2003 so that Part 4 in its entirely has now become obsolete.

Part 5 covers the investigatory process. Section 23 confers the power of search and seizure upon a police officer not below the rank of superintendent who applies to a district magistrate for the issue of a warrant to start a terrorist investigation. Derogation from this judicial authorisation is possible only in a case of urgency, as per section 24. Section 25 empowers the Prime Minister to give such directions as appear necessary to communication service providers for the prevention and detection of offences under the Act. The detention of aircraft or vessels is made possible under section 26 in case of a threat of violence against the aircraft or vessel or against any person concerned therewith. Section 27 empowers a police officer not below the rank of superintendent to detain a person arrested under reasonable suspicion of committing an offence of terrorism for a period not exceeding 36 hours, with limited access to police inspectors or higher officers and government medical officers. Section 28 sets the conditions for such detention, providing that custody records and video recordings be kept for the duration of the custody.

Part 6 deals with the matter of prosecution. Section 29 stipulates that no prosecution for any offence under the Act may be instituted except by and with the consent of the director of public prosecutions. Offences under the Act are given extraterritorial jurisdiction under section 30, with, according to section 31, the competent court being a judge without a jury for the serious offences, and the lower courts being used for the others. The penalties range from imprisonment not exceeding 35 years to fines for lesser offences, according to section 32.

Part 7 deals with miscellaneous provisions. Section 33 allows the minister to make regulations for the purposes of the Act. Section 34 provides for the consequential amendments and section 35 is the commencement section.

It is worth noting that the Act preserves all the powers of the various institutions, which have been left

untouched by the Mauritian Prevention of Terrorism Act 2002. For instance:

- No prosecution under the Act would be possible without the DPP's fiat or authority.
- Police have not been given power to detain without charge, as in other jurisdictions.
- There is no incommunicado regime except for the restricted access limited to 36 hours, which, in any case, also applies to serious drug-dealing offences.
- Police may only issue warrants with judicial authority, except in cases of emergency and on reasonable suspicion, as in the ordinary cases.

However, it is possible for Mauritius to invoke the constitutionally admissible 'Exceptional Measures' clause. Preserving democratic institutions has never been as desperate as it is today; even human rights conventions are interpreted with terrorist realities in mind and states are permitted to opt for exceptional measures 'necessary in a democratic state…proportionate to the legitimate aim pursued'.[51] In the case of *Murray v the United Kingdom (1994) 19 EHRR*, the court, referring to the interpretation of terrorist law, saw

> "no reason for departing from the general approach it had adopted in previous cases of a similar nature. Accordingly, for the purposes of interpreting and applying the relevant provisions of the Convention, due account will be taken of the special nature of terrorist crime, the threat it poses to democratic society and the exigencies of dealing with it."

In the same case, describing the degree of suspicion required for a lawful arrest, the European Court on Human Rights remarked that:

> "Terrorist crime falls into a special category. Because of the attendant risk of loss of life and human suffering, the police are obliged to act with utmost urgency in following all information, including information from secret sources. [I]n view of the difficulties inherent in the investigation and prosecution of terrorist-type offences…the 'reasonableness' of the suspicion justifying such arrests cannot always be judged according to the same standards as are applied in dealing with conventional crime."

The Court added that:

> "certainly Article 5 para. 1 (c) of the Convention should not be applied in such a manner as to put disproportionate difficulties in the way of the police

authorities of the Contracting States in taking effective measures to counter organized terrorism."

Mauritius has never opted for exceptional measures. Unlike other jurisdictions, such as the UK, US, Singapore and Canada, Mauritius prefers to conceive of a counterterrorism law in its conventional system. Section 24 of POTA provides for a case of emergency where a warrant by a judicial officer may not be required. However, that is neither exceptional nor alarming. It does not alter anything in pre-existing criminal law. All that it does is reproduce the law to apply to cases of emergency concerning terrorism.[52]

Regarding suspect detention, the Commission on Human Rights decided, in the cases of *X v The Netherlands (Yearbook Convention 1966)* and *X v Belgium* that, account having been taken of 'the special problems associated with the investigation of terrorist offences, a somewhat longer period of detention than in normal cases was justified'.[53] In that case, just over four days was declared acceptable but not more than five days. Compared with those of other countries, the Mauritian provision is hardly an incommunicado regime. It is basically a 36-hour restricted access regime where only an officer not below the rank of inspector or a government medical officer is allowed access to the detainee. The exercise of this power of detention is conferred upon a police officer not below the rank of a superintendent to enable investigation to proceed unhampered. The defendant's detention is not covert; the statute requires continuous filming of his detention. There is a duty to keep a complete film of the detention of the suspect from the time of his arrest to the time of his appearance in court in the case of an incommunicado detention.

Special measures by way of Regulations have been made pursuant to section 6 (2), 10 (6) and 33 of POTA. For the purposes of a proper administration of these sections, the above Regulations define(s) 'funds', 'international terrorist group', 'listed terrorist', 'suspected international terrorist' and so on. The regulations give powers to the central bank or the Commission on Human Rights to direct that any account, property or funds held by financial institutions under the relevant statutory authority on behalf of any listed terrorist be frozen and a report be made in such form and manner as the bank or Commission thinks fit.[54] The regulations also detail a number of other offences: Regulations 7 and 8 focus on dealing, directly or indirectly, with the property of a listed terrorist . Other regulations prohibit any owner or master of a Mauritian ship or operator of any aircraft to carry, cause or permit any arms, weapons, ammunitions, military vehicles and equipment, paramilitary equipment, and so forth to be carried.

A dedicated law for mutual legal assistance would enhance the combating of transnational crime, including terrorism. It is heartening to see that this has been done. The new Mutual Assistance in Criminal and Legal Matters law (2003) makes the attorney general the central authority for requesting and receiving mutual legal assistance from foreign states. It provides detailed particulars that may be sought and obtained. Indeed, most of the previous inadequacies have been attended to in the new act.

SUGGESTIONS

Mauritius complies with its obligations to enact laws imposed by UNSCR 1373 and the related resolutions. Only nuclear matters have not been incorporated in Mauritian legislation because they are basically not of concern to Mauritius. A proposal in 2002 for new comprehensive legislation on mutual legal assistance has been realised with the 2003 Act, which includes all the proposed material and goes even further towards enhancing Mauritius' international image and capacity to deal with counter-terrorism law and establish a commitment to the rule of law. The new law on mutual legal assistance includes matters of court procedure, taking of depositions, sufficiency of evidence, and so on. It is suggested, however, that the courts further develop the following:

- Some protocol on judicial cooperation which is distinct from legal cooperation;
- A law covering civil and criminal property restraint orders, so that in all matters of serious crime, not limited to terrorism, timely action may be possible so that criminals are not seen to be benefiting from their crimes;
- Clarifying legislation regarding the use of nuclear weapons and cyber-terrorism because, even if Mauritius is little concerned with such matters, it may provide a safe haven for offenders;
- A revised version of the out-dated extradition law;

As regards the African region, the following are suggested:

- The one-size fits all conception and promulgation of terrorism law, or any other law for that matter, is unrealistic;
- The Mauritian approach, experience and models of law may assist in the preparation of a better fit for the African region than the European or US fit, even if much can be learned from those examples;
- The conception of a typically African and country-tailored terrorism law to suit each particular African country is not such a formidable proposition and should be embarked upon;

- A serious exercise should be conducted to produce an African model which may be adapted, but not adopted, for each African country that lacks a terrorism law.

As regards legal management, it is suggested that:

- A subregional, regional or international network of intelligence, surveillance and data collection be set up for more effective investigative, legal and judicial cooperation.
- A preventive programme be encouraged, which starts teaching children in schools to resolve disputes by non-violent democratic methods. Terrorists are programmed from an early age; such a programme may re-programme them before it is too late.
- The concept of ADR (appropriate dispute resolution) systems be introduced in our educational, social, legal and judicial systems to bring informal dispute settlement methods into our formal state structures.

As regards the inculcation of a culture of the rule of law, it is suggested that:

- The Rome Statute be translated and contextualised to demonstrate that the international attitude to genocide and crimes against humanity has changed.
- Tools and training[55] be dispensed so that people generally recognise the basic human values of human rights, liberal democracy, and peace and security.
- These values should be 'taught at the top' so that they trickle down to the lower levels. Too often, political leaders, officials and decision makers in institutions are not perceived as walking their talk. Micro and macro systems should be in place so that these values become a culture across the country.
- The civil society be involved in transforming cultural attitudes to non-violent, democratic dispute resolution.
- International, regional, subregional and domestic programmes be developed with tool kits for transmitting the message that civilization is a social order promoting cultural creation, human development and the embellishment of life, not the negation and destruction of it. Law helps. However, good laws do not necessarily make good governments: bad laws do not necessarily make bad governments, and the absence of laws does not necessarily make the absence of government.

NOTES

1   Gani Yoroms, Defining and mapping threats of terrorism in Africa, in Wafula Okumu and Anneli Botha (eds), *Understanding*

Terrorism in Africa: In Search for an African Voice, Pretoria: Institute for Security Studies, November 2006, p.3.

2   Ibid.

3   I happened to be the Parliamentary Counsel, directly responsible for the drafting when in 2002 the law was discussed, drafted, approved by Cabinet, passed by the legislature and finally proclaimed.

4   See Alamin M Mazrui, Africa's role on America's 'war on terrorism: Some political implications, in Wafulu Okumu and Anneli Botha (eds), ibid, , p. 67. Mazrui quotes Smith Hempstone who claims that, 'Western democracy is not going to work in Africa.' This 'is profoundly racist to suggest that democracy is impossible in Africa.'

5   See Wafula Okumu and Anneli Botha (eds), *Understanding Terrorism in Africa: In Search of an African Voice.*

6   Salim Lone, Terrorism, media and the search for an African voice, in Wafula Okumu and Anneli Botha (eds), *Understanding Terrorism in Africa: In search for an African Voice, ibid.* p. 123.

7   Annette Hübschle, The T-Word: Conceptualising Terrorism, *ISS Paper*, 01 October 2006. Web link: www.issafrica.org/static/templates/tmpl_html.php?node_id=2272&slink_id=4491&slink_type=12&link_id=32.

8   The Law Society of Kenya, reviewing official action against terrorism in the wake of the Kikambala attack in 2002, concluded that '[T]he government has…[c]ommitted grave and serious human rights abuses in the name of fighting terror.' See George Kegoro, The effects of counter-terrorism measures on human rights: The experiences of East African countries, in and Wafula Okumu and Anneli Botha (eds), ibid. *p.* 54.

9   'In both North and sub-Saharan Africa, the lack of effective rule of law and the absence of trust in law enforcement agencies have been classic features of nation-states since independence.' See Abdel Aziz Shady, The impact of terrorism and counter-terrorism strategy in Africa on leadership, governance and democracy, in Wafula Okumu and Anneli Botha (eds), ibid. p. 45. See also Mike C Hurley, 'Building partnerships with the United States in combating terrorism,' in Wafula Okumu and Anneli Botha (eds), ibid. *p.* 82; who points out that '(O)ur most important task in the war against terrorism is not the "destructive" task of eradicating enemy networks, but the "constructive" task of building legitimacy, good governance, trust, prosperity, tolerance, and the rule of law.'

10   Section 10 (1) of the Constitution of Mauritius 1968.

11   Communities organize themselves around the faith they practice. *Sabhas* and Temples are for the Hindus, *madrassa* for the Muslims, synagogues for the Jewish, Temples for Buddhists and Churches for the Christians

12   In order to ensure a fair and adequate representation of each community, there shall be eight seats in the Assembly, additional to the 62 seats for members representing constituencies, which shall so far as is possible be allocated to persons belonging to parties who have stood as candidates for election as members at the general election but have not been returned as members to represent constituencies. The first four of the eight seats shall, so far as is possible, each be allocated to the most successful unreturned candidate, if any, who is a member of a party and who belongs to the appropriate community, regardless of which party he belongs to.

13   Hurley, Building partnerships with the United States in combating terrorism, ibid.

14   Paul Mugamba, Judging Terrorist cases, in Wafula Okumu and Anneli Botha (eds), *Understanding Terrorism in Africa: In Search for an African Voice,* ibid. p. 117.

15   Section 81, Constitution of Mauritius 1968.

16   Section 10, Constitution of Mauritius, 1968.

17   Sections of the Mauritian Criminal Code exist in their French version with translation in English. It was decided in the case of *R v Mirza 1891* MR 9 that since both versions had been approved by the Crown, each legal text had equal standing. However, where problems of interpretation arise, it is the French text that should be relied on for reaching a solution: *Procureur-Général v Mérandon* 1902 MR 107.

18   Section 5(1)(e), Constitution of Mauritius.

19   Section 27, District and Intermediate Courts (Criminal Jurisdiction) Act 35 of 1888.

20   "[T]rial" includes any enquiry, hearing or other proceeding in any court or before any person having by law or by consent or parties authority to hear, receive or examine evidence (see *Courts Act* 5 of 1945, section 161).

21   District and Intermediate Courts (Criminal Jurisdiction) Act 35 of 1888, section 16.

22   *Criminal Procedure Act 29 of 1853,*section 107.

23   *Courts Act*, ibid. section 181E.

24   ESAAMLG stands for "Eastern and Southern Africa Anti Money Laundering Group concerned with the combat of Money Laundering and Financing of Terrorism in member countries of the stated region.

25   Anneli Botha, 'Africa's vulnerability to terrorism and how to combat it,' in Wafula Okumu and Anneli Botha (eds), *Understanding Terrorism in Africa: In Search for an African Voice,* ibid. p. 23.

26   Anton du Plessis, 'The Role of the United Nations Office on Drugs and Crime in Building Counter-terrorism Capacity in Africa,' in Wafula Okumu and Anneli Botha (eds), *Understanding terrorism in Africa: In Search for an African Voice,* ibid. p. 85.

27   Paul Mugamba, 'Judging terrorist cases,' ibid.

28   In the absence of any text proposed, it is difficult to sound the mind of the President. However, it would appear that he was unhappy about the manner in which certain organisations would be proscribed and the latitude given in the Act to the Western powers to do as they pleased.

29   The Explanatory Memorandum to the Prevention of Terrorism Bill 2002.

30   See Baljit Singh and Ko-Wang Mei, *Theory and Practice of Modern Guerrilla Warfare,* London Asia Publishing House, 1971.

31   Joseph Kechichinian, Terrorism and the search for power, in A Gauhar (ed), *Third World Affair* 1988, p. 56. Quoted in Wafula Okumu and Anneli Botha (eds), in *Understanding Terrorism in Africa: In Search for an African Voice,* ibid. p. 74.

32   Philip Jenkins, *Images of Terror,* New York: Aldine de Gruyter, 2003.

33 This hypothetical case is based on ground reality.

34 *Prevention of Terrorism Act* 2002, section 2 reads 'means (a) the commission, preparation or instigation of an act of terrorism or any other offence under this Act; (b) any act or omission reasonably suspected to have been done for an act of terrorism or any other offence under this Act; (c) the resources of a proscribed organization.'

35 See Cedric Mayson, Engaging religious communities and building partnerships, Quoted in Wafula Okumu and Anneli Botha (eds), in *Understanding terrorism in Africa: In search for an African Voice,* ibid. p. 77-78. 'Terrorism from top…terrorism from bottom. Both have happened throughout history. The Inquisition, priest-holes, the persecution of Galileo, slavery, Peterloo, the Indian Mutiny, Amritsar, Nazism, Stalinism, McCathyism, Thatcher, Reagan, Idi Amin and PW Botha have all fouled the pages of history with terror, hunger and blood' and 'They crucified him (Jesus of Nazareth) as a terrorist.'

36 This aspect has been commented upon by the United Nations Committee as not adequate enough.

37 'Bank' '(a) has the same meaning as in the Banking Act; and (b) includes (i) any person engaged in deposit-taking business and authorised to do so under the Banking Act; and (ii) any person who carries on any business or activity regulated by the Bank of Mauritius.'

38 Originally sections 18–24 of POTA, which have been repealed by the 2003 Act, see Proclamation 29 of 2003.

39 *Bank of Mauritius Act* 34 of 2004, section 5.

40 *Bank of Mauritius Act*, ibid. section 20.

41 *Trusts Act 2001 14 of 2001*, section 4.

42 *Trusts Act 2001*, ibid. section 5.

43 *Trusts Act 2001*, section 55.

44 Section 2 of the Prevention of Terrorism Act 2002 provides that a proscribed organisation: '(a) means an organisation which has been declared to be a proscribed organisation under section 4; and (b) includes a group which has been declared to be an international terrorist group under section 10.'

45 'It is not logical to fight terrorism by depriving people of their human rights.' Shady, The impact of terrorism and counter-terrorism strategy in Africa on leadership, governance and democracy, 48.

46 Except in the case of international terrorist persons or groups.

47 Cf with regimes in United Kingdom, Canada, Singapore, India.

48 'Each State party to the present covenant undertakes to ensure that any person whose rights or freedoms as herein recognized are violated shall have an effective remedy, notwithstanding that the violation has been committed by persons acting in an official capacity.' United Nations, International Covenant on Civil and Political Rights, Article. 2 (3) (a).

49 Section 25 of Prevention of Terrorism Act 2002.

50 The Constitution of Mauritius section 12 guarantees the freedom from interference with correspondence.

51 *Chormerr v Austria* [1994] 17 EHRR 358,1994.

52 See, for example, sections 13F and 14 of the Police Act 19 of 1974, which empower an assistant superintendent to take comparable actions. See also sections 16 and 17 of the Official Secrets Act 13 of 1972.

53 Admissibility Application No 2894/6; see also Application No 4960/71, X v. Belgium, Collection of Decisions, 42, 54–55,1973.

54 Regulations 3 and 4 published in Government Notice 14 of 2003 and 36 of 2003.

55 Training personnel to combat terrorism is a vital component of the strategy. See Donovan C Chau, The price of counter-terrorism in Africa, fool's gold or genuine gold, in Wafula Okumu and Anneli Botha (eds), in *Understanding Terrorism in Africa: In Search for an African Voice*, p. 59.

The media and domestic terrorism in Africa

Ruby Nusienyo Amable

INTRODUCTION

The menace of terrorism has become a major policy issue for many countries in recent years. Apart from the terrorist attacks on the United States in September 2001, other high profile incidents, such as the Madrid train bombing of 2003 and the London transit system attacks of 2005, have made terrorism a major global issue. In particular, as a result of the 'war on terror' declared by the US president, George Bush, there has been much scholarly work and debate on the implications of terrorism for national policy, human security and the role of various domestic actors in securing their countries against the threat of terrorist attacks. In the context of Africa, the terrorist attacks in Kenya and Tanzania as well as reported incursions of terrorist groups, especially into the Horn of Africa, and the potential for these groups to spread their activities into other parts of the continent have made the issue of terrorism and the need to be prepared for any attacks a major consideration for many governments.

The focus of this paper is to explore domestic terrorism in the context of West Africa and to examine the role of the media in helping to reduce the threat posed by domestic terrorism. The paper also proposes that domestic terrorism be accorded similar, if not the same, publicity and attention as international terrorism. It first provides a brief overview of terrorism and the related unrest in West Africa. The second part of the paper dwells on the media and its role in combating terrorism.

TERRORISM IN THE CONTEXT OF AFRICA

As a working definition, terrorism can be described as the premeditated use or threat of use of extra normal violence or brutality by sub national groups to obtain a political,

religious or ideological objective through intimidation of a huge audience, usually not directly involved with the policymaking that the terrorists seek to influence. Using such a broad definition allows one to examine the modus operandi of terrorists and the impact of their activities. It also suggests that terrorist attacks are largely indiscriminate in terms of their targets as well as the colossal damage they can cause to innocent civilian populations, public spaces and places.[1]

As clearly demonstrated by the US, Madrid and London attacks, perpetrators of terrorist attacks ensure that their targets appear to be random so that everyone feels at risk. As argued by Cilliers,

> [W]hat makes terrorism so fearsome is that attacks are often directed at a group, people or symbol that may not be directly linked to their real target, often a government, system, practice or ideology. It threatens all of us. In the process those that suffer injury and death are generally innocent bystanders.[2]

The fact that terrorist activities always affect innocent people more underscores that terrorism violates the principle of discrimination, which declares the immunity of non-combatants from direct attack. Unlike conventional warfare, which is primarily directed against combatants or military targets, the main targets of terrorists are the civilian population. How then does the global resurgence of terrorism relate to domestic terrorism, especially in the context of West Africa? And why should this be a focus for scholarly as well as public policy attention? The rest of the paper will attempt to address these issues.

Like the rest of Africa, violent destruction of civilian life and property, which can be broadly categorised as domestic terrorism, is not new to the West African sub

region. The region as a whole has been affected by a range of ethno-nationalist and religious conflicts, a number of which have been accompanied by highly destructive campaigns of terrorism. These include the Tuareg insurgence in Mali, unrest in Senegal's Cassamance region, and conflicts in Liberia, Sierra Leone, Cote d'Ivoire and the oil regions of Nigeria. A close study of almost all these conflicts shows a common trend of disaffected groups and individuals employing various illegitimate and violent means to kill and maim innocent people as a means of drawing attention to themselves and their grievances.

The region has been, and is still, a minefield of conflicts despite the current apparent calm and ceasefire or return to constitutionalism in countries like Sierra Leone, Liberia and Cote d'Ivoire. It is a region which, as elsewhere in the continent, is dogged by poverty, HIV/AIDS, malaria and other health-related issues. In particular, lax national security, porous borders, and the increasing incidence of drug trafficking and the growth of what Duffield calls West Africa's 'transborder shadow economics' make the region susceptible to various criminal gangs.[3] These and other national and institutional weaknesses provide an environment which is highly conducive to political violence and extremism, breeding terrorism and providing terrorists for hire.

Last but not the least, the region's growing importance as a global energy source also makes it attractive to all kinds of national and transnational actors, including terrorist groups. In fact, there are probably more studies and commentaries on resource conflicts, or what has become known as 'the resource curse', in West Africa than elsewhere on the African continent.[4]

THE CASE OF GHANA: AN OASIS OF PEACE IN A TURBULENT REGION OR A TIME BOMB?

While Ghana has been spared the large-scale and fully-blown civil conflicts which have affected most of its neighbours and is largely seen as a stable and peaceful country in a conflict-prone and unstable region, the country has had its share of conflict. A disturbing trend in recent years is the eruption of chieftaincy-related and interethnic conflicts.

In a recent study entitled 'Identities, inequalities and conflicts in Ghana', two leading Ghanaian academics argue that, while Ghana has not experienced a major conflict similar to its neighbours, the country may not be entirely immune from such violent conflicts.[5] They catalogue a number of minor conflicts which have the potential of disturbing the relative peace and stability the country has enjoyed if the root causes of such conflicts are not identified and addressed. In particular, the writers cite

interethnic conflicts, mostly centred on control over land and other resources and sovereignty issues; intra-ethnic conflicts around land ownership, competing uses of land and the locating of institutions and services; chieftaincy succession, and conflicts between state institutions, such as the police and communities over policing and law and order issues arising from communal conflicts and interpersonal disputes.

Many scholars see poverty, which has resulted mainly from the unequal distribution of state resources, as a major source of violent conflicts in the developing world.[6] According to such analyses, inequalities tend to arise principally out of differences in economic development and, to some extent, endowment in natural resources. The failure of policy-makers to ensure that every part of the country receives a fair share of development projects has resulted in many instances in local agitations, which, if not tactfully handled, can result in civil unrest, public disaffection and the destabilisation of constituted authority..

In the case of Ghana, Tsikata and Seini argue that a glaring pattern of inequality manifests itself in the north-south dichotomy in development.[7] According to them, a number of studies have emphasised the broad disparity between the north and the south of the country in terms of levels of economic development and the general quality of life resulting in the relative backwardness of northern Ghana in relation to southern Ghana. Whereas this major divide has never generated overt conflict in Ghana, in their estimation it is possible to identify different categories of continuous conflict, some of it violent.

WHAT ROLE FOR THE MEDIA?

In response to the worldwide resurgence of terrorism and in the wake of the Bush administration's declared 'war on terror', many governments, both in advanced and developing countries, have put in place policy measures to address the menace. These have ranged from the promulgation of counter-terrorism legislations to the tightening up of immigration rules as well as stiff punishment for suspected terrorists. In the West African region, within the context of the sub regional body, the Economic Community of West African States (ECOWAS), various governments have developed strategies to deal with the numerous conflicts which have the potential of destabilising the region. Such measures have brought some level of normality to places like Liberia and Sierra Leone, resulting in the restoration of democratic governance. Various states in the region have also gone ahead to enact legislations and initiate policies aimed at fighting the phenomenon, while civil society and other non-state actors have also been playing their part to ensure that conflicts

and other situations that have the potential to threaten security are curbed.

It is essential that the efforts of governments receive the support of all agents and institutions necessary for democracy, good governance and accountability. This places the media at the centre of bringing to the fore the issue of terrorism, while simultaneously ensuring adherence to democratic tenets and respect for the people's rights by keeping the citizenry informed and educated on terrorism, its affect on them and their role in stemming it. The media, besides its traditional roles of educating, informing and entertaining, has the responsibility of being the watchman and custodian of the historical records of all countries, especially of those that subscribe to the tenets of democracy, freedom of speech and expression. It also has the mandate to report accurately, and the professional integrity of its practitioners must be totally reliable.

The African media in general has had a chequered history in the post-independence era, largely as a result of clampdowns by successive repressive and authoritarian post-independence governments. However, since the restoration of constitutional and multiparty rule in many countries, beginning in the 1990s, the media has experienced unprecedented freedom and is now able to reassert itself.[8] In Ghana, the dawn of a new democratic dispensation in the early 1990s coincided with the emergence of unprecedented pluralistic media within the country's political landscape. The new constitution promulgated in 1992 provides for the freedom of the media and for an independent institution to safeguard media freedom. Chapter 12 of the constitution deals with the creation of an independent National Media Commission, whose main objects are (i) 'to promote and ensure the freedom and independence of the media for mass communication or information' and (ii) 'to take all appropriate measures to ensure the establishment and maintenance of the highest journalistic standards in the mass media, including the investigation, mediation and settlement of complaints made against or by the press or other mass media'. The National Media Commission Act was passed by parliament in 1993. In a nutshell, the Ghanaian media has the constitutional mandate in the country's current democratic dispensation to carry out its functions. It is, therefore, expected that the media not only hold policy-makers accountable to the electorate, but also ensure that the public interest is served by the performance of their various functions as the fourth estate of the realm.

In terms of media coverage of domestic terrorism, my own investigations show that not only are the various media houses uninformed about the threats of domestic terrorism, but they are ill-equipped to deal with domestic terrorism. During my research for this article, I decided to speak to some of my colleagues in the media to determine their perception of the war on terror and domestic terrorism in particular. Unsurprisingly, the response I got from many showed that many media practitioners perceive terrorism as something remotely related to Ghana. To most of them, terrorism has more to do with America, Europe and Iraq. Most people also believe that terrorism is a foreign thing and it is about Osama bin Laden. Based on such perceptions, it is no wonder that a close scrutiny of the media coverage of terrorism shows that, besides occasional opinion articles and interviews with security experts, the Ghanaian media has rarely covered terrorism and largely perceives of terror or terrorism in the light of the 9/11 attacks and others thereafter. Little or no effort is made to domesticate the debate on terrorism and inform the populace of the fact that no nation is immune to it.

The situation is made worse by a reliance on the Western media for news about Africa and, for that matter, the region. Thus events in the region are seen through the lens of the international media, which, as rightly observed by Minear, Scott and Weiss in *The news media, civil war, and humanitarian action*, gave little or no news regarding the conflict in Liberia even at the peak of its carnage.[9]

Considering that the war on terror is not a conventional war and that information and/or communication is essential in confronting this phenomenon, there is no gainsaying that the media has a significant role to play if this war is to be won. Besides fulfilling its traditional functions, the media must create a platform for the two-way sharing of information. It is also important for it to play its watchdog role to ensure that rogue governments do not hide behind perceived threats of terrorism to infringe on people's rights.

The media would have to be proactive to remove perceptions that the war on terror is a foreign thing. It has to move from mere news reporting to interpretation and engendering public discourse on the phenomenon, while ensuring that it does not lend itself to exploitation for devious ends.

I believe that the time is now for the media in Africa to rise to the challenge, especially in the emerging freedom it has gained in most countries on the continent, to study the situations which make countries vulnerable to terrorism, domesticate the issues and further explore the important role it can play in the fight against terrorism. In doing so, it would have to eschew all forms of bias and sensationalism, while ensuring that public interest and security are not always overridden by the profit motive.

NOTES

1   B Lutz and J Lutz, Terrorism, in A Collins (ed), *Contemporary security studies,* Oxford, New York: Oxford University Press, 2007.

2   J Cilliers, 'Terrorism and Africa,' *African Security Review* 12(4) (2003).

3   M Duffield, *Global governance and the new wars: The merging of development and security,* New York: Zed Books, 2001.

4   C Obi, *Re-examining the root of war in West Africa in a globalizing world,* Ashok Swain, Ramses Amer and Joakim Öjendal (eds.), *Globalisation and Challenges to Peace Building,* London, New York, Delhi: Anthem Press, 2007.

C Tshitereke, On the origins of war in Africa, *African Security Review* 12(2) (2003).

5   D Tsikata and W Seini, Identities, inequality and conflicts in Ghana, *CRISE Working Papers 5,* (pp 3-5, 46- 48), Queen Elizabeth House, 2004.

6   F Stewart, Horizontal inequalities: A neglected dimension of development, *CRISE Working Papers (1).* (Oct. 2003), pp.1-39, Queen Elizabeth House, 2001; F Stewart, Development and security, *CRISE Working Papers 3.* (May 2004), pp.1-28, Queen Elizabeth House; and C Thomas, *Global governance, development and human security: The challenge of poverty and inequality,* London: Pluto, 2000.

7   Tsikata and Seini, Identities, inequality and conflicts in Ghana.

8   I A Blackson, Re-examining civil society in emerging sub Sahara African democracies: The state, the media, and the public in Ghana, *Global Media Journal,* 1(1) (2002).

9   L Minear, C Scott, Thomas G Weiss (ed), *The news media, civil war, and humanitarian action,* Boulder: Lynne Rienner Publishers, 1996.

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