

BALANCING NATIONAL SECURITY
and
HUMAN RIGHTS

by

Honourable Justice Pius Langa



2006
Nigerian Institute of Advanced Legal Studies
Lagos



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Introduction

In recent years, terrorism at the international and national levels has become a major concern of governments all over the world. In many countries, specific legislation aimed at combating terrorism has been passed in order to deal with this threat to national security. Anti terrorist laws have not been confined to the western world. Though the threat posed by terrorism is not exactly the same within the African context, it has been recognized as a problem that is not merely confined to Europe and the Middle East but one which must be dealt with at the international level. Indeed United Nations Security Council Resolution 1373 recognizes terrorism as a threat to international peace and security and requires all states to take action to combat it.

The threat posed by terrorism is relevant within the African context also because even if African countries are not directly threatened by international terrorism, African governments could be faced with terrorist attacks against foreigners within their country, or the possibility of terror suspects seeking refuge within their borders. An example of this occurred in 1998 when the United States of America embassies in Nairobi and Tanzania were bombed.

The man later found to be part of the terrorist group responsible for these acts managed to escape into South Africa, where he lived under an assumed name for more than a year before he was eventually captured and brought to justice.

African governments have put in place some initiatives aimed at addressing the problem of terrorism on the continent. The 1999 OAU Convention on the Prevention and Combating of Terrorism enjoins state parties to combat terrorism in all its forms and to assist one another in investigating terrorist acts. The AU has also established the African Centre for the Study and Research on Terrorism, which is aimed at boosting capacity on the continent for effective prevention of terrorism as well as enhancing international co-operation in this regard.

Aside from the global war on terror, many African governments still face internal opposition from groups demanding secession, greater regional autonomy or other political outcomes. National security measures may be deemed necessary in order to combat the threat to national peace and order that is posed by some of these groups.

This brief introduction outlines the relevance of the global focus on combating terrorism for Africa as a whole. The specific issue that I would like to focus on today is the relationship between policies and measures that are aimed at promoting national security on the one hand and human rights on the other.