



INITIATIVES AGAINST TERRORISM IN SOUTHERN AFRICA

Implications for human rights

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The events that occurred on 11 September 2001 in two of the largest urban centres in the US, and subsequent developments, have brought to the fore the lingering friction between tolerable action against terrorism and the sustainability of human rights observance. It remains somewhat unfortunate that old debates around enduring concepts and controversial issues persist. The most recent African multilateral initiative is the 1999 Algiers Convention which attempts to reconcile these often conflicting policy objectives.

Introduction

As is the case with human rights, the subject of terrorism is of more than academic interest in Africa. Terrorism has claimed tens of thousands of lives during the 1990s. Among the more gruesome episodes are the series of violent attacks in Algeria, the assassination attempt on Egyptian president Hosni Mubarak in Addis Ababa in 1995, the massacre of 58 foreign tourists and four Egyptians in Luxor, Egypt, in November 1997, the simultaneous attacks against the two embassies of the US in Nairobi and Dar es Salaam in August 1998, and the unsuccessful attempts to destroy another embassy in Kampala. Many have come to

regard the bombings of the embassies of the US in Dar es Salaam and Nairobi as a dress rehearsal of the events of 11 September 2001. Terrorism struck Kenya again at the close of 2002 when a suicide bomb destroyed a popular tourist hotel in coastal Mombasa. Almost simultaneously, an attempt was made to shoot down a civilian aircraft taking off from the airport nearby. In South Africa, right-wing extremists were linked to the sabotage of a commuter railway, which led to a single fatality.

In the post-Cold War period, the threat of terrorism has been magnified by the potential accessibility of weapons of mass destruction, including nuclear, chemical and biological weapons. It has been contended in

various fora that greater access to technology, at a time when control over nuclear and other weapons of mass destruction is perceived to be weak, could place substantial destructive power in the hands of terrorist groups. There is an ominous link between terrorism and organised crime syndicates. As has been demonstrated in Mozambique and Angola, the same networks at the heart of arms trafficking, mercenaries, drug trafficking, illegal human trafficking and money laundering often provide the means for terrorism. Retrenched functionaries from the erstwhile covert state-run networks are known to be engaged in transport, training, provision of arms and equipment, and money laundering connected with conflict resources and terrorism.

The history of formalised multinational anti-terrorism campaigns in Africa can be traced to an Organisation of African Unity (OAU) resolution adopted in Dakar in 1992. The Assembly of Heads of State and Government resolved [AHG/Res. 213 (XXVIII)] to co-operate and enhance co-ordination among member states to fight extremism. In a subsequent declaration in Tunis (1994), the OAU Assembly rejected fanaticism and extremism of whatever description, origin and form. The declaration singled out and unreservedly condemned religious extremism and terrorist acts. At the insistence of Algeria, African countries took tentative steps that eventually led to a UN Declaration on Measures to Eliminate International Terrorism (Annex to Resolution 49/60 of 9 December 1994).

The potential friction between preempting or combating terrorism and human rights has long been internationally recognised. The OAU Convention on the Prevention and Combating of Terrorism adopted in Algiers in 1999 (the Algiers Convention) acknowledges the close link between countering terrorism and achieving human rights in Africa. In the preamble, the Convention proclaims a deep concern about the scope and seriousness of terrorism and the dangers it poses to the stability and security of states. Declaring that terrorism

constitutes a serious violation of human rights and, in particular, the rights to physical integrity, life, freedom and security, and impedes socio-economic development, the Convention bases itself on the premise that no circumstances can ever justify terrorism. Signatory states therefore pledge to co-operate to prevent and combat terrorism, including state-sponsored terrorism. At the same time, the preamble reaffirms the universally recognised and legitimate right to self-determination and independence.

The commitments articulated in the preamble, which are commendable, reveal the recurrent dilemma that dogs the endeavour to balance initiatives against terrorism and the observance of human rights. The demands of achieving one objective are not always reconcilable with the practical concerns of the other. The tension is particularly acute in failed states and fledgling democracies. This paper proceeds from the premise that the ultimate containment of terrorism and the achievement of human rights are complementary rather than contradictory aspirations. It highlights the potential which exists for contemporary legislative and operational measures against terrorism to denude the rights whose protection should be the basic responsibility of every state. It discusses possibilities to reconcile the demands of the conflicting policy objectives of combating terrorism and respecting human rights. It draws on recent initiatives emanating from some countries in Southern Africa, as reported to the UN Security Council, in terms of Resolution 1373/2001. While it is centred on the sub-region, the paper makes comparative references to other areas in which conditions similar to those in the sub-region exist.

The third wave, human rights and the fight against terrorism

The mid-1990s witnessed a discernible trend towards multiparty democracy and the constitutional protection of human rights on the African continent. Many countries,

including Malawi, Mozambique, South Africa and Zambia held multiparty elections for the first time in this decade. A number of countries adopted constitutions with entrenched fundamental rights. These include Botswana, Ghana, Guinea, Guinea-Bissau, Malawi, Mali, Mauritania, Mozambique, Namibia and South Africa. The constitutions introduced during the period are replete with civil and political rights, including freedom of expression, the right to fair trial and the right to equality. In addition, many countries included economic and social rights, which probably prompted former UN secretary-general Boutros Boutros Ghali to declare that a third wave of democratisation was sweeping through the continent. Complementary initiatives towards recognising the rule of law and the protection of human rights include the New Partnership for Africa's Development (NEPAD), put together by Algeria, Egypt, Nigeria, Senegal and South Africa. NEPAD lists "the expansion of democratic frontiers and the deepening of the culture of human rights" as one of its cornerstones.

Notwithstanding the declared resolve to prioritise human rights and observe democratic practices, most of Southern Africa does not have a laudable track record in these areas. As some commentators have cautioned, constitutions and bills of rights do not, and probably cannot in themselves, guarantee the protection of human rights. Many areas in Southern Africa continue to experience human rights abuses by both state and non-state actors, even in the face of elaborate constitutional human rights protections. As 'combating terrorism' is added to the list of justifications for expanding the range of actions that states can take in imposing restrictions on basic rights, this trend could continue. The vast arsenal of repressive legislation that characterised the apartheid security framework was ostensibly created to deal with terrorist activities. It appears that neighbouring Zimbabwe is intent on replicating a similarly draconian legislative regime, even in the absence of the threat of terrorism.¹

Terrorism: the elusive quest for a definition

The scope for friction between acting against terrorism and observance of rights is probably encapsulated in the definition of the concept. Terrorism is characterised as such to indicate the illegitimacy of the resort to violence. It follows that if there is disagreement as to what violence is legitimate there cannot be a mutual understanding of the concept. At a simplistic level, terrorism is distinguished from other crimes of violence on the basis that its core motivations are to generate, increase or spread fear, radically change the social order by means of violence or resist proposed changes to the existing order. It is often attributed to individuals or groups or entities and may occur in the name of political, religious, socio-economic or other belief systems. The predominant view is that contemporary terrorism knows no borders. It is argued that today there are few instances of domestic terror completely without international linkages. The reach of global communications and television has created additional opportunities and vulnerabilities for terror. At the same time, terrorists have also become more deeply embedded in international, as opposed to national, criminal conduct. That conduct includes arms smuggling, drug trafficking and money laundering. At the same time, historical experience reveals another view, summarised by the maxim, 'one man's terrorist is another man's freedom fighter'. Relatively recent Southern African history bristles with illustrations of the validity of this view.

It is important to settle on a universal definition of terrorism as a first step in mobilising the complicity of the greatest possible number of role players in combating it. At the transnational plane, the lack of a universal definition is likely to make it more difficult, if not impossible, to formulate or enforce international agreements or multinational arrangements against terrorism. Extradition, for instance, is rendered problematic.

The UN Convention for the Suppression of the Financing of Terrorism (1999), which came into force in April 2002, represents the most recent international convention adopted on terrorism. It provides an indirect definition. According to the Convention a person funds terrorism by providing or collecting funds with the intention or in the knowledge that they are to be used to carry out, firstly, any act falling within the scope of earlier international counter-terrorism treaties. A terrorist act includes:

[a]ny ... act intended to cause death or serious bodily injury to a civilian, or to any other person not taking an active part in the hostilities in a situation of armed conflict, when the purpose of such act, by its nature or context, is to intimidate a population, or to compel a government or an international organisation to do or to abstain from doing any act.

The Algiers Convention provides the following definition in Article 1(3).

‘Terrorist act’ means:

(a) 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 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:

(i) 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

(ii) disrupt any public service, the delivery of any essential service to the public or to create a public emergency; or

(iii) create general insurrection in a State.

(b) 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)–(iii). (*Emphasis added.*)

Article 3 provides as follows:

1. Notwithstanding the provisions of Article 1, the struggle waged by peoples in accordance with the principles of international law for their liberation or self-determination, including the armed struggle against colonialism, occupation, aggression and domination by foreign forces shall not be considered as terrorist acts.

2. Political, philosophical, ideological, racial, ethnic, religious or other motives shall not be a justifiable defence against a terrorist act.

In terms of Article 20, the Convention enters into force after the 15th instrument of ratification has been deposited by member states of the African Union (AU). This was accomplished in September 2002. Most of the rest of African countries have signed but not yet ratified the Convention.

Notwithstanding near unanimity in terms of signing the Convention, it is evident that the commitment to its prescriptions is by no means unequivocal. A survey of various national legal frameworks shows that there is a wide diversity in the conceptualisation of terrorism. It should be pointed out that the definition of terrorism has implications for state practice relating to the respect of human rights, particularly in the sphere of individual liberties. The broader the definition, the greater the curtailment of human rights, and vice versa. Egyptian law defines terrorism as:

any use of force or violence or any threat or intimidation to which the perpetrator resorts in order to carry out an individual or collective criminal plan aimed at disturbing the peace or jeopardising the safety and security of society and which is of such a nature as to harm or create fear in persons or imperil their lives, freedoms or security; harm the environment;

damage or take possession of communications; prevent or impede the public authorities in the performance of their work; or thwart the application of the Constitution or of laws or regulations.

The most recent formulation in South Africa's Anti-Terrorism Bill defines a terrorist act as:

an act, in or outside the Republic,

(a) that is committed –

(i) in whole or in part for a political, religious or ideological purpose, objective or cause, and

(ii) in whole or in part with the intention of intimidating the public, or a segment of the public, with regard to its security, including its economic security, or compelling a person, a government or a domestic or an international organisation to do or to refrain from doing any act, whether the person, government or organisation is inside or outside the Republic, and

(b) that –

(i) causes death or serious bodily harm to a person by the use of violence,

(ii) endangers a person's life,

(iii) causes a serious risk to the health or safety of the public or any segment of the public,

(iv) causes substantial property damage, whether to public or private property, if causing such damage is likely to result in the conduct or harm referred to in any of subparagraphs (i) to (iii), or

(v) causes serious interference with or serious disruption of an essential service, facility or system, whether public or private, including, but not limited to: an information system; or a telecommunications system; or a financial system; or a system used for the delivery of essential government services; or a system used for, or by, an essential public utility; or a system used for, or by, a transport system, other than as a

result of lawful advocacy, protest, dissent or stoppage of work that does not involve an activity that is intended to result in the conduct or harm referred to in any of subparagraphs (i) to (iii),

but, for greater certainty, does not include conventional military action in accordance with customary international law or conventional international law.

Initiatives against terrorism and impact on certain rights

Combating terrorist financing

The dependence of terrorism on financial resources is now well known. Al-Qaeda, for instance, is reported to rely on gold as a source of revenue. In the region, the exploitation of precious minerals such as diamonds by UNITA in Angola to fund its campaign against the government illustrates the often symbiotic relationship between terrorism and resource exploitation. It is not surprising that there has been much emphasis on identifying and targeting the sources of terrorist funding, as a strategy against terrorism.

Experts have identified two primary sources of terrorist funding. According to the Financial Action Task Force on Money Laundering (FATF),² the first method involves sponsorship by either a state entity or by large organisations or wealthy individuals. State sponsored terrorism is believed to be in decline.³ It appears to have been superseded by individual or corporate funding. The second method involves the mobilisation of funds from a multitude of revenue-generating activities, some of which may be lawful. Among the lawful sources identified are:

- the collection of membership dues and/or subscriptions;
- the sale of publications;
- cultural and social events;
- door-to-door solicitations within the community;
- appeals to wealthy members of the community;

- (regular or irregular) donations of part of personal earnings.

Unlawful fund-raising activities identified in FATF countries include kidnapping and extortion, racketeering, smuggling operations, fraud, counterfeit currency trafficking⁴ and drug trafficking. Even robbery has been associated with terrorist fund raising. There are terrorist outfits operating in East Africa, but there is very little evidence of their sources or methods of funding. Indications are that if such funding is occurring, it is likely to be associated with unlawful rather than lawful activities.

Contemporary initiatives to counter terrorist funding are centred around the FATF Special Recommendations on the subject. The FATF requires countries to:

- take immediate steps to ratify and implement the relevant convention and the relevant UN resolutions;
- criminalise the financing of terrorism and associated money laundering;
- implement measures to freeze funds and other assets of terrorists;
- require financial institutions within their jurisdictions to report promptly transactions if they have reasonable grounds to suspect that they are linked to terrorism;
- render mutual legal assistance to one another in this respect;
- regulate alternative remittance systems;
- require financial institutions to identify the originators of transfers, and to scrutinise transfers which do not contain complete originator information; and
- review laws and regulations relating to entities that can be abused for the financing of terrorism, in particular non-profit organisations.

Security Council Resolution 1373, which binds all member states of the UN, is based on the Convention for the Suppression of the Financing of Terrorism. It requires states, *inter alia*, to criminalise the financing of acts of terrorism, and to report on steps taken in suppressing avenues of terrorist funding to the Counter Terrorism Committee.

Implementing measures to freeze assets,

of whatever description, brings the law into potential conflict with the right to own property. An intrinsic component of this right is the freedom from arbitrary deprivation of such property. The right can be traced to customary international law, and has become an inherent part of every democratic constitution. The Universal Declaration of Human Rights countenances property deprivation in certain circumstances, primarily if this is demonstrably in the public interest, and compensation is paid. The prescriptions of the FATF do not specifically take account of this stricture, although it is arguable that pre-conviction asset seizure or forfeiture must be done only in terms of due process of law. Certain jurisdictions have built in a measure of protection of the property right by providing for a judicial process preceding asset seizure, or forfeiture, even where terrorism is the basis.⁵

A state contemplating introducing a dedicated anti-terrorism asset-freezing regime could look to the Arab Convention for guidance. The convention eschews asset forfeiture without due process.

Pre-empting and investigating terrorism

Most prominent among the measures to pre-empt terrorism are those relating to interception of communications, search of vehicles and persons, and pre-trial detention of suspects.

Interception of communications

A number of other human rights issues arise from the international and domestic regime designed to detect terrorism. Articles 3 and 4 of the Arab Convention purport to authorise the installation of surveillance and monitoring systems and the development of databases and information on combating terrorism. Similarly, Article 4(b) and (e) of the Algiers Convention provide for monitoring and data collection on terrorist elements and groups. Along similar lines, the UN Convention Against Transnational Organised Crime (Palermo Convention 2000) mandates states to deploy surveillance and information interception devices to pre-

empt and detect organised criminal activity.

The activities monitored and the information gathered may relate to legitimate, peaceful and non-criminal conduct. Having regard to the breadth of the definition of terrorist activity, these provisions occasionally provide cover for serious violations of the right to privacy. Under some domestic laws, search and seizure provisions may also constitute an unjustifiable limitation on the right to privacy.

Powers to stop and search vehicles and persons

In its latest form, the Anti-Terrorism Bill in South Africa entitles a judge, on application *ex parte* by a police officer of the South African Police Service of or above the rank of director, to grant authority to stop and search vehicles and persons with a view to preventing such acts. The only requirement is the existence of reasonable grounds that this is necessary in order to prevent acts of terrorism. Once granted, the authority lasts for up to 10 days.

Under such authorisation any police officer can stop and search any vehicle or person for articles which could be used or have been used for, or in connection with, the commission, preparation or instigation of any terrorist act.

Detention (pre- and extra-trial)

To varying degrees, states in Southern Africa have empowered themselves to carry out pre-trial detentions. In Mauritius, a suspect arrested in terms of section 27 of the Prevention of Terrorism Act 2002 may be held in custody for up to 36 hours without having access to any person other than a police officer of at least the rank of inspector. The subsequent trial may be conducted in camera.

There are examples beyond the sub-region of laws providing for detention without trial. The Arab Convention provides that persons may be detained without trial for up to 60 days pending extradition.

In this regard, article 11 of the Convention Against Torture and Other

Cruel, Inhuman or Degrading Punishment requires states parties to keep under “systematic review, interrogation rules, instructions, methods and practices as well as arrangements for the custody and treatment of persons subjected to any form of arrest and detention” with the aim of preventing any cases of torture. In terms of article 9 (liberty and security of the person) of the ICCPR, the period of custody before an individual is brought before court should not exceed a few days.

Much conduct that potentially constitutes terrorist acts falls short of the ‘compelling reasons’ requirement. In addition, it is clear that the ‘adequate safeguards’ requirement may also frequently be absent. The Human Rights Committee, addressing the question of derogations from rights under article 4, held that:

States Parties may in no circumstances invoke Article 4 of the Covenant as justification for acting in violation of humanitarian law or peremptory norms of international law, for instance ... through arbitrary deprivations of liberty or by deviating from fundamental principles of a fair trial, including the presumption of innocence.

Further, the Committee underlined that for non-derogable rights to be abrogated, there should be recourse to a court to decide the legality of detention.

Concerns about detention arise in relation to the conventions, because they require a state to “take the appropriate measures under its national law” to ensure the presence for the purpose of prosecution of a person alleged to have committed a terrorist act. Measures under national law have often not been an adequate safeguard. The conventions mandate certain protections, such as access to a lawyer, but local practices do not always conform to them. In the wake of the Mombasa outrage, there were numerous instances of arbitrary detention of refugees lawfully resident in Kenya.

Right to a fair trial

This right embodies a collection of

complementary entitlements, such as the right to equal treatment, and the right to be presumed innocent pending conviction. It also implies the right to have the case against oneself adjudicated by an independent, competent and impartial tribunal. It is threatened by the spectre of dedicated courts, as well as secret trials.

Special/military courts

A number of countries provide for special or military courts to try terrorist offences. The trial of civilians before military courts raises questions, although it is permissible under the ICCPR. Problems arise particularly in relation to the independence of military courts and special tribunals. Military courts have come under criticism where in structural terms they are subordinate to, or worse still constituted by, the head of the executive arm of the state. In its decision on the trial of Ken Saro-Wiwa and others in Nigeria, the African Human Rights Commission held that the trial violated Article 7(1)(d) of the African Charter of Human Rights because the composition of the tribunal, established under the Disturbances (Special Tribunals) Decree No. 2 of 1987, was at the discretion of the executive branch. The Commission concluded that:

[r]emoving cases from the jurisdiction of the ordinary courts and placing them before an extension of the executive branch necessarily compromises their impartiality, which is required by the African Charter. This violation of the impartiality of tribunals occurs in principle, regardless of the qualifications of the individuals chosen for a particular tribunal.

A violation of article 7(1)(a) was also found, because the only avenue for appeal or review was the ruling council of the federal military government, composed exclusively of members of the armed forces.

Special tribunals must be an exceptional measure, used only because of the inability of the ordinary criminal justice system to speedily and effectively try suspected terrorists. Where they are considered

absolutely necessary, such tribunals must be competent, independent and impartial, and respect fair trial rights. Mauritius has opted to handle terrorism trials through the normal court system.

Death penalty and extradition

Article 4 of the African Charter provides that no one “may be arbitrarily deprived” of the right to life. A large number of African countries retain the death penalty. The OAU Convention on the Prevention and Combating of Terrorism requires states parties to proscribe terrorist acts. It permits the imposition of punishments “that take into account the grave nature of such offences”. While acts of terrorism may be very grave, states should bear in mind that the death penalty is an extreme exception to the right to life and should be applied only to the most serious crimes. Further, under the ICCPR, the Human Rights Committee has stated, that “any trial leading to the imposition of the death penalty during a state of emergency must conform to the provisions of the Covenant, including all the requirements of [the right to a fair trial]”. The lack of procedural safeguards makes the imposition of the death penalty a clear and unjustified violation of international law.

Both the Algiers and the Suppression of Terrorist Funding Convention entrench the principle that states must extradite or punish. So does the Convention Against Transnational Organised Crime. The extradition provisions of the conventions have the potential to clash with the human rights commitments of states which have abolished capital punishment not to extradite alleged offenders to jurisdictions where they could face the death penalty. The events leading to the case of *Mohamed v President of the Republic of South Africa*⁶ graphically illustrate the situation.

Mohamed, a Tanzanian national, was allegedly involved in the bombing of the US Embassy in Dar es Salaam, from where he made his way to Cape Town, South Africa, using a false name. On his arrival he applied for refugee status. By that time his involvement had been discovered, and he

had duly been indicted in absentia before a Federal District Court in New York. An agent of the Federal Bureau of Investigations in South Africa recognised him from a photograph filed with the Department of Home Affairs in Cape Town, and Mohamed was arrested when he turned up to check on his application. On his interrogation, he admitted his involvement in the bombing, and was subsequently taken from South Africa to the US. No extradition procedures preceded Mohamed's removal, and there were no guarantees sought or given that he would not face the death penalty. Mohamed subsequently challenged the legality of his removal from South Africa, on the basis that it was an unlawful extradition, disguised as a deportation. The Constitutional Court agreed with him, and ruled that South Africa had violated Mohamed's constitutional right to life by deporting him to the US in the absence of an undertaking that the death penalty would not be imposed on him. By that time, capital punishment had been outlawed in South Africa.

Commenting on the result, Katz, who has experienced practice in both South Africa and the US, wrote:⁷

One of the many lessons learnt from the Mohamed saga is that the important and justifiable desire of states to co-operate in the area of terrorism must not allow them to act unlawfully. If extradition procedures are undesirable, then consideration must be given to amending those procedures. It is unlawful to utilise deportation procedures to effect an extradition. Similarly, states must ensure that they do not violate the inalienable rights of persons even indirectly, in their desire to bring alleged terrorists to justice, as would appear to have happened in the Mohamed saga.

Freedom of assembly and of expression

The right to freely associate and assemble with others on the basis of common beliefs and/or objectives is well established.⁸ It often takes practical form in the

establishment and sustenance of political parties competing for governmental power. The right implies tolerance of pluralism. In countries with fragile democratic systems, freedom of assembly and expression regularly comes under threat, and ruling establishments rely on flimsy excuses to restrict it. Terrorism offers a convenient pretext for proscribing legitimate political challenge.⁹ There is a real apprehension that the current anti-terrorism fever could be abused. One way of minimising the risk is to insist that proscription on any grounds should be justiciable.

Anti-terrorist international and domestic law may also imperil the right to freedom of expression. Part of the reason lies in the definition of what constitutes a terrorist act. Under article 3(b) of the OAU Convention, the definition of a terrorist act is broad enough to include any "promotion, sponsoring ... incitement, encouragement ... or procurement" of such act. Such a blanket and far-reaching limitation of the right is not always going to justify action to fight terrorism, and legislation based on it is not always consistent with either the ICCPR or the African Charter. The rather open-ended definition permits discriminatory executive and administrative action, including persecution of an unpopular minority, or the political opposition.¹⁰

Conclusion

Proportionality and necessity are basic qualities inherent under international law. Thus, outside of emergency situations, it is permissible to limit rights for legitimate purposes if the measures taken are proportional to the objective, and also the least intrusive means to achieve the objective.¹¹ While measures to combat terrorism must be seen as part of the state's obligation to promote and protect human rights, measures to counter terrorism must be in strict conformity with international law, including international human rights standards.

Acts of terrorism may cause grave human rights violations. An effective response is

thus called for. Conflict, of which terrorism is a particularly virulent strain, has both immediate and long-term causes. In the short term, legal measures are the international community's response to the manifestation of terrorism. They must be consonant with the human rights protections enshrined in international law. Otherwise the very conditions necessary for long-term stability fostered and nurtured by the respect for human rights, will not exist.

Notes

- 1 The trend is epitomised by the enactment of the Public Order and Security Act (2002).
- 2 The G7 countries established the Financial Action Task Force in 1991, as a coalition to combat the abuse of financial institutions in economic crimes like money laundering. It has since grown to a membership of 29, and incorporates the majority of the major country sources of international investment. The Task Force exerts much influence on the region in its core areas of operation through its recommendations, which have been adopted by the East and Southern Africa Anti-Money Laundering Group countries. The group includes all the countries in the region except for Angola. Non-compliance with the recommendations could lead to blacklisting, and adverse economic consequences.
- 3 See FATF Report on Money Laundering Typologies 2001–2002, February 2002, pp 2-7.
- 4 The *Cape Argus*, 22 July 2002 reported that US customs agents had arrested a Jordanian-born man in possession of \$12 million in false bank cheques, and that he was attempting to smuggle into the country from Indonesia, a country suspected to have provided refuge to al-Qaeda and Taliban fighters who escaped from Afghanistan.
- 5 South Africa's Prevention of Organised Crime, 2000, may be used as an example.
- 6 2001 (7) Butterworths Constitutional Law Reports 685 (CC).
- 7 A Katz, Terrorism and its effect on refugee and extradition law, in J Cilliers & K Sturman (editors) *Africa and Terrorism*, ISS Monograph Series, 74, 2002, p 59.
- 8 *Pendragon v United Kingdom* (1999) 27 EHRR 179.
- 9 Algeria is often cited as an example. In the wake of impending electoral defeat, the elections of 1992 were nullified by the incumbent regime, precipitating a violent backlash that still rages.
- 10 Examples from Zambia (late 1990s) and Zimbabwe (early 2000s) abound.
- 11 See the judgment of the European Court of Human Rights in *Ireland v United Kingdom* Series A, No. 25 dd. 18.01.1978. The court upheld the validity of certain restrictive measures taken by the UK government to contain the emergency situation in Northern Ireland.