

Jihad



A SOUTH AFRICAN PERSPECTIVE

HUSSEIN SOLOMON

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SCHOLAR

Jihad: A South African Perspective

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Endorsements

Jihad: A South African Perspective is a very important, timely and informed book as well as the most comprehensive one yet dealing with radical Islam and terrorism in South Africa. Hussein Solomon raises critical questions that have long concerned experts in terrorism and radical Islam in connection with South Africa. What are the factors which have made South Africa so appealing for terrorist and radical Islamic organisations? What role has South Africa played within global Jihad? How have the South African government and security apparatus perceived the terrorism threat facing the country? And, how have they responded to it? How have the South African moderate Muslims perceived the terrorism threat and radical Islam spreading throughout the country? And, what can be done in order to better respond to the terrorism threat? Hussein Solomon's book is a must-read book for experts in terrorism, radical Islam, and South Africa and is a good read for everyone who is interested in the subject.

Moshe Terdiman

Founder and director of the
Think Tank for the Research of
Islam and Muslims in Africa (RIMA)

Abbreviations

ACRL	African Council of Religious Leaders
ACSA	Airports Company of South Africa
ACSRT	African Centre for the Study and Research on Terrorism
AIF	Al-Aqsa International Foundation
ANC	African National Congress
AQIM	Al-Qaeda in the Islamic Maghreb
ATCET	Anti-terrorism Contraband Enforcement Team
ATM	Automatic Teller Machine
AU	African Union
CBCU	Customs Border Control Unit
CBP	Customs Border Protection
CIA	Central Intelligence Agency
CVE	Countering Violent Extremism
CIPRO	Companies and Intelligence Property Registration Office
COPE	Congress of the People
DA	Democratic Alliance
DEA	Drug Enforcement Agency (US)
DEA	Department of Foreign Affairs (later renamed DIRCO)
DIRCO	Department of International Relations and Cooperation
DTI	Department of Trade and Industry
ESAAMLG	Eastern and Southern Africa Anti-Money Laundering Group
FATF	Financial Action Task Force
FBI	Federal Bureau of Investigation
FICA	Financial Intelligence Control Act
FSRB –FATF	Style Regional Bodies
GIA	Armed Islamic Group
GIABA	Intergovernmental Action Group against Money Laundering and Terrorist Financing
GSPC	Salafist Group for Preaching and Combat
GWOT	Global War on Terror
IDF	Israeli Defense Force

IED	Improvised Explosive Device
ISDSC	Inter-State Defense and Security Committee
IUC	Islamic Unity Convention
IPSA	International Peace University of South Africa
JMSA	Jihad Movement of South Africa
LIFG	Libyan Islamic Fighting Group
MAGO	Muslims Against Global Oppression
MAIL	Muslims Against Illegitimate Leaders
MUSA	Majlisul Ulama of South Africa
MJC	Muslims Judicial Council
MRN	Media Review Network
NIA	National Intelligence Agency
NICOC	National Intelligence Coordination Committee
OIC	Organisation of the Islamic Conference
PAGAD	People Against Gangsterism and Drugs
PAPAS	People Against Prostitutes and Sodomites
PETN	pentaerythritol tetranitrate
PSC	Peace and Security Council
SADC	Southern African Development Community
SANDF	South African National Defense Force
SAPS	South African Police Service
SARPCCO	Southern African Regional Police Chiefs Co-operation Organisation
SARS	South African Revenue Service
SASS	South African Secret Service
UNSC	United Nations Security Council
US	United States
USAID	United States Agency for International Development
UAV	Unmanned Aerial Vehicle
VBIED	Vehicle-Borne Improvised Explosive Device

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1

Introduction

“It is part of the writer’s role to point out the drift of his or her own people and to help open their eyes to what blinds them. I insist, as the saying goes, on starting by sweeping in front of my own door.”

Abdelwahab Meddeb¹

Why this book?

On the evening of the 25th August 1998, the Giddings family of Hampshire, England, entered Planet Hollywood in Cape Town. Tony Giddings (43), his wife Mandy (40), children Laura (13) and Jacob (8), and grandparents Brian (70) and Iris (68) were laughing as they entered the restaurant. Shortly after they entered, the pipebomb placed on the bar’s footrail exploded. The result of that explosion was to cast a long shadow on the lives of the Giddings family. Laura lost a leg, Jacob still has shrapnel in the fluid around his spine, shrapnel also injured Brian Giddings and an artery in his leg was severed, and Tony Giddings uses a cane to get around.² And yet, they were amongst the fortunate ones. Two other people were killed in this terrorist atrocity. Their crime was to be having dinner at Planet Hollywood, possibly the most iconic representation of the American culture in Cape Town. The people who perpetrated such an act of barbarity called themselves Muslim and attempted to justify the act as a blow against the Great Satan – the United States of America. But, the political mandarins of Washington were not hurt by this outrage. It was ordinary men, women and children enjoying dinner and pleasant conversation who were now held in death’s unyielding grasp or maimed.

For me, as a Muslim, I was appalled that people would use Islam, a religion of peace, and morph it into something so ugly. I was both angry and sad. Angry that fellow Muslims would perpetrate such an atrocity and saddened that other Muslims would countenance such behaviour. These musings of mine were given added impetus in December 2006 when I took my children to the Victoria and Alfred Waterfront in Cape Town for a boat ride out to sea and some lunch. When I got back to my parents’ home that day, I was appalled to read the newspapers carrying the story of one Shahied Davids who was apprehended by police transporting three pipe bombs in his car.³ One of his alleged targets was the Victoria and Alfred Waterfront complex. As I watched my children play in the garden, and realising that I could have lost them that day I tried hard to fathom the loathing that drove a fellow Muslim to target such a place.

If truth be told, whilst a tiny fraction of radical Muslims are prepared to kill, radical Islam as an ideology has increasingly penetrated mainstream Muslim society in South Africa. As John Solomon noted, “... opinion leaders in South Africa’s Muslim community demonstrate an implicit acceptance of jihadi discourse”.⁴ Intolerance and hatred towards fellow Muslims and other groups have increased. Violence and intimidation have become routine to silence

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moderate voices. I experienced this first hand when I organised a conference entitled *Islam in the 21st Century: Perspectives and Challenges*. At first, I was approached not to go ahead with the conference. When I chose to continue, I was labelled in various quarters as a CIA/Mossad agent. Then anonymous callers threatened my life and the life of my children. At the same time pressure was applied to various speakers to withdraw from the conference. Eventually, the conference did take place but under heavy protection from the South African security services. Discussion, dialogue and open debate are anathema to these Islamo-fascists. The really scary part for me is how ordinary South African Muslims find such intimidation acceptable. A few years ago, a Muslim radio station interviewed me. In the interview I stressed the importance of frank and open debate and discussion for the Muslim community and pointed out that the death threats I have received after hosting an advisor to Palestinian President Abbas at a lecture at the University of Pretoria which runs against the creation of a climate conducive for frank dialogue. I was then interrupted by the interviewer and was told that the death threats were understandable since I should have hosted Hamas and not someone from Fatah viewed as more moderate. I was shocked that a journalist, a Muslim or any other, should show such disdain to free speech, which lies at the bedrock of his profession.

Neither should these events be personalised. What have happened to me were replicated scores of times to other Muslim moderates in South Africa. During the 1990s, during their reign of urban terror, the People Against Gangsterism and Drugs (PAGAD) targeted Muslim religious leaders and academics who dared to criticise the organisation.⁵ Following the controversy emanating from South African cartoonist, Jonathan Shapiro or Zapiro, drawing the Prophet Mohammed in May 2010, an appeal to reason and calm by a prominent Muslim also led to death threats.⁶ This situation of violent intimidation against those Muslims who hold an alternative view is repeated across the globe and prompted prominent Muslim Cape Town academic Professor Yusuf da Costa to lament:

It is one of the ironies of history that there is more freedom of religion in the 'decadent West' than in the 'Muslim' countries. The West is full of Islamic scholars who have had to run for their lives from their countries of birth. What have we done to Islam that Muslims have to seek asylum under the Cross?⁷

Under these circumstances, I cannot understand how the Muslim community in South Africa could think we do not have a problem – that there are those amongst us who are willing to kill the innocent in God's name! My reason for writing this book comes from the deep conviction that under apartheid, it was morally incumbent upon white South Africans to stand up to P.W. Botha and say loudly that he does not speak on our behalf. Similarly at this juncture of our history, it is morally incumbent upon Muslims to stand up and declare that Osama bin Laden and now Ayman al-Zawahiri and others of his ilk do not speak for us. If we do not do this, we are all complicit in our silence at the deaths of the innocent.

The second reason for my writing this book relates to the fact the security services in this country do not take the peril of Islamist terrorism seriously despite such despicable acts of terror committed as the one at Planet Hollywood. Speak to a South African security official on the need for vigilance against any Islamist terror threat and you will most likely be scoffed at. This was my experience in my numerous interactions with our security establishment. The Islamist terrorist threat is either an American creation or alternatively it does exist but it is exclusively directed against Western and Israeli interests. After all, we South Africans have not invaded Afghanistan and Iraq; nor have we occupied Palestinian land. Implicit in this position is the twin assumptions that legitimate grievances are driving Islamist rage and that we in South

Africa are somehow insulated from terrorism on account of our opposition to the invasion of Iraq or our support of the Palestinian cause.

Sadly, these assumptions are fallacious in the extreme. As Greg Mills⁸ has pointed out, “The fact that South Africa has a particular view on Palestine or on Iraq ... is no guarantee that we will not be attacked.” Legitimate grievances might well be exacerbating Islamist rage, however; it is certainly not the catalyst for it. Rather, Islamist terrorism is motivated by a worldview which expounds the position of world domination⁹ through the violent seizure of governments and the establishment of an autocratic state where dissent, political opposition and the proverbial other does not exist. Indeed, Islamist jihad “... is undoubtedly offensive in nature, with the eventual goal of achieving Muslim domination over the entire globe”.¹⁰ As the next chapter will illustrate, Islamists are not shy to announce their goals of world domination. This territorial expansion has been a central feature aspect of their ideology driving these Islamists and is now the “... world’s foremost source of terrorism”.¹¹ As for the much-vaunted proposition that South Africa is somehow immune to terror, we need merely turn to the 1990s when Cape Town bore the brunt of PAGAD’s terror campaign. More recently there is ever-more evidence of increased radicalisation amongst South Africa’s Muslims as well as South Africa playing a key role in world Islamist terror networks from financing terror, to the provision of safe houses and identity documents. In addition reports of military training being conducted in South Africa as well as South African Muslims going abroad to secure military training periodically surface.

Despite mounting evidence challenging their assumptions, the response from the South African intelligence community has been garbled, ambiguous, confused and entirely ineffective. Between an attempt at being politically correct through the corruption that bedevils our security apparatus and its politicisation by the ruling African National Congress (ANC), terrorists have exploited this country’s vulnerabilities. Analysts, meanwhile, grow more concerned of a potential terrorist attack on South African soil. What this publication attempts to do, then, is to highlight the scale of the threat posed by Islamist extremists in the hope that the South African government will take it seriously enough to invest the necessary resources and requisite political capital to fight this scourge of terrorism.

Research

Undertaking the research for this book has been a veritable nightmare. First, statements emanating from government have been either contradictory or where questions have been asked; one was met with a stony wall of silence. Second, where interviews were conducted, the interviewees often contradicted themselves in the same interview or subsequent interviews and were therefore deemed as unreliable. Third, where interviewees provided me with valuable information and was clear about the points raised in the interview, they would often subsequently make contact and wish to recant the entire interview for fear of intimidation. Fourth, where government responses have been forthcoming, other foreign governments’ statements have often contradicted these. This became quite apparent in the case of the two South Africans caught in an Al-Qaeda safe house in Pakistan.

Under the circumstances, I have opted to write this book largely from open sources. Where contradictions exist between the different sources, these will be conveyed to the reader. The advantage of this approach, specifically as far as sceptics is concerned, relates to the fact that they cannot contest facts by referring to some faceless interviewee and thereby casting aspersions if the interview took place or what actually was conveyed.

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This transparency in relation to sources is also important since it might, hopefully, have a cathartic impact on both South African policymakers and Muslims in recognising the enormity of the problem we confront as it relates to Islamist terror. This recognition will be the first step in towards a pro-active action plan to eliminate this menace.

A point of clarity

Whilst several definitions abound as to the meaning of terrorism, for the purposes of this publication, I will draw on the definition of terrorism by Faria and Arce,¹² that "... it is an act of violence against civilians in order to achieve political or religious goals". At the same time we need to acknowledge that the nature of terrorism has fundamentally changed from the days of the Red Brigades and Bader-Meinhoffs to what we now see in the forms of Al-Qaeda and Al-Shabab. The US Department of State's *Patterns of Global Terrorism* refers to this as a movement away from politically motivated terrorism to one that is motivated more by religion and ideology.¹³ This is a point also emphasised by respected counter-terrorism expert Bruce Hoffman who has classified half of today's terrorist groups as being religious in character and/or motivation.¹⁴

This changing face of terrorism from political and secular to religious holds several implications for counter-terrorism officials. Charles Townshend, in a marvellously concise study, summarises the distinction between the two forms of terrorism as follows:

First, it has a transcendental function rather than a political one: it is executive in direct response to some theological demand or imperative. Second, unlike secular terrorists, religious terrorists often seek the 'elimination' of broadly defined categories of enemies and are undeterred by the politically counter-productive potential of indiscriminate killing. Finally, and crucially, they are not attempting to appeal to any other constituency than themselves.¹⁵

The seriousness of these profound changes on counter-terrorism experts is summarised by British Lord Chalfont,

... the whole time I have been involved in [counter-] terrorist organisations, which goes back 30 years, my enemy has always been a man who is very worried about his own skin. You can no longer count on that, because the terrorist is not just 'prepared' to get killed, he 'wants' to get killed.¹⁶

Given their expansive goals,¹⁷ and their view of the sanctity of human life, I would agree with Pipes' assessment that violent jihad will continue until a superior military force crushes it.¹⁸ There can be no negotiations with these latter-day Neanderthals since they are qualitatively different from Sinn Fein and the Irish Republican Army (IRA). As such there is no possibility of negotiating a Good Friday Accord with these killers of the innocent.

Indeed such efforts have been tried before. In Algeria, the government's Charter for Peace and National Reconciliation boomeranged on it when recently released Islamists following the amnesty attacked Algiers with bombs and an assassination attempt on President Bouteflika himself.¹⁹ Indeed Al-Qaeda itself is quite clear on its stance regarding dialogue, debate and diplomacy. Its training manual notes,

The confrontation that we are calling for with the apostate regimes does not know Socratic debates, Platonic ideals nor Aristotelian diplomacy. But it knows the dialogue of the bullet, the ideals of assassination, bombing and destruction, and the diplomacy of the cannon and machine gun.²⁰

Unfortunately whilst the American and British have spent much time on pondering on the changing nature of terrorism and how to respond to it, these changes seem to have passed the South African security establishment by resulting in responses, as will be explained in Chapter 4, which are ambiguous, ideologically-infused and ultimately ineffective.

The term “jihad” will be used to refer to jihad in the Islamist sense as opposed to Islamic. As will be explained in the following chapter – Islamists manipulate key articles of Islam to justify a worldview that is violent and authoritarian. When referring to global jihad I am specifically referring to the fact that jihadis are increasingly operating on a transnational level. One early example of this was in 1995 when Egypt’s Gama’ al Islamiya operated in Croatia, attacking a local police station in Rijake.²¹ A month later another Egyptian group, the Jihad Group used two suicide bombers to destroy the Egyptian embassy in Pakistan.²² The quintessential and most recent example of this globalisation of jihad was the so-called ‘Christmas underpants bomber’ Umar Farouk Abdulmuttallab, the Nigerian student, studying in England, taking orders from Al-Qaeda’s Yemeni franchise, who boarded an American Northwest Airlines Flight 253 in The Netherlands’s Schiphol airport with the intention to blow this up over Detroit.²³

South Africa, Africa and the world

Perhaps Leon Panetta, the former Director of the Central Intelligence Agency (CIA) and then US Secretary of Defence, had reason to crow when he announced in July 2010 that Al-Qaeda is at its weakest level since 9/11.²⁴ After all, Gustavo del las Casas has pointed out that 40 percent of the Al-Qaeda leadership has been killed or captured since 2001 and that eleven of the organisation’s top twenty most wanted has been killed since 2008.²⁵ Indeed the life expectancy of Islamist militants seems to be diminishing thanks to US unmanned aerial vehicles (UAVs). On 5 August 2009, Baitullah Mahsud, a key Bin Laden ally, who was leader of the Tehrik-i-Taliban was killed in Waziristan, Pakistan. His successor lasted only six months before he too was fatally wounded by a Hellfire missile also fired from a US drone in South Waziristan.²⁶ Indeed these Predator drones decapitated much of the leading Islamists. On 22 November 2008 Rashid Rauf, the suspect ringleader of the plot to blow up 10 airliners over the Atlantic was killed. Usama al-Kini, Al-Qaeda’s head of operations was killed on 8 January 2009. Another close ally of Bin Laden and leader of the Islamic Movement of Uzbekistan – Tahir Yudashev – was killed on 27 August 2009. Yet another senior Al-Qaeda commander, the Egyptian Abu Musa al-Masri was also killed in Waziristan on 21 October 2009.²⁷ Whilst these leaders have been replaced there is every reason to believe that the new leadership is not as experienced as those killed contributing to a less efficient terror network.

These counter-terror successes have been mirrored in Asia and the Middle East. In Indonesia security forces have practically defanged Al-Qaeda’s local offshoot – Jemaah al-Islamiyyah. Meanwhile, Al-Qaeda’s networks in the Middle East – whether Saudi Arabia,²⁸ Yemen²⁹ or Iraq – have all suffered serious reversals. Getting squeezed elsewhere, Al-Qaeda has increasingly found the ungoverned spaces of Africa attractive. This we witnessed most vividly on the 7th of August 1998 when two massive bombs exploded outside the two US embassies in Dar es Salaam, Tanzania and Nairobi, Kenya. These killed 224 people, including 12 Americans, whilst a further 5,000 were injured. Responsibility for these terrorist atrocities was quickly traced to Al-Qaeda.³⁰

Since then we have witnessed Al-Qaeda’s increasing presence on the African continent – in the Horn through the likes of Al-Shabab,³¹ in the Arab Maghreb through its local franchise – Al-Qaeda in the Islamic Maghreb (AQIM),³² in the West through local structures like Boko Haram

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in Nigeria³³ and now increasingly in South Africa. Consequently Islamist terror attacks across the continent have escalated. On 16 February 2009, two deadly bomb blasts shook Algiers. A week later, Cairo suffered the same fate. In August 2009 AQIM attempted to attack the French embassy in Mauritania. On 18 September 2009, the AU Mission in Somalia's (AMISOM) Force Headquarters in Mogadishu was attacked. The Somalia capital was to be targeted again on the 4th of December 2009 when a suicide bomber detonated his vest killing more than 50 people, including three Somali government ministers, at a graduation ceremony for medical students in Mogadishu.³⁴ Meanwhile, a local franchise of Al-Qaeda, Ansar Din has effectively taken control over northern Mali. Unsurprisingly, the US State Department is of the opinion that Al-Qaeda's most active affiliates were in Africa.³⁵

Other reasons also account for Al-Qaeda and other Islamists' penchant to operate on the African continent and this relates to a growing nexus between organised crime syndicates and Islamists. The Lebanese Hezbollah, for instance, run a well-organised and extremely sophisticated global network of drug-trafficking.³⁶ In West and Central Africa, for example, criminal networks launder cash from the illicit trade in diamonds, which Al-Qaeda has increasingly exploited.³⁷ We will see this same phenomenon in southern and South Africa.

There are a number of other reasons that make South Africa vulnerable to such Al-Qaeda and other Islamists' penetration. First, there are long borders and coastlines, which make the country increasingly porous.³⁸ Second, this is made worse by the levels of bribery and corruption inside government departments facilitating ease of access into South Africa through fraudulently obtained passports and identity documents.³⁹

Third, and closely linked to the latter is the presence of highly sophisticated criminal networks developing across southern Africa since the 1980s.⁴⁰ Whilst organs of state are weak and corrupted, South Africa does not constitute a failed state as does Somalia – precisely the conditions under which such organised crime syndicates thrives as Mark Shaw brilliantly explains,

*Organised crime operates best in the context of a corrupted state and organised business sector not one that has completely broken down. The existence of a relatively strong but penetrated state allows organised crime the luxury of using state institutions for profit, remaining relatively free from prosecution while continuing to operate in a comparatively stable environment.*⁴¹

These were to develop strong ties with radical Islamists who not only assisted them in terror financing but also in the penetration of organs of state.

Fourth, South Africa is characterised by a relatively advanced and efficient communications, financial and transportation infrastructure – all of which could be co-opted to advance terror logistics and operations.⁴² Fifth, there is the existence of an increasingly unhappy population growing ever more alienated with a non-responsive state. This is best seen in the large number of service delivery protests we have been witnessing in South Africa and the fact that in 2009 South Africa surpassed Brazil as the country with the largest wealth gap in the world. Indeed the richest 10 percent of the population earns 53 percent of all income whilst the poorest 10 percent earned a mere 0,57 percent of it.⁴³ One of the most effective bulwarks against terrorism is properly functioning, democratic states responsive to the needs of its citizens.⁴⁴ Citizens in such states, precisely because they feel that it is *their* state, resist radical impulses and will inform authorities of those wishing to do violence. But what of those citizens who feel no such loyalty to the state?

Sixth, South Africa has an abundant number of soft targets to choose from – from European and American hotel chains to restaurants. Planet Hollywood epitomises this issue. Indeed when the Somali Islamists of Al-Shabab wanted to take revenge on the US for the killing of its commander Saleh Ali Saleh Nabhan they devised a strategy to take on the US in South Africa, “... because it was easier than fighting the superpower in Afghanistan, Pakistan or Somalia”.⁴⁵ Neither is such thinking confined to the Islamists of Al-Shabab. Indeed, the Hamas training manual notes, “... it is foolish to hunt the tiger when there are plenty of sheep around”.⁴⁶ Unfortunately there are many sheep around in South Africa and the farmer (South Africa’s security apparatus) is nowhere to be seen.

Seventh, is the relative ease of access these have to weapons and explosives.⁴⁷ The regular use of explosives from mines in Automatic Teller Machine (ATM) explosions illustrates the point well.

Eight, there are clear connections between local and international Islamists. Some of these networks were forged when South African Islamists fought in Afghanistan under the Taliban.⁴⁸ Indeed some experts have gone further and pointed to direct relationships between local militants and Osama bin Laden and the Al-Qaeda network.⁴⁹ Ninth, there is the incompetence of the South African security establishment that encourages these Islamists as, like any cancer, to dig ever deeper into South African society. Barry Rubin puts it best when he stated,

*The problem is that South Africa has a poor security system, an inefficient government, and dangerously wishful thinking attitude to the potential problems.*⁵⁰

All these reasons combine to suggest that unless serious action is taken and soon, stability and security in South Africa could be seriously compromised.

Chapter 2 will focus on the changing face of terrorism – from organisational and centralised to individual and decentralised. Within Islam, the morphing of tolerant Islam into jihadi Islamism will be examined. Chapter 3, meanwhile, focuses on the threat posed by local and foreign jihadis to South Africa who exploits this country’s vulnerabilities. Chapter 4 examines responses to the threat posed from both government and the South African Muslim community. Finally, Chapter 5 examines what could be done in beefing up the security services responses as well as how Muslims could be involved in the fight to neutralise those radical Islamists in their midst.

2

War on Terror or the War of Ideas?

“We went to the jihad filled with joy, and I would go again tomorrow ... If Allah had chosen me to die, I would have been in paradise, eating honey and watermelons and grapes, and resting with beautiful virgins just as it is promised in the Qur’an. Instead, my fate was to remain amid the unhappiness here on earth.”

Ijaz Khan Hussein

– a volunteer in the war in Afghanistan⁵¹

“The most serious challenge that we face is to identify who the real Muslims of today are. Are they people that engage in beheadings? The Prophet himself, coming back to Mecca from exile was asked about his plans for the people who persecuted and plotted to kill him. The Prophet, building on the specific words of God in the Qur’an that referred to people being under heavy oppression, said: ‘You are free people.’ Unfortunately, Muslims today are judged by the behaviour of people on the fringes of Muslim communities.”

H.E. Hagar Islambouly

– Egypt’s former Ambassador to South Africa⁵²

From the global War on Terror to countering violent extremism

Beyond the body count following a fresh terrorist atrocity on the streets of Baghdad or Bali or a US predator drone attacking another target in Waziristan, the struggle against global terrorism is truly a contest between competing ideologies. After all before a suicide bomber detonates his or her vest he/she must be ideologically indoctrinated to believe that he/she is doing the “right” thing – both in terms of the act and the target. Moreover, such an act exists within a social milieu in which such acts are not only condoned but also lauded. For this reason Martha Crenshaw⁵³ believes that martyrdom has a cultural base, “Unless martyrdom was valued by society or at least by a sub-culture, individuals would not seek it.” Moreover religious authorities in Muslim societies often gave legitimacy to such acts by sanctioning them. As Crenshaw goes on to state,

*The martyrs were widely revered in Muslim society. In some cases, the individual who changes his mind about carrying out an attack was scorned as a ‘half-martyr’.*⁵⁴

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Under George W. Bush too much emphasis was placed on the greater deterrence of such jihadis through stiffer punishment, better law-enforcement capacities, and the gathering of intelligence on terror financing or weapons supplies and the general militarisation of US counter-terrorism policy.⁵⁵ Important as these are, these strategies focus on the symptoms of terror and not on its causes. It is imperative, in other words, that we *understand* how ordinary Muslims are socialised or, perhaps more accurately, violently radicalised, and primed to engage in acts of terror. By violent radicalisation, I refer to "... a process that involves embracing opinions, views, and ideas which could lead to acts of terrorism".⁵⁶

What is this process of radicalisation which leads Umar Farouk Abdulmutallab, living a comfortable existence as the son of a banker and a student in London from wanting to set off explosives on an aircraft in which all, including himself will be killed? Why would Faisal Shahzad, the would-be Times Square bomber tell the judge that he was going to plead guilty a hundred times over; that he was proud to consider himself a *Mujahid*, a Muslim soldier?⁵⁷ What accounts for this pride in slaughtering the innocent, whether passengers on an airliner or shoppers in Times Square? In answering this question we need to admit that explanations of terrorism at the level of the individual are insufficient in trying to understand why people become terrorists. Rather, Jerrold Post⁵⁸ asserts,

... terrorists are not depressed, severely emotionally disturbed or crazed fanatics. It is not individual psychopathology, but group, organisational and social psychology, with a particular emphasis on collective identity that provides the most powerful lens through which to understand terrorist psychology and behaviour.

It is this collective identity, which is given form by ideology. Recognising the ideological imperative behind the terrorist act, the Obama Administration has moved away from the Global War on Terror (GWOT) to Countering Violent Extremism (CVE).⁵⁹

On ideology, the clash of civilisations and Hobbes

Most of the twentieth century witnessed an ideological struggle between freedom and democracy. Democracy won that struggle whilst Nazism, Fascism and Communism have been largely confined to the dustbin of history. However the ideological struggle between freedom and authoritarianism is far from over. The spawn of this twentieth century authoritarianism, Islamism, is alive and well in the twenty-first century. Thus we witness a clash of two competing ideologies from Johannesburg to Jakarta, from Londonistan to Lahore, and from Washington to Waziristan. One ideology calls for democracy and greater human rights, whilst the other calls for global jihad and is fundamentally totalitarian in nature. As Walid Phares⁶⁰ makes clear, this War of Ideas is raging relentlessly behind the War on Terror. The outcome of the second is ineluctably conditioned by the consequences of the first. Phares is emphatic in his conclusion that if democratic forces do not win the War of Ideas quickly, then the War on Terror will be expanded into the next generation.

However, let us be clear, this is not an inter-civilisational conflict as envisaged by Samuel Huntington.⁶¹ Rather, this is, in the first place occurring within Muslim societies and second between radical Islamists and the West. Often media reports tend to omit that more Muslims have been killed by other Muslims; that a struggle is taking place for the very soul of Islam amongst the world's 1,5 billion Muslims spread over 150 countries.⁶² Research has demonstrated that only 15 percent of fatalities arising from Al-Qaeda attacks between 2004 and 2008 were Westerners.⁶³ In other words, the overwhelming victims of Al-Qaeda violence are fellow Muslims. This is a struggle, which is taking place in every Muslim country and every

Muslim society, including South Africa, between moderate Islam and radical Islamism. Should moderate Muslims lose this struggle, then I fear Huntington's "clash of civilisations" will become inevitable and the future will resemble a Hobbesian world of a war of all against all.

To understand this ideational war and its terror implications, the chapter will begin with an overview of the Islamic faith. This will be followed with an examination of the rise of what is termed Islamism and certain key ideologues here. The aim is not to present an exhaustive history of Islamic religious thought but rather to focus on those ideas that have practical relevance to our subject matter at hand – that of global jihad. Finally, our focus will shift to South Africa where the strategic relevance of Islamism will be discussed through the prism of the terror threat.

Islam: A religion of peace and tolerance

Reflecting on Europe's brutal religious wars, Voltaire wrote his *Treatise on Tolerance*, which was published in April 1763. In the process, Voltaire, the philosopher of the Enlightenment, introduced Europe to Islam and its tradition of tolerance.⁶⁴ In his book, Voltaire quoted the Qur'anic injunction that there can be no coercion in religious affairs⁶⁵ to juxtapose this Islamic tradition with that of Europe's religious intolerance.

Indeed tolerance and respect for the beliefs of others lie at the very core of Islam. Such tolerance stems from a profound sense of humility that Islam encourages amongst Muslims – that there is no one truth that one people possesses. The Qur'an⁶⁶ categorically states, "God gave each people a prophet speaking in its own language." Moreover, Islamic tradition, Karen Armstrong⁶⁷ notes,

... asserts that there had been 124 000 such prophets, a symbolic figure suggesting infinity. All had brought their people a divinely inspired scripture; they might express the truth of God's religion differently, but essentially the message was always the same.

It is precisely for this reason that the Qur'an⁶⁸ implores Muslims not to argue with followers of earlier revelations and to state:

We believe in that which has been bestowed from on high upon us, as well as that which has been bestowed upon you; for our God and your God is one and the same; and it is unto him that we [all] surrender ourselves.

These Qur'anic injunctions were reinforced by the Prophet Muhammed who said that he had come to bring a "middle way" of religious life that shunned extremes.⁶⁹ The traditions of the Prophet Muhammed also emphasise this important truism. It was reported that when confronted by two extremes, the Prophet always chose the middle.⁷⁰ For this reason Khaled Abou El Fadl⁷¹ stated,

... the Prophet of Islam was always described as a moderate man who tended to avoid falling into extremes. Hence the term 'moderate' has roots in the Islamic tradition, and it conveys the normative position that the vast majority of Muslims are supposed to have.

In addition to a rejection of extremism; mercy, compassion and peace are the three most emphatic values taught by Islam. As El Fadl⁷² has noted, "... these are the values that each practicing Muslim affirms in prayer at least five times a day." Perhaps these values are best illustrated upon the Prophet Muhammed's triumphant return to Mecca when he forgave all who had previously persecuted him and other Muslims. Instead of retribution, there was the Qur'anic verse:

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*Let no reproach be on you this day. May Allah forgive you. He is most merciful of the merciful.*⁷³

Amongst those pardoned by the Prophet that day was a woman who had eaten the liver of the Prophet's own uncle.⁷⁴ This notion of Islam as a religion of peace may well draw incredulous exclamations from non-Muslims who could point to numerous examples of the brutality of so-called Muslims from beheadings in Baghdad to the indiscriminate bombings in London, New York and Boston. This inevitably compels us to examine the notion of *jihad* in Islam.

Contrary to popular media culture the word *jihad* does not mean holy war in the first instance but rather a struggle or striving in the path of God. Indeed Nazeem Goolam⁷⁵ notes that the actual words for war in Arabic are *al-harb* and *al-qital*. This, however, does not mean war is excluded from jihad; rather there are four categories of jihad:

- a. that of the heart (faith);
- b. that of the tongue (good speech);
- c. that of the hand (good works); and
- d. that of the sword (holy war).

Goolam⁷⁶ further notes that the first three categories comprise what has been termed the "greater *jihad*" which is a struggle to purify oneself and to wholly submit to the will of God. When asked to describe the "greater *jihad*" the Prophet stated, "It is the jihad against one's soul, the jihad against our limitations, our own defects."⁷⁷ The fourth category or holy war is referred to as the "lesser *jihad*". Given the fact that it is regarded as a lesser *jihad*, even one of the Islamists ideologues, Sayyed Qutb (1929-1966) concluded that peace is the rule while war is the exception.⁷⁸ Very importantly, Abdul Hadi Palazzi notes that where jihad is waged it is by one regular army battling against another. As he goes on to further note, "Terrorist acts against a civilian population are simply not included in the definition of jihad."⁷⁹

Moreover where war is waged, strict limits are placed on what constitutes legitimate war. According to Yusuf da Costa⁸⁰ Islam prohibits the deliberate killing of children, women and the aged as well as those with whom a covenant has been made. The fact that Islam had already developed a humane war code in an age of barbarism was phenomenal and once more underscores the peaceful nature of Islam. In addition, various Muslim scholars are of the opinion that war is only permissible in self-defence. The justification for such a view emanates from the very first verse revealed in the Qur'an on the issue of jihad:

*To those against whom war is made,
permission is given to fight, because they are wronged,
and verily Allah is most powerful for their aid.*⁸¹

The tolerance of early Islamic societies was incredible judged by even today's standards. Consider here one Abu Nawas (763 – circa 813) a poet who sang praises of wine, which is forbidden in Islam and homosexual love. A sample of one of his poems follows:

*To one who asks me, if I want to go to Mecca
I answer yes – when the pleasures
of Baghdad will have been exhausted
for how could I make the pilgrimage
as long as I remain immersed in a brothel or tavern?*⁸²

Interestingly, there was no Salman Rushdie-style *fatwa* (religious ruling)⁸³ placed on the head of Abu Nawas. The key principle underlying this is the Qur'an verse 2:98 that there can be no coercion in religious affairs. This is again repeated by the Qur'anic verse 18:30, "This is

the truth from your Lord, let him who will, believe, and let him who will, disbelieve.” In the 39th chapter of the Qur’an, the Prophet is ordered to tell unbelievers: “It is Allah I worship in sincerest obedience.” Now as far as you are concerned, “Worship, what you like, besides him.”⁸⁴ At other places, the Qur’an is even more explicit, “For you, your religion and for me, my religion.”⁸⁵ In a similar vein, Allah asks a rhetorical question. Addressing the Prophet, He says:

*If thy Lord had enforced His will, surely all those on earth would have believed, without exception. Will thou, then, then take it upon thyself to force people to become believers?*⁸⁶

The underlying point here is that where religion is enforced, faith itself is undermined.

At a political level, the great Mughal emperor Akbar (1542-1605) understood the great value that tolerance has for multi-ethnic, multi-religious communities occupying the same political space. Akbar did not therefore seek to force his subjects to convert to his religion. Indeed in Akbar’s empire Hindus, Buddhists, Jacobites, Jews, Jains, Christians, Zoroastrians, Sunni Muslims and Ismailis were all allowed to practice their religious beliefs freely. His strong Sufi Islamic beliefs led him to

... build temples for Hindus, and in 1575 set up a ‘house of worship’ where scholars of all religions could meet for discussion. Akbar was attempting to establish a polity that expressed the Sufi ideal of sulh-e-kull (‘universal peace’), which was merely a prelude to mahhabat-e-kull (‘universal love’) which would positively seek the material and spiritual welfare of all human beings.

At the political level, too, Islam is entirely compatible with liberal multi-party democracy. In Islam one could draw a clear distinction between the religious and political spheres. Karen Armstrong,⁸⁷ for instance, powerfully argues that the Qur’an insists that the Prophet Muhammed had no political function but that he was simply a *nadhir* (“a warner”).⁸⁸ Of course, he did become head of the first Islamic state but this was more due to the political vacuum existing at the time as opposed to some divine pre-ordained plan. Also contributing to this separation between religion and the public sphere was that throughout Islamic history there never was a single voice that represented the canons of religion or Shar’ia law. As Khaled Abou El Fadl has asserted:

*Historically, the Islamic faith and Shar’ia law have been represented by several competing schools of theological and jurisprudential thought, the most powerful and notable of these organised into privately run professional guilds. Although the state often claimed to rule in God’s name, the legitimacy of such claims were challenged by these professional guilds.*⁸⁹

A secular state is not an anti-religious one; rather it sets the basis where people of different faiths can co-exist harmoniously. This is especially important in our modern heterogeneous and conflict-prone polities. More importantly Islamic concepts such as freedom (*al-hurriya*), equality (*al-musawat*), justice (*al-adl*),⁹⁰ and consultation (*shura*) are all norms that can be found in a liberal, multi-party, secular polity. Furthermore, the first four caliphs in Islam, beginning in CE 632, were all elected by a majority vote.⁹¹ In addition, as early as the ninth century a rationalist movement, called the Mu’tazilites was established in the Islamic world which promoted secularism.⁹² It is for this reason, too, that the notion of a clash of civilisations must be rejected – the West does not have a monopoly on liberal democracy. Similarly, the spurious bifurcation of Western freedom vs. so-called Eastern authoritarianism must be rejected.

The rise of Islamism

This Islamic tradition of tolerance has however been increasingly displaced by what Abdul Hadi Palazzi⁹³ terms “Islamism”. Islamism is a twentieth century totalitarian ideology that seeks to mould Islamic religious tradition to serve narrow political ends of domination. Khaled Abou El Fadl also refers to this as a “puritanical” tradition within Islam noted for its “fanatical reductionism and narrow-minded literalism”.⁹⁴ Whilst having been moulded and coming together as a somewhat coherent ideology in the twentieth century, its theological roots go all the way back to the thirteenth century to the time of Ahmad ibn Taymiyyah (CE 1263-1328).⁹⁵ As with other totalitarian ideologies of that blighted century, Islamism shares more characteristics with Nazism and Fascism than it does with the Qur’anic teachings alluded to earlier. Islamism capitalises on feelings of humiliation and powerlessness that Muslims started feeling in the early twentieth century with Western encroachment and colonialism, the dismantlement of the Ottoman Caliphate and the economic backwardness of their societies in relation to their Western counterparts. In this one could draw parallels with how Adolf Hitler manipulated the feelings of humiliation experienced by the German people at the end of World War I following the signing of the Treaty of Versailles.

As with other totalitarian ideologies, Islamists do not tolerate difference or accept the proverbial “other”. Muhammad ibn Abd al-Wahhab (CE 1703-1792) famously declared all those who did not conform to his purist vision of Islam to be apostates and worthy of death.⁹⁶ This intolerance was also vividly portrayed when the Taliban desecrated the giant Buddhas that were sculpted out of the walls of Afghanistan’s mountains between the third and fourth centuries.⁹⁷ Intolerance is also seen in the virulent anti-Semitism of Islamists – another characteristic they share with the Nazis. Notions of Jews controlling the world feature prominently in their discourse as a perusal of the Hamas Covenant will testify to. It seems that Muslims have forgotten that the Prophet married a Jewish woman, that he attended the funeral of a Jewish man and that he left his armour with his Jewish neighbour for safe-keeping – the latter being symbolic of the utmost trust he had in his neighbour.

Discussion, dialogue and open debate are anathema to these Islamo-fascists. Maulana Abul Ala-Maududi (CE 1903-1979) the founder of the Jamaat-e-Islami organisation in Pakistan and the ideological father of the Taliban movement in Pakistan is perhaps the best exemplar on the use of force and coercion to dealing with difference. He had this to say,

*... force may be used, in fact should be used to prevent people from doing wrong. Non-Muslim countries and cultures cannot be allowed to practice immoral deeds.*⁹⁸

What is important to note here is the emphasis on non-Muslim countries and societies. Indeed Maududi himself was to call for a universal jihad. In this Islamists, too, share another characteristic with the Communists, Fascists and Nazis of the past – that of global domination.⁹⁹ Maududi argued, that

*Islam does not want to bring about the revolution in one country or a few countries. It wants to spread it to the entire world. Although it is the duty of the Muslim Party to bring this revolution first to its own nation, its ultimate goal is world revolution.*¹⁰⁰

Similar sentiments were also expressed by the Egyptian Hassan al Banna (1906-1949), founder and Supreme Guide of the Muslim Brotherhood,

It is the nature of Islam to dominate and not to be dominated, to impose its laws on all nations and to extend its power to the entire planet.¹⁰¹

Like Fascism and Nazism, Islamism is utopian.¹⁰² They put forth a vision of an ideal society drawing inspiration from an idealised seventh century Arabia which is more the result of myth than the product of historical fact. Consider the myth around the so-called “rashidun”, – the four rightly guided caliphs – to succeed the Prophet Muhammed. What Islamists politely omit in their discussion of the reign of the first four caliphs is the fact that three of the four caliphs were assassinated; that nepotism, political unrest and outright civil war plagued their reign.¹⁰³

As with other totalitarian ideologies, Islamists are quite adept at blaming others for their problems. It hardly needs reminding that the Muslim world was already in decline by the time Napoleon entered Egypt in the eighteenth century. Indeed it was precisely because of their internal decay that allowed much of the Muslim world to be colonised so speedily. More contemporaneously, this attitude is seen in Islamists refusing to take responsibility for the ills of their own country or region and prefer conspiracy theories such as the West wanting to undermine Islamic nations. As Thomas Friedman put it so succinctly,

Is it America's fault that Korea had the same per capita income in the 1950s as many Arab states but Korea has managed its development so much better since that it now dwarfs all Arab economies.¹⁰⁴

This is indeed the core of the problem of Islamists. We know what they are against (almost everything) but what are they for? I am all for an intifada for an independent Palestine, but what should an independent Palestine look like? For that matter, what about an intifada for women's rights, democratic governance, press freedom and an end to nepotism and corruption, cronyism, and the persecution of minorities in Muslim countries?

Coupled with their desire to not look at their own warts, Islamists also betray a selective amnesia of history. When looking at the glory days of Muslim influence on world history they tend to omit the fact that this period also coincided with a period when the Muslim world was at its most open – not closed. As Friedman again notes,

The Muslim world reached the zenith of its influence in the Middle Ages – when it preserved the best of classical Greek and Roman teachings, and inspired breakthroughs in mathematics, science, medicine and philosophy. That is also when Islam was at its most open to the world, when it enriched, and was enriched by the Christian, Greek and Jewish communities in its midst.¹⁰⁵

A similar case of historical amnesia is Osama bin Laden's lament of the passing of the Ottoman caliphate. However, the Ottoman caliphate was derived less from Islamic principles and more on the Byzantine model of absolute monarchy.¹⁰⁶ Despite their affinity to the caliphate, Islamists would do well to recall the sagely words of Sheikh 'Abd ar-Raziq,

The caliphate was not only neglected by the Qur'an, which never so much as evoked it, but also by the Sunna which does not mention it at all.¹⁰⁷

Islamists also share other characteristics with their fellow ideologues to the right and left of the political spectrum. Violence and intimidation are part of the tools of the propagation of their creed. Iran's Ayatollah Khomeini proclaimed,

Whatever good there is exists thanks to the sword and in the shadow of the sword! People cannot be made obedient except with the sword! The sword is the key to paradise, which can only be opened for holy warriors.¹⁰⁸

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For Maududi the act of religious worship lost its spiritual purposes and was merely militarised. Thus he noted,

*The prayers, fasting, charity and pilgrimage have been prescribed to prepare and train us for this purpose of jihad. All the governments in the world give their armies special and specific training, their police and civil service too. In the same way, Islam also trains those who join its service – then requires them to go to jihad and establish the government of God.*¹⁰⁹

Indeed Maududi argued that jihad was the central tenet of Islam. No scholar or cleric before him made such a claim – placing jihad on equal footing as the Five Pillars of Islam.¹¹⁰ In the process, Maududi was more than just interpreting Islam – he was reinventing it! A few years later, the Egyptian Mohammed Abdus Salam Faraj penned a treatise entitled *Jihad: The Absent Obligation* where he stated, “It is clear that jihad is now obligatory upon every Muslim.”¹¹¹ Suddenly Islam moved from having five pillars to six with the inclusion of jihad – and the Islamists idea of jihad at that. Of course both Maududi and Faraj were borrowing from Ibn Taymiyya here. In 1300 already he wrote,

*To fight in defence of religion is a collective duty; there is no other duty after belief than fighting the enemy who is corrupting our life and our religion.*¹¹²

Indeed, more than re-inventing, Islamists were corrupting Islam at almost every turn. Qur’anic prohibitions on hostage taking and treatment of prisoners were jettisoned whether by Iranians taking American hostages in Tehran or Hezbollah and Hamas in Lebanon and Gaza respectively. Qur’anic verses 2:178; 8:168; 24:34 and 47:5 forbid the taking of hostages except during a conventional war. Even then, these should be treated with dignity and respect and should be freed as soon as possible with the captor obliged to contribute to the ransom from his own resources.¹¹³ Were the Islamist Chechens who entered the elementary school in Beslan on 1 September 2004 keeping hundreds of young children captive for three days aware of these Islamic prohibitions or did it not matter? Some of these children died from dehydration as a result of the summer heat, others were killed when bombs were detonated, collapsing the roof and igniting a raging fire.¹¹⁴

This is not the only Qur’anic proscription that Islamists flout. Mohamed Hafez, for instance, points out that suicide terrorism violates at least three Islamic prohibitions: that against suicide, against the killing of innocents, and against the killing of Muslims.¹¹⁵ How did these Islamists justify this? Ayatollah Fadlallah, the recently deceased spiritual mentor of Hezbollah, disingenuously justified such acts as hostage-taking and suicide terrorism on the bases that extreme circumstances require extreme acts.¹¹⁶ This sounds depressingly similar to the end justifies the means argument and like that argument is equally morally bankrupt. How can we as Muslims justify such just moral relativism is beyond my comprehension.

Again and yet again, Islam is corrupted and betrayed by these Islamists. The Wahhabi predilection to brand other Muslims as apostates, infidels, unbelievers or heretics was denounced by none other than Al-Wahhab’s own brother Sulayman who pointed out that it violates at least fifty-two traditions of the Prophet and that of his Companions. In other words, it is a sin to accuse a Muslim of heresy or being an unbeliever.¹¹⁷

Organisationally, too, they share common features with other totalitarian organisations. The organisational structure of many Islamist organisations, for instance, bears striking similarities with the Leninist ideal of the vanguard party. Here it was Syed Qutb more than any other thinker who injected the notion of a vanguard party into the prevailing Islamist discourse.

“There should be a vanguard to set out with this determination [to achieve world dominion for Islam]”, he had declared on the eve of his execution by Egypt’s Nasser.¹¹⁸ Hassan al-Banna (1906-1949),¹¹⁹ the founder of the Muslim Brotherhood, which has subsequently spawned several other Islamist groups, clearly demonstrated his disdain for democracy when he opposed to the establishment of political parties and wanted to have all civil servants undergo religious training. This was a sure way towards a one-party state and something I am convinced that both Hitler and Mussolini would have felt comfortable with.

As with Lenin, Mussolini and Hitler, Islamists seek to capture state power in order to herald their New Order. This is despite the fact that radical political Islamists who seek to capture state power with a view to transform it into an Islamic state would do well to review Islamic history with a sense of humility – a history where kleptocratic political elites pursued narrow interests dressed up in Islamic rhetoric. Caliph Harun al-Rashid (CE 786-809), for instance, referred to himself as the “Shadow of God on Earth” and got religious scholars and clerics to argue that the duty of citizens must be to obey the caliph irrespective of his religious credentials.¹²⁰

This latter point is best illustrated in contemporary Iran where we see a tiny theocratic elite willing to murder young students on the streets of Tehran in order to remain in power.¹²¹ Where politics merge with religion, religion inevitably suffers and we are all spiritually poorer. This is the real significance of the theological justification that Ayatollah Khomeini came up with – the concept of velayat-e-faqih – the rule of the supreme jurisprudent.¹²² Thus, according to Articles 56 and 57 of the Iranian Constitution, the guardian or supreme religious leader holds God’s absolute sovereignty over the world and man. In the process, elections and the democratic will of the people that it represents become so passé.

Indeed the Islamist’s ideal state increasingly resembles Stalin’s gulag. Here it is important to understand what Maududi’s government of God consists of. According to Maududi,

In our domain we will neither allow any Muslim to change his religion nor allow any other religion to propagate its faith. Whenever the death penalty for apostasy is enforced in a new Islamic state, then Muslims are kept within Islam’s fold. But there is a danger that a large number of hypocrites will live alongside them. They will pose a danger of treason. My solution to the problem is this. That whenever an Islamic revolution takes place, non-practicing Muslims should, within one year, declare their turning away from Islam and get out of Muslim society. After one year, all born Muslims will be considered Muslim. All Islamic law should be enforced upon them. They will be forced to practice all the tenets of their religion and, if anyone wishes to leave Islam, he will be executed.¹²³

Whatever happened to no coercion in religious affairs?

Where Islamists do capture power, as in Shiite Iran or Sunni Afghanistan, to create a paradise on earth with none of the social ills of the decadent West, they rapidly find that the Islamist state is no panacea for society’s ills. In 2003, the Iranian newspaper *Entekhab*¹²⁴ pointed to the following statistics:

- there are 84,000 prostitutes operating on the streets of Tehran
- there are also 250 brothels in the Islamic Republic’s capital – including some which are linked to senior officials
- 60 new runaway girls are hitting Tehran’s streets every day
- Forty percent of all female drug-addicts in Iranian prisons have AIDS
- Four million youths under the age of twenty suffer from depression.

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Similarly Afghanistan under Taliban governance did not bring about the pristine utopia Islamists yearned about. Indeed their rule violated many Qur'anic injunctions. Ethnic chauvinism is forbidden by the Qur'an and the Prophet. This however, did not stop the Taliban (who overwhelmingly belong to the Pashtun ethnic group) from targeting non-Pashtuns. Moreover, the Taliban's discrimination against women runs entirely against the example of the Prophet as well as the conduct of the first ummah.¹²⁵

The point that is being made here is that the capture of state political power and by the mere enactment of Islamist legislation – whether Khomeini Shiite or Sunni Salafist inspired – is no guarantee of an Islamist nirvana.

In their desire to capture political power Islamists forge alliances, which betray the very teachings of the Qur'an they claim to be representing. Who can forget the ties the Muslims Brotherhood forged with Nazi Germany¹²⁶ or the thousands of Islamists who were recruited to assist Fascist Italy's invasion and occupation of Ethiopia (Abyssinia) between 1936 and 1940?

Lenin promised Russians a workers' paradise and instead gave them Stalin and the gulag. Mussolini promised Italians a new Roman Empire and Hitler promised Germans a thousand year Reich. Both led their peoples to war and misery. Islamists promise Muslims a new nirvana but their path is one of totalitarianism, tyranny and terror. This is not the path of Islam. This is not the path of the Prophet. This is not the path of tolerance and compassion and acceptance of the other. In the final instance, Islamists betray Islam and all Muslims.

Latter day Islamist movements draw much of the basis of ideology from these previous thinkers. Violence occupies a central part of their creed as Osama bin Laden's *Jihad Against Jews and Crusaders* makes clear,

*We with Allah's help – call on every Muslim who believes in Allah and wishes to be rewarded to comply with Allah's order to kill the Americans and plunder their money wherever and whenever they find it. We also call on Muslim ulema, leaders, youth, and soldiers to launch the raid on Satan's US troops and the devil's supporters allying with them, and to displace those who are behind them so that they may learn a lesson.*¹²⁷

Suddenly the killing of Americans and the plunder of the wealth is a divine order. No holy scripture would endorse such a view. In Islam, God is just not vengeful.

Moreover given the expansive nature of their goals, world domination, their enemies just keep expanding from the original Jews and Crusaders. In Al-Qaeda leader Ayman al-Zawahiri's *Knights under the Prophet's Banner*, the enemies against Islam include the United Nations, multinational corporations as well as international communication and data exchange systems, international news agencies, satellite media channels and international relief agencies; all of which he accuses of being involved in "... espionage, proselytising, coup planning, and the transfer of weapons".¹²⁸ We see a similar expansion of goals (and enemies) in the evolution of Al-Shabab in Somalia, initially seeking an Islamist state in Somalia then talk of liberating all of east Africa under the cross to sending its fighters to Yemen and Afghanistan. This expansion of goals occurred after Al-Shabab's formal merger with the Al-Qaeda network in February 2010.¹²⁹

Despite the rantings of Messrs Bin Laden and Al-Zawahiri, it is the Hamas Covenant that makes for interesting reading. It manages to fuse militant nationalism with violent Islamism and bizarre conspiracy theories. As with other Islamists, peace is jettisoned in favour of violence. This is beautifully stated under Article 13,

Peace initiatives, the so-called peaceful solutions, and the international conferences to resolve the Palestinian problems, are all contrary to the beliefs of the Islamic Resistance Movement ... There is no solution to the

*Palestinian problem except by Jihad. The initiatives, proposals and International Conferences are but a waste of time, an exercise in futility. The Palestinian people are too noble to have their future; their right and their destiny submitted to a vain game.*¹³⁰

Anti-semitism and the Islamist view of history from Article 22 of the Hamas Covenant provide interesting insights into the mindset of Hamas as an organisation. Here we are told that Jewish capital controls much of the world; that the Jews were behind the French Revolution of 1789, the Russian Revolution of 1917, as well as the two World Wars. Moreover, we are told that the Jews had set up freemasonry, Rotary Clubs and Lion Clubs as destructive spying agencies.¹³¹ Upon first reading it, I thought perhaps that the authors of the Hamas Covenant had read too many Dan Brown novels – *The Da Vinci Code* – sprang to mind. However, it is clear that they actually believe this, which raises interesting questions of how conflict resolution or political compromise is possible in the Middle East if this is the ideological baggage Hamas comes with to any negotiating table.

Islam is roughly the same age today as Christianity was when Martin Luther placed his 95 theses on the door of Wurtemberg Chapel and started the Protestant Reformation. Generations of bloody conflict ensued. At this current historical conjuncture, there is a major battle taking place inside Islam between moderates (who in my view are the real Muslims) and the Islamo-fascists. This battle is equally bloody with more Muslims killed by other Muslims than by American or Israeli bombs. At issue, is who gets to define Islam for the world's 1,5 billion Muslims. This is a battle that non-Muslims cannot simply regard as an internal struggle and sit on the sidelines – they need to actively support moderate Muslims. At issue, furthermore, is the survival of the human species itself – a world where peaceful coexistence and respect for the other exists or one of enforced conformity within a worldwide gulag state. In my view the likes of Bin Laden and Maududi are far more dangerous to Islam and Muslims than a George Bush or a Benjamin Netanyahu could ever be, since they corrupt the very tenets of the faith itself.

The democratisation of Jihad

A major flaw in countering-terrorism is the inability to understand how Bin Laden and his successor Al Zawahiri has successfully managed to transform terrorism – that is, making it much more decentralised, less hierarchical and organisational, and more unpredictable and altogether far more lethal. Command and control as we traditionally understand it has been jettisoned in favour of highly localised cells. To be sure this was not always the case. Al-Qaeda used to be a highly centralised organisation when it came to planning, staffing and command and control.¹³² However after its base in Afghanistan was destroyed during the US-led military campaign they were forced to re-strategise thereby creating a flatter, highly dispersed network consisting of permanent, semi-permanent or independently operating cells in over seventy-six countries.¹³³

Al-Qaeda's global reach is also facilitated by its ability to co-opt local structures into its network as we recently witnessed with Somalia's Al-Shabab taking a *bayat* or oath of allegiance to the Al-Qaeda leadership.¹³⁴ Indeed whilst Al-Qaeda central consisting of Zawahiri and his cohorts may be weakening; local Islamists affiliated to Al-Qaeda are mushrooming. Again, it is the Islamist ideology that penetrates first, then the formation of the group.¹³⁵ In addition, Al-Qaeda's use of technology specifically the internet and audio and video broadcasts screened on Al Jazeera and other outlets also serves as a force-multiplier. The Al-Qaeda leadership is, therefore, playing less the role of command and control and more of an inspirational role. In this situation the glue that keeps Al-Qaeda and its disparate parts together giving it cohesion, is ideology. Given

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the dispersed nature of the organisation, the ideology of radical Islamism occupies central place. Commenting on these developments, the inimitable Robert Fisk states,

No one grasped that the leader of the Islamic side in this so-called war – Bin Laden – was not relevant. The billions of dollars spent on trying to find him proved that we had still not understood the reality of 11 September 2001: bin Laden had created Al-Qaeda; but his role was now largely ceremonial, ideological, rather than military. Seeking to discover his whereabouts was akin to arresting the world's nuclear scientists after the invention of the atom bomb: Al-Qaeda now existed in the minds of thousands of Muslims. The monster – as Western journalists would like to refer to their enemies – had grown up and propagated.¹³⁶

Is it any wonder then that when Al-Qaeda launched its first English-language magazine in July 2010, it named it *Inspire*.¹³⁷

All these developments have been further facilitated by what I would term is the “democratisation of jihad” – Bin Laden successfully breaking the monopoly of the ulema and giving the right to interpretation to the Muslim street, especially on matters of jihad. Undoubtedly, this process has been assisted by Islamic clerics, scholars and jurists who have often been co-opted by authoritarian governments and have therefore lost legitimacy in the eyes of the Muslim masses as they serve as praise singers to a corrupt and dictatorial elite.¹³⁸ This Islamist anti-clericalism of course predated Bin Laden: Islamists killed ulema too close to the governing elite as early as 1977 with the assassination of Muhammad al-Dhahabi, the Egyptian Minister of the Waqf¹³⁹ – but he certainly built on this anti-clericalism. By June 2003 Bin Laden essentially declared war on the ulema, accusing them of “deception and misguidance” and having “sold their faith to temporal gain”.¹⁴⁰

As they lost legitimacy, and therefore authority; in the eyes of Muslims everywhere, the Islamist cause was greatly strengthened as they rapidly took over the vacuum left by an increasingly discredited ulema. It was the Islamist interpretation of the Qur'an that held sway since the ulema did not speak for God or the people, but for the kleptocratic ruling elites. It is no co-incidence as Olivier Roy notes that with the exception of Iran the Islamist movement everywhere are led not by clerics but by young secular intellectuals who challenge the ulema everywhere.¹⁴¹

Moreover, the esteemed Saudi academic, Dr Madawi al-Rashid pointed out how by individualising Islam, Bin Laden has broken the “... monopoly of jurisprudence, which was established under the umbrella of the state”.¹⁴² In the process each Muslim has become his own imam and in this context, fatwas (religious decrees) from ulema opposing violence has little resonance since they represent the *status quo* – one that excludes the vast majority of disenfranchised and disempowered Muslims. Long after Bin Laden's passing, this individualisation of Islam and consequent democratisation of jihad will be his enduring legacy and one which we all have to live with as acts of terrorism become more individualised, more sporadic and ever more difficult to control.

We see this phenomenon taking place throughout the world and with increasing frequency. We saw it in 2009 in Fort Hood Texas with a US Army Major, Nidal Malik Hassan, turning his guns on his own fellow US soldiers.¹⁴³ His thirteen victims included a newly-wed and a three month pregnant woman. Nineteen children were left without a parent.¹⁴⁴ We saw it too on Christmas Day 2009 with Umar Farouk Abdulmutallab's attempt to down a passenger airliner.¹⁴⁵ September 2009 was a busy month for US prosecutors. Three men were charged with trying to attack a North Carolina Marine base; a Jordanian man was charged with trying to blow up a skyscraper in Dallas; Michael Finton was charged with trying to blow up a federal building in Illinois; and on 29 September Najibullah Zazi was charged with planning to use

weapons of mass destruction in New York – essentially triacentrene triperoxide (TATP) – the same explosives used in the London Underground bombings.¹⁴⁶ Court papers indicate how Mr Zazi and his associate bought large amounts of hydrogen peroxide and acetone product.¹⁴⁷ The significance of this we will later see in the Jonker case in South Africa as well.

Belatedly counter-terror officials and analysts are waking up to the threat posed. US Senator Joe Lieberman's Homeland Security Committee warned of the threat posed by "self-generated violent Islamist extremists". Renowned Georgetown counter-terror expert, Bruce Hoffman, has recently stated that terrorist techniques a decade ago are outmoded,

I used to think it was only terrorism if it were part of some identifiable, organised, conspiracy [but] this new strategy of Al-Qaeda is to empower and motivate individuals to commit acts of violence completely outside any terrorist chain of command.¹⁴⁸

Unfortunately none of this new thinking around terrorism and counter-terrorism, we shall see, seems to have penetrated the minds of South Africa's own security elite.

Implications for South Africa

Is Islamism spreading in South Africa? The answer has to be an emphatic yes. One could, of course, look at various publications and websites spewing forth this Islamist rage but one of the most interesting is an interview which Khadija Abdul Qaheer conducted with Mustafa Jonker one of the men arrested in a Muizenberg, Cape Town police raid for allegedly attempting to start a terror campaign in South Africa. Whilst excerpts from the interview are long, it provides fascinating insights into the Islamist mindset:

Mustafa Jonker: "I, like thousands of Muslims like me am concerned at the plight of the oppressed in general and the Muslim Ummah in particular which over the last century has witnessed an unprecedented onslaught from global disbelief. I realised from an early age that America is the main source of this global tyranny by her directly invading Muslim lands and killing their people and also by supporting apostate governments that subdue their people on her behalf. We returned to South Africa in 1999 [from Saudi Arabia] and I soon realised that while the racist apartheid regime had been removed, this new 'democracy' had come about by the ANC selling South Africa to multi-national corporations. The ANC has a history of concern for only the middle and upper class blacks. The result of this treachery is a symbolic multicultural government which is dictated to by and passes laws on behalf of mainly European and American companies, the same Crusader nations pillaging Afghanistan and Iraq today. Today South Africa has the biggest gap between rich and poor in the world; a direct result of the government's neoliberal capitalist policies. A wealthy elite own South Africa's wealth, while 30 million people suffer from poverty. Resulting from this poverty is crime of which South Africa has the highest statistics in the world as well. I began advocating as Allah commanded direct action against the Crusader-Zionist alliance and her pawns in power and this is the background behind my being labelled a terrorist. As far as this word goes, it is a label placed on anyone challenging the greedy bloodthirsty agenda of the West and I therefore take a pride in it. Ours is a blessed terror that desires to see an end to America's oppression ... it is a fact that the Jews around the world using the Crusaders are the main benefactors of the global campaign against Islam ... Jews like the Oppenheimers have a monopoly over South Africa's resources and their banks ensure that the 'goyim' as they call the suffering masses are kept in a state of debt slavery. They use Usury which Allah forbade them from practicing, to turn free people into slaves. Africa in particular is suffering from great debts owed to these prophet murderers

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and it is therefore not surprising that the bulk of attacks on Jews outside the Holy Land have been in Africa. Over the last few years, Mujahideen have attacked the Jews in Mombasa in East Africa, they attacked them in Tunisia and Egypt in North Africa and they attacked the Israeli embassy in Mauritania in West Africa and we don't consider the Muslims here in South Africa to be any less determined to punish the Jews for spreading corruption over Allah's earth. The Muslims in South Africa hold a special place in their hearts for their suffering brethren in Palestine and perhaps amongst them are those who pledged to fight until the Bastard State of Israel is eradicated and have pledged to pray in Masjid al-Aqsa as conquerors or to meet Allah on the way ... We are witnessing the prediction of Sheikh Osama bin Laden come true when he said, 'America by picking a war with the sons of the Arabian peninsula will experience things that will make them forget all about the horrors of Vietnam and that America will turn into a shadow of her former self.'¹⁴⁹

If there was a checkbox against Mr Jonker to determine whether he was indeed an Islamist I would have to tick most items, from Wahhabist apostasy to a commitment to violent change, to anti-Semitism and conspiracy theories to a poor grasp of economics, an even poorer grasp of politics and a distorted view of history.

We should, however, not merely dismiss Mr Jonker's view as representing some minority fringe element in South African Muslim society. In an address to a conference in Lenasia, south of Johannesburg, on 14 January 2009, former South African Deputy Minister of Foreign Affairs, Fatima Hajaig is alleged to have said:

*They [the Jews] control [America] no matter which government comes into power, whether Republican or Democrat, whether Barrack Obama or George Bush ... Their control of America, just like the control of most Western countries, is in the hands of Jewish money and when Jewish money controls their country then you can expect anything.*¹⁵⁰

How are the views expressed by the Honourable Fatima Hajaig any different from the anti-semitic views of Mr Jonker? The South African Jewish Board of Deputies decided to lodge a complaint of hate speech against the Ms Hajaig with the Human Rights Commission. As its Chairman, Zev Krengel stated,

The decision to lodge the complaint had not been taken lightly, but there had not been any realistic alternative. Not since the era of pro-Nazi Nationalist MPs more than half a century ago had such statements been made against Jews by a senior government official.¹⁵¹

What might the implications of this growth of Islamism and the concomitant democratisation of jihad for South Africa be? Given the ideological basis of the threat of Islamist terrorism, it is imperative that Pretoria identify processes and institutions contributing to the radicalisation of its Muslim population – be it the mosque and madrasah or specific charismatic individuals or specific media outlets and then find means to neutralise these. Here what is of particular concern is what has been referred to as “institutional socialisation”. Hutson, Long and Page define these as,

*... institutions, whether formal or informal, which shape an individual's attitudes, values, motivations, social roles, language and worldview ... literature on radicalisation has pointed to a phenomenon in which a number of individuals has been radicalised through informal Qur'anic study groups centred on the mosque or a particular member of the ulema.*¹⁵²

In the battle between Islam and the Islamists, the South African government cannot sit on the fence as it has been doing. The lives of its own citizens necessitates that it act to defend Islam and moderate Muslims from the radical Islamists.

On the issue of mosques, following media reports in 2009 of a Somali Al-Shabab cell in Khayaletshsha, concern was expressed that some independent Somali mosques were being used to share militant messages from Al-Shabab in Somalia with the local congregation. Abu Raas, a Somali using a pseudonym, states that lectures at the mosque are only given to those who support the terrorist Al-Shabab group, and that aid collected at the mosques only goes to the group in Somalia. The independent Somali mosques most at risk were in Bellville, Port Elizabeth and Mayfair in Johannesburg. Moreover there is reason to believe that the internecine strife seen in Somalia may be exported to South Africa as clashes between Sufi-Somalis and Wahhabi Somalis testify to. These were only settled with the intervention of the South African police.¹⁵³

The issue of mosques in South Africa that could be used as an instrument of radicalisation – a conduit for Islamist teachings – is also of concern if the imam at the mosque himself is essentially taking orders from elsewhere. Yusuf da Costa has eloquently stated,

Some of the major enemies of Islam are lurking within Muslim institutions, societies and communities throughout the world. You might find this strange, but I consider these enemies far more dangerous to the survival of mainstream Islam than the open enemies. We know the open enemies. We do not really know the silent enemy occupying our pulpits and madrassahs, and who teach day after day a version of Islam that is destructive to the divine teachings. They are taking over everywhere, and then quietly, and with our approval, distort the divine teachings so that these teachings fit into the demands of powerhouses elsewhere. I watch these operations in Cape Town, and how dollars and riyals are used to buy over one cleric after the other. In Cape Town, certain clerics have been receiving a monthly stipend from Saudi Arabia for years. Why? Moreover, why are they so silent about it? Islam is being changed here as it is being changed elsewhere by the power of money.¹⁵⁴

On the issue of madrassahs analysts also worried about the fact that Zubeir Ismail, one of two South Africans found in an Al-Qaeda safe house in Pakistan, was a former student of Farhad Dockrat¹⁵⁵ who was the principal of a Darul Uloom in Pretoria; he recently was placed on the international terror list by the US as an international sponsor of terrorism.¹⁵⁶ Neither should this be regarded as an isolated case. International terror experts also raised the issue of the purpose of structures like Majlisul Ulama of South Africa (MUSA). This is a grouping of radical Islamist teachers who are thought to be close to Hezbollah.¹⁵⁷ This raised concerns about whether such Muslim schools in South Africa were being used for indoctrination and recruitment purposes.¹⁵⁸

In October 2003, the *Washington Post* raised concerns about South Africa's madrassahs following at least 500 students from Pakistan's radical madrassahs having fled to South Africa (with more on the way) following a government crackdown, in Pakistan.¹⁵⁹ Many of these students took up positions at Islamic schools that sprung up in Cape Town, Johannesburg, and Durban.

This, in turn, raised some serious concerns about the nature of the instruction given to these students.¹⁶⁰ Are they being exposed to a tolerant Islam or one, which is going to lend itself to polarisation, hostility and further demonisation of the proverbial "other"? Certainly those that I had interacted with thought the world of Moulana Maududi! Indeed, the South African government expressed fears that Al-Qaeda operatives may be hiding out in Muslim

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theological schools, known as Darul Uloom.¹⁶¹ This concern rested not only with the South African government. In August, 2004 the then Minister in the Office of President, Essop Pahad, together with the Ministers of Safety and Security and Intelligence, as well as other senior cabinet colleagues, met with 30 Muslim community leaders on behalf of foreign ambassadors to South Africa regarding their concern on the role of these Darul Uloom.¹⁶² The role of such theological schools in the radicalisation and recruitment of Muslim youth is well documented. Imamdheri, the madressa run by Maulana Fazlulla, head of the Pakistani Taliban played such a role and was subsequently bombed by Pakistani security forces.¹⁶³ Similarly, security forces in Indonesia have linked the bombings in Jakarta to Al-Mukmin, an Islamic boarding school in Java.¹⁶⁴

The role of charismatic individuals in the radicalisation of Muslims should also not be ignored. For instance, there is considerable debate to what extent both Ismail and Ganchi had their own mentor, in the form of a mystery recruiter who Pakistan security services would only identify as “Ahmed”. It would seem that both Ismail and Ganchi were exposed to months of motivational lecturing by Ahmed who urged them to do something practical for the “holy war against the United States”.¹⁶⁵ It was only after encouragement from Ahmed that both Ganchi and Ismail made the trip to Pakistan. Identifying such mentors and neutralising them must find its way into South Africa’s counter-terrorism arsenal. It would however seem that Ahmed evaded capture and remains on the run.¹⁶⁶

Fear has been repeatedly expressed that organisations like *Jamaat al-Tabligh wal-Da’wa* (Society for Propagation and Preaching) play an important role in the radicalisation and recruitment of Muslims for the Islamist cause. The activities of the organisation, its membership or finances are never published and officials of the organisation assiduously work to remain outside both media and government attention. This secrecy is further enhanced by the leadership’s dynastic character. All Tableegh Jamaat leaders since Maulana Muhammed Elyas Kandhalawi (1885-1944), its founder, have been related to him by either blood or marriage.¹⁶⁷ Ideologically, Tableegh Jamaat hardly differs from other radical Islamists with its ultimate objective being nothing short of a “planned conquest of the world in the spirit of jihad”.¹⁶⁸

Indeed, over the years, the ‘quietist’ and non-political image of Tableegh Jamaat has increasingly been questioned as events contradicted the image. In 1995, there was an attempted coup in Pakistan that involved high-ranking military officers and civilians – all of whom were members of Tableegh Jamaat. Kazakh authorities, meanwhile, deported a number of the organisation’s members for “advancing extremist propaganda and recruitment”.¹⁶⁹ In Morocco, meanwhile, another Tableegh Jamaat member – Yusuf Fikri – who was also the leader of the Moroccan terrorist group, At-Takfir al-Hijrah, was sentenced to death for his role in the May 2003 Casablanca bombings which killed more than 40 people. In the Philippines, the government accused Tableegh Jamaat of serving both as a conduit of Saudi money to the Islamists terrorists in the south and for Pakistani jihad volunteers to join in the insurrection in the south.

In France, 80 percent of young Muslim extremists emanate from Tableegh Jamaat’s ranks, prompting one French intelligence official to refer to them as the “antechamber of fundamentalism”.¹⁷⁰ Imam Ben Halim Abderraouf, based in Paris and a senior figure within Tableegh Jamaat, played a key role in recruiting young Dutch Muslims. At least four of them then travelled on fake Algerian passports to Damascus via Paris and then proceeded to the Syrian-Iraqi border to receive military training from Iraqi insurgents.¹⁷¹

This fear about Tableegh Jamaat was not only expressed in Europe but also in Argentina when twenty-six of their members entered Buenos Aires. These members came from a diverse

number of countries, including Pakistan, Malaysia, Qatar, Egypt and South Africa. Security services from Spain, Italy and Argentina expressed fear that their aim was to recruit Argentine Muslims to be trained outside in terrorist activities.¹⁷² Spanish anti-terror experts were also investigating some of the group's members for involvement in the Madrid train attacks on 11 March 2004 which killed 192 people and therefore provided movements on this group of twenty-six to the Argentine authorities. As Gelb has pointed out Tableegh Jamaat has often been serving as the front door for Al-Qaeda.¹⁷³ According to Al Alexiev, recruitment for young jihadists are identical.

*After joining Tableegh Jamaat groups at a local mosque or Islamic centre and doing a few local dawa (proselytism) missions, Tablighi officials invite star recruits to the Tablighi centre in Raiwind, Pakistan, for four months of additional missionary training. Representatives of terrorist organisations approach the students at the Raiwind centre and invite them to undertake military training. Most agree to do so.*¹⁷⁴

Tableegh Jamaat also has a large and growing footprint in South Africa. Sajjan Gohel, the Director of the London-based Asia-Pacific Foundation raised concerns about Tableegh Jamaat and their growing support in South Africa. He also pointed out that Tableegh Jamaat facilitated contacts between South African and Pakistanis of the same ideological disposition. According to Gohel, Tableegh Jamaat was gaining wide support in Cape Town and that the city,

*is a very good and convenient terrorist hub where extremists can plot and plan and then move onto to carry out attacks.*¹⁷⁵

Yet another medium of radicalisation and therefore recruitment is the media. In the 1980s, Qibla was created under the catchy slogan, "One Solution, Islamic Revolution" in an effort to promote the aims and ideals of the Iranian revolution in South Africa.¹⁷⁶ By 1994, Qibla played a key role in the formation of the Islamic Unity Convention (IUC), which represented more than 250 groups. The IUC's radio station, Radio 786, which had a listenership of 135,000 in 2000 came under the control of Qibla and proved useful to spread its message and thus mobilising Muslims around its cause.¹⁷⁷ Achmat Cassiem, Qibla's leader gave some sense of this cause and his own uncompromising attitude in his book *Quest for Unity*:

*Any social order which does not rotate on the axis of justice is not fit for survival. The minimum demand of justice of the oppressed under the guidance of Islamic ideology is for a just social order. Anything less than a just social order, is treason to the oppressed people and their glorious martyrs. The essence of jihad is sacrifice and it is necessary because a revolutionary is not merely an exponent of revolutionary rhetoric but one who attacks what is oppressive and exploitative in order to destroy and eradicate it. No revolutionary worthy of the name is therefore threatened and blackmailed not even with death.*¹⁷⁸

Note that Cassiem's notion of justice is under the guidance of Islamic ideology – but this in a country wherein Muslims makes up no more than two percent of the population. Moreover, what if I am a Muslim who does not subscribe to the Islamic Republic of Iran's notion of justice, as Cassiem does? I guess that the answer to this question lies in the fact that by 2000, more than one hundred Qibla supporters were arrested for violent offenses, including murder.¹⁷⁹ Note too that anything less than his conception of a social order is treason. I am sure Maulana Maududi would be well pleased.

Of course, radicalisation does not need something as sophisticated as having a radio station. On a walk in Laudium one day, I purchased five jihadi DVDs at twenty rands each (less than US \$3) depicting gruesome scenes such as beheadings of "infidels" to Improvised Explosive Devices (IEDs) going off and injuring US soldiers in Iraq and Afghanistan. Then, of course,

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there is the ubiquitous internet with its estimated 4,800 Islamist extremist websites not only serving to radicalise Muslims but also giving such useful advice as how to make bombs and join the jihad in Iraq or Afghanistan.¹⁸⁰ The importance of these websites for the dissemination of ideology and the basis of recruitment is emphasised by Milan Vesely,

*In the technological age when websites and social networks are the prime conduits for the dissemination of ideology, the terrorist manifesto is available to all. No training camps, no mosques and even no direct physical contact is required between spiritual terrorist leader and a budding follower. This makes the identification of a 'lone wolf' individual bent on committing an atrocity almost impossible.*¹⁸¹

As we will shortly see it was Mustafa Jonker's penchant to Islamist websites that proved his undoing.

The internet, of course, is not only a tool to assist in the radicalisation of Muslims thus contributing to the phenomenon of the democratisation of Jihad but also quite useful in assisting with the terror act itself. Ishaq Kanmi from Blackburn in Britain is alleged to have created a "hit list" in 2008 with former British Prime Ministers Blair and Brown at the top of the list and posted it on a jihad website.¹⁸² After all, even jihadis need a bit of direction.

However, such radicalisation may not occur only through mosques, madressahs and the media but also in far more basic structures like the family. In March 2004, three hundred Muslims protested at the killing of Sheikh Ahmed Yassin, the spiritual leader of Hamas, outside the Israeli embassy in Pretoria. A six-year old boy, Uzair Dockrat stood out in the crowd in that he wore a home-made "suicide-bomber-jacket". As a father of a young boy, myself, I found this reprehensible. I want my son to live, and not prepare him for death; I want my son to take up just causes, not ones in the form of more mindless rage and hatred. I have always drummed into my son's head that wonderful statement by Martin Luther King, Jr. that darkness cannot be driven out by darkness, only light can do that; that hatred cannot be driven out by hatred, only love can do that. So it was instructive what the boy's father had to say about his son wearing such a monstrous jacket,

*Muslim children in South Africa have been aware of the attack on Islam since the war began in Afghanistan. They saw other children being killed and are very aware of who the enemy is ... Actionman is their hero and the bad guys are Bush [former American President George W. Bush] and Sharon [former Israeli Prime Minister Ariel Sharon] ... To me the fact that he wore it symbolises that one can kill one generation, but there will always be a next generation to continue the struggle.*¹⁸³

The boy's father went on to say that he did not want his sons to be pacifists – that he wanted them to defend themselves.¹⁸⁴ What about teaching his son that killing himself and other people indiscriminately is not permissible in Islam? What about teaching his son that the endless killing of Palestinians and Israelis will not stop unless Israeli and Palestinians find the courage to say, "Stop", and seeing the other, too as created in the image of God and thereby breaking this useless cycle of violence?

The overall point made in this chapter is that a radical, violent interpretation of Islam – Islamism – is well and truly established in South Africa. This we will see, in the following chapter, is the malignant cancer at the core that has resulted in South Africa playing a key role in terrorist support networks globally. In the process, South Africa's own security is compromised.

3

Global Jihad – Target South Africa?

“... there is growing reason to question the assumption that the period of stability and non-terrorism headlines over the last few years is going to continue.”

Peter Gastrow

– former Director of the Cape Town Office of the
Institute for Security Studies¹⁸⁵

The difficulty of assessing the terror threat to South Africa

In recent years there has been growing evidence that South Africa is increasingly playing a key supportive role in global jihad networks: from the provision of safe houses, to the movement of funds, to the provision of identity documents to terrorists, and to reports of paramilitary camps providing training to local recruits. At the same time, as was mentioned in the introductory chapter, writing this book has been hugely difficult on account of the contradictory messages coming from policy makers. This is especially the case when assessing the terror threat to South Africa. Two recent cases point out this out well. The first of these cases was Mustapha Jonker and the Muizenberg cell. Mr Jonker’s particular thoughts, of course, were already introduced to readers in the previous chapter.

Just before dawn on the 25th January 2008, Police Superintendent Noel Zeeman led his officers on a raid on two homes in Muizenberg, outside Cape Town. Three of the men who were targeted were Mustafa Mohamed Jonker, his brother-in-law Omar Hartley, and Sedick Achmat. They stood accused as being part of a group planning to overthrow the government by means of blowing up specific targets. The men had been downloading material on how to make explosives. Other members of the group were Mahomed Davids, Abdul Rasheed Davids, as well as Rafiek Osman. Despite the nature of the items seized in the raid, and the gravity of the charges – high treason, terrorism, conspiracy to commit murder and unlawful possession of firearms, ammunition and explosives – none of the men were arrested. Indeed, the Davids’ brothers subsequently left the shores of South Africa.

It would seem that it was the men’s internet activity – visits to various jihadi websites – together with a tip-off which prompted the raids. Zeeman was to claim in court papers that in the raid, police discovered chemicals, computers as well as videos containing brutal beheadings.¹⁸⁶ According to police explosives expert, Captain Bester, the explosives the men were in possession of – hydrochloric acid, acetone and peroxide, which were hidden the under bed of one of the accused – was according to the formula downloaded from the Internet and was to be used to make improvised explosive devices (IEDs).¹⁸⁷ The accused men in turn referred to the chemicals as “pool cleaner, paint remover and bleach”.¹⁸⁸ As for the internet downloads from jihadi websites, Jonker stated,

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When I visited these Jihadi sites, I downloaded everything. This information that I downloaded, is information that everyone has access to and is freely available. They are legal to download. The pictures downloaded reveal how Muslims throughout the world are being killed and how they are killing those who are attacking them.¹⁸⁹

Jonker and Hartley went to court to challenge the search and seizure warrants issued by the magistrate, with their lawyer demanding the full disclosure of the contents of the affidavit, which led to the warrant being issued.¹⁹⁰ Zeeman, meanwhile, asked the judge to place a “gag” on certain parts of the affidavit used to grant the search warrants on account of it containing “sensitive information”.¹⁹¹ By March 2008, however, when the case went to court, presiding judge, Justice Bennie Griesel, told the men’s lawyers that he had not seen the state’s opposing papers. Subsequently, it emerged that a deal was cut between the lawyer of the accused men and the state that resulted in the case being dropped and the material seized in the raid handed back to the men.¹⁹²

For researchers attempting to come to analyse the risk posed to South Africa by terrorists, situations like these raise more questions than they provide answers. The state seemed confident of their case, yet they refused to file opposing papers and then cut a deal with the accused before the case went to court. So, did Zeeman want to protect his “very reliable source”¹⁹³ that had tipped him off about the Muizenberg cell? And was he afraid that his source would have been compromised if the affidavit was made public? Or, on the other hand, could the accused be innocent? According to their lawyer, the raids were part of a conspiracy by a

... Third Force to spread fear of Muslim culture and justify the establishment of US military and Israeli secret services bases in South Africa.¹⁹⁴

However problematic we may believe these cases to be, worse was still to come if we examine the strange case of the two South Africans caught in an Al-Qaeda safe house in Pakistan.

On 10 July 2004, Dr Feroze Abubaker Ganchi and Zubair Ismail travelled together to Pakistan. The latter ostensibly went to pursue his Islamic education and the former to do welfare work.¹⁹⁶ They entered Pakistan on passports that were exact copies of those seized in British anti-terror raids in London.¹⁹⁷ Once in Pakistan they were assisted by local contacts¹⁹⁸ to get to a house in Mohhalluh Islam Nagar.¹⁹⁹ At this house, were Islamists from Kenya and Sudan, as well as senior Al-Qaeda operative, Ahmed Khalfan Ghailani. Ghailani, who was alleged to have been responsible for purchasing the truck that was used as the vehicle bomb on the US embassy in Dar es Salaam in Tanzania in 1998 in which more than 200 people were killed. On 16 December 1998, a New York court indicted Ghailani for his role in this terrorist act. As a result, Ghailani was on the list of the Federal Bureau of Investigation’s (FBI) 22 most-wanted terrorists.²⁰⁰

Following a tip-off,²⁰¹ Pakistani security forces surrounded the house and a fierce 12 hour gun battle ensued. Fighting only ceased after the men inside the house had run out of ammunition and Pakistani commandos broke down the wall and roof of one of the rooms and fired tear gas canisters into the house. Given the length of the gun battle and its ferocity as well as the subsequent confession from the South Africans, the Pakistani authorities believe that they were “trained terrorists”. Indeed the Pakistani newspaper *Dawn* also stated that the South Africans had received training in Afghanistan and Iran.²⁰² The Pakistani security services upon entering the house discovered ten Kalashnikov rifles, pistols, hand grenades, laptop computers, chemicals, and atlases and maps.²⁰³ Pakistan’s Law Minister Raja Basharat stated that all of the twelve men arrested were operatives in Osama bin Laden’s Al-Qaeda network.²⁰⁴

Media reports indicated that both South Africans confessed to Pakistani authorities that their mission was to carry out terror attacks in South Africa. Amongst the alleged targets were:

the Carlton Centre, the Johannesburg Stock Exchange, Parliament, the Union Buildings, the Victoria and Alfred Waterfront, and the Sheraton Hotel and the US embassy in Pretoria.²⁰⁵

What is most confusing in this saga is the South African government's reaction. When news first broke, Department of Foreign Affairs (DFA) – since renamed the Department of International Relations and Co-operation (DIRCO) – spokesperson, Ronnie Mamoepa, essentially questioned whether Ismail and Ganchi were indeed South African; he pointed out that there were several cases of forged South African passports being used by international criminals and terrorists.²⁰⁶ When it emerged that they were indeed South African citizens and the circumstances of their arrest came to light, then Deputy Foreign Affairs Minister, Aziz Pahad, later stated,

*With the involvement of Ghailani, the case has taken on a more serious security aspect. What was earlier a foreign affairs issue is now an international security one.*²⁰⁷

In August 2004, South Africa's National Intelligence Agency (NIA) sent a team to Pakistan to question the two South Africans personally. The subsequent statements from then NIA Director-General Vusi Mavimbela after NIA interviewed the men were most interesting,

*We wanted to know whether it was true that there were plans to attack South Africa. This was all we wanted to know and we found that there was no evidence of such plans ... We are not interested in why they are in Pakistan – South Africa is our only interest.*²⁰⁸

As in the case of the Muizenberg raid, there are more questions than there are answers. Why did these men travel on passports that were exact replicas of the one seized in a British anti-terror raid in London? Why were these men caught in an Al-Qaeda safe house in Pakistan with a senior Al-Qaeda terrorist? Why was NIA not interested to find out the reasons for this? Were the Pakistani government officials lying when stating that the men were planning to attack targets in South Africa? If so, what was the motivation? On the other hand, what assurances did Mr Mavimbela have that these men were not going to strike at targets in South Africa? Was there a deal cut between the state and the suspects as happened in the Muizenberg case?

These questions I continued to mull about with no answers to be found and even more so following subsequent developments. The men eventually returned to South Africa only to have the media probing any connection between the two men and the alleged Al-Qaeda terrorists from Syria and Jordan that the police had deported that year.²⁰⁹ It subsequently emerged that indeed both Ganchi and Ismail were in contact with these men and met them on several occasions in April 2004 shortly before they were arrested.²¹⁰ They would meet at a mosque in Laudium, Pretoria as well as at a madressah where Ismail attended Islamic education classes. Neither was this the first time that Ganchi and Ismail were in contact with foreign Islamists. Three years prior to these events of 2004, Ismail travelled to the United Kingdom where he met Islamists from London and Manchester.²¹¹ It also emerged as was explained in the previous chapter that both South Africans were recruited by a mystery Al-Qaeda recruiter simply named "Ahmed".²¹²

Worse was still to come when intelligence officers in the South African Police Service (SAPS) confirmed that South Africa was to be targeted by Ganchi and Ismail thus contradicting Mr Mavimbela and NIA's own statement. According to the police agent they had been following the suspects and never doubted that they were targeting South Africa for terrorism purposes.²¹³ Yet NIA's Mavimbela repeatedly denied that South Africa was being targeted by terrorists,

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*In terms of the information we have as security services, we have got no information that any particular installation in South Africa is being targeted by Al-Qaeda, or any international terrorist organisation.*²¹⁴

According to Ronald Sandee though, in his testimony to the US Congress, upon returning to South Africa and being interrogated by South African officials both Ganchi and Ismail admitted to targeting South Africa for terror attacks.²¹⁵ So why was Mavimbela so adamant that South Africa was not at risk?

More questions emerged. Did the SAPS know about the threat for over a year and a half²¹⁶ – they were actually following the suspects – and not tell NIA about it? More importantly, why was Ganchi and Ismail allowed to fly out from South Africa via Dubai to Pakistan on travel documents that were problematic at best? Ganchi and Ismail were again caught and detained in Guinea in December 2004 when they tried to cross the border into Sierra Leone. Here Ganchi was using the alias Dr Mohammed Nazzal.²¹⁷ A few months later, on 7 March 2005, Ganchi and Ismail together with Muhsin Fadhi (aka Abu Sami from Kuwait) and Abu Ubaysah al-Turki (aka Ubaida Ubeyde from Turkey) were arrested when they tried to cross the border between Indonesia and East Timor²¹⁸ I found myself asking the same questions in 2009 when Ganchi was detained by Egyptian authorities en route to Gaza.²¹⁹

Are Ganchi and Ismail guilty of what they have been accused of or are they hapless travellers just being at the wrong place at the wrong time? What accounts for the contradictory statements coming from the security apparatus of the state? Is there a threat to South Africa or not? As a researcher on the terror threat posed to South Africa, one has to negotiate this labyrinthine of contradictory statements and interpret it to the best of one's ability.

Similarly government responses are either not forthcoming or contradictory on a number of issues. For instance, in December 2006, Shahied Davids was caught with three pipe bombs in the boot of his car. According to police at the time, he was to attack various targets around Cape Town. But a year later, all charges against him were withdrawn without explanation.²²⁰ Why were charges withdrawn? Why were the police so confident about their case having caught the suspect red-handed suddenly reticent to respond to questions posed? With these caveats firmly in mind, let us examine South Africa's interface with global Jihad.

The regional dimensions of South Africa's terrorism problem

It is imperative to examine the regional context in which South Africa exists. Andrew Holt, for instance, raises the possibility that South Africa could be forming the basis of the territorial crux of Islamists from Sudan to the Cape of Good Hope.²²¹ Such a view would make sense on three counts. First, South Africa with its relatively sophisticated infrastructure (as described in Chapter 1) could more easily be used as a "... logistical and operational hub by Pan-Islamic extremists"²²² than the poorly developed Sudan or the non-functioning Somalia. Second, given the fact that organised crime syndicates (especially those involved in narco-trafficking) were already regional in character by the 1990s, and that these had a working relationship with Islamists, they could piggy back on criminal networks already operating in the region.²²³ Third, terror organisations such as Hezbollah were already regionally anchored from Abidjan in the Ivory Coast to Kinshasa in the Democratic Republic of the Congo to Johannesburg, South Africa.²²⁴

By 2004, reports of terrorist training camps in Mozambique started to circulate in the intelligence community.²²⁵ Six years later, in 2010, at least three training camps were identified in Nampula and Tete provinces of Mozambique. One of these camps is run by Somalis, another

by Pakistanis and a third by Indians and Bangladeshis.²²⁶ In the process, the nexus between the global, regional and national dimensions of Islamist terrorism are demonstrated quite well.

The regional dimensions of South Africa's terrorism problems were also seen in September 2009. In that month the US embassy in Pretoria, its consulates across the country and the offices of the US Agency for International Development (USAID) were compelled to close following reports of a terror plot targeting American interests in South Africa. The immediate catalyst for this was the US killing a senior Al-Qaeda operative Saleh Ali Saleh in Somalia. According to media reports,²²⁷ intercepted cellphone communication indicate a Somali group, the Al-Shabab, plotted to attack US interests in South Africa in revenge. The Al-Shabab cell was based in Khayaletsha township, just outside Cape Town. However, this cell was clearly an advanced cell preparing the ground for a region-wide operation. The cellphone intercepts revealed, furthermore, that Al-Shabab had also established cells in Mozambique, and that come 2010, when South Africa hosts the 2010 FIFA World Cup Soccer tournament, these cells would move *en masse* to South Africa to strike at various US-linked interests. The fact that these cells had access to military hardware from the former Eastern bloc added capacity to motivation. Meanwhile, from neighbouring Botswana, the *Sunday Standard* reported that Al-Qaeda operatives, using various used car dealerships as their cover, were also preparing for terrorist attacks at the World Cup.²²⁸ The fact that both Al-Shabab and Al-Qaeda subscribe to radical Salafist ideology and the fact that Al-Shabab recently pledged their loyalty to Al-Qaeda suggests that these two developments were inter-related and part of one larger plot to target the 2010 Games.

I am South African – please do not arrest me!

Besides Ganchi and Ismail, South Africans are increasingly getting picked up around the world – an indication of how the country is viewed by the rest of the world. On 19 July 2004, Farida Goolam Mohamed Ahmed was arrested at McAllen airport whilst trying to board a flight to New York from Texas on account of her not being able to provide a visa to prove her legal travel within the US. Four days later, the charges became more serious. She was charged with entering the US illegally, falsifying information and falsifying a passport. It then emerged that Ahmed entered the US illegally from Mexico, across the Rio Grande. Ahmed also carried a large amount of cash on her in US dollars, British pounds, Mexican pesos and gold South African Krugerrands.²²⁹ US authorities were also suspicious of the amount of travelling she had done – having flown at least 250 times to different destinations.²³⁰ Authorities were also concerned that the route she took to enter the US was chosen to deliberately cover her tracks. Ahmed flew to Dubai, then to London, then to Mexico City and from there to illegally cross the Rio Grande River into Texas.²³¹ The United Kingdom (at the time) and Mexico did not require visas for South Africans.²³²

We do not know the purpose of Ahmed's travels nor why she entered the country illegally nor indeed why she had such large amounts of foreign currency on her purpose. Her family, in South Africa, also refused to talk about it saying that their lawyer had advised them not to talk about Ahmed's "visit overseas."²³³ What we do know is that the Americans did investigate her to ascertain whether she had ties with terror groups²³⁴ and after she changed her plea to guilty on all charges of being an illegal immigrant,²³⁵ was subsequently deported to South Africa. The reticence on the part of the family is also seen in the reticence on the part of the US government, which declined to say why she illegally entered the country or whether she had ties with terrorist groups.²³⁶ All that a senior US Customs and Border Protection official

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would say is that South Africa is “... becoming a breeding ground for terrorists.”²³⁷ Again this constitutes a challenge to researchers in trying to understand this case. Was it simply a case of illegal immigration or something more sinister?

In August 2006, Shafique Ur-Rehman, a Pakistani, who married a South African woman and now residing in Cape Town arrived at London’s Heathrow Airport. Here immigration officials detained him, his luggage was searched, he was then photographed and he was put back on a flight to South Africa without his passport having been returned. According to media reports, British authorities said he was being sent back to South Africa on account of him having too much money and him having lied about who he was going to visit – something which Ur-Rehman admitted to.²³⁸ Upon returning to South Africa, Ur-Rehman was taken to the Ravensmead police station where he was questioned by two plainclothes policemen on whether he had ties to PAGAD or Al-Qaeda. He was subsequently released. According to South African Home Affairs spokesperson, Mantshela Tau, this was merely a case of mistaken identity – Ur-Rehman’s surname was the same as that of a man wanted by British authorities on terror charges.²³⁹ If this is the case why the large amounts of cash and why did he lie about who he was visiting? Again, this is something difficult to assess.

In September, 2006 Ebrahim Essop Desai and his son, Zakhariya, were travelling to the US when they were stopped in Senegal by a South African Airways official and told they could not proceed to the US and had to return to South Africa. The same happened to Ismail Mulla – also being stopped in Senegal – then having his luggage searched and having been fingerprinted and photographed. He was also asked if he had been to Afghanistan and if he knew how to make bombs.²⁴⁰ Again, it is difficult to assess what the real meaning of all this is. Did the respective authorities have specific information on these individuals or was it part of a general concern about South African travel documentation given the widespread corruption in the Department of Home Affairs?

In August 2008, Mufti Hussain Bhayat of Lenasia and Haroon Saley of Azaadville, were detained at Entebbe International Airport in Kampala by the Uganda Joint Anti-Terrorism Task Force, suspected of being involved in terrorist activities. A week after their arrest, Uganda’s National Security Council decided to deport the two South Africans. On announcing their deportation to South Africa, Ugandan Army spokesperson Major Paddy Ankunda said, “After investigations, the Council established that the men are not good people and should leave the country.”²⁴¹

Again, it is difficult to assess what is going on in the murky world of intelligence but clearly not being “good people” from the National Security Council of Uganda needs to be seen in security terms.

Passport to nowhere

As early as 2004, South African government officials were compelled to admit that Al-Qaeda militants were traveling through Europe on South African passports. Of particular concern was that these were genuine passports, not forgeries, and had to be acquired through corrupt home affairs officials. In June 2004, former South African Minister of Home Affairs Nosiviwe Mapisa-Ngakula, briefed Parliament’s Home Affairs Committee and stated,

*the Al-Qaeda members certainly did not pick up these passports out there in their countries. A member of the department [of Home Affairs] must have sold these passports to them.*²⁴²

Subsequent investigations revealed that crime syndicates operating inside government were getting these passports issued to Al-Qaeda militants for the paltry sum of 500 South African Rands (US \$70). In April 2004, British police on anti-terror raids in London discovered boxes upon boxes of South African passports. Despite all the evidence suggesting that this was a sophisticated and systematic operation – crime syndicates working in partnership with terror groups – penetrating the heart of government – government officials preferred to play down the threat. Barry Gilder, the Director-General of Home Affairs at the time referred to this as “isolated cases”.²⁴³

Despite assurances from the South African authorities²⁴⁴ that they were going to take steps to prevent it, this clearly has not happened. A year later, following the 7 July 2005 London bombing, the British raided several homes and in the home of one Al-Qaeda suspect, boxes of South African passports were found. These again were not fakes but genuine passports illegally acquired through a South African government official.²⁴⁵ Meanwhile Barry Gilder, who subsequently became the head of the National Intelligence Coordinating Committee (NICOC), expressed his disquiet about a pattern of illegally obtained South African passports ending up in the hands of Al-Qaeda suspects or their associates in Europe.²⁴⁶ On the positive side, at least the phrase “isolated cases” was dropped.

The inability of the Department of Home Affairs to come to grips with the level corruption is also seen in the case of Ibrahim Tantouche, a Libyan Al-Qaeda suspect, who made his way from Malaysia to Australia on a false South African passport he obtained in Iraq.²⁴⁷ Indeed Tantouche seems to have a steady supply of these passports since he was arrested in Pakistan with another false South African passport. Interpol alleges that Tantouche has served as a banker for the Al-Qaeda network.²⁴⁸ As a result the US Department of Homeland Security in 2004 ordered its inspectors to be on high alert for travellers from South Africa and to subject the South African passport to “increased scrutiny”.²⁴⁹ I experienced this a few years ago upon arriving in Washington, DC. A US immigration officer sent me to something referred to as “secondary screening”. When I pointed out to him that I held both a valid visa and a letter of invitation from my host university in the US, he politely informed me that all South African passports were suspect. In 2007, Britain was compelled to place a unilateral ban on South African temporary passports and there was speculation that Britain was going to impose visa restrictions on South Africans. This prompted then Minister of Home Affairs, Nosiviwe Mapisa-Nqakula, to meet with her British counterpart, John Reid, in February 2007.²⁵⁰ Following this meeting the British staved off the immediate imposition of visa requirements whilst the South Africans cleaned up the rot in the Department of Home Affairs.

This clearly has not happened. In the meantime, the British authorities themselves were coming under pressure given the scale of the threat emanating from South Africa’s inability to deal with the corruption. As early as August 2005, the now defunct Directorate of Special Operations (commonly known as the “Scorpions”) were investigating a clandestine organisation that was based in Cape Town which first shipped 10 Al-Qaeda operatives from Afghanistan and Pakistan to South Africa and from there to Britain.²⁵¹ In February 2008 the British Serious Organised Crime Agency smashed a human trafficking crime syndicate, which brought more than 6,000 migrants into the United Kingdom on false South African passports.²⁵² Meanwhile, British intelligence services and anti-terror police spoke of Al-Qaeda’s penchant to use South Africa as a transit point between jihadi training camps in Pakistan and South Africa.²⁵³

The British government has given ample time and opportunity for the South African government to pass its visa waiver test – but it has consistently failed. To put matters into

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perspective, two of South Africa's neighbours – Namibia and Botswana – passed visa waiver tests. Indeed according to a spokesman from the British High Commission, South Africa passports were the third most abused in the world.²⁵⁴ By 2008, it was announced that South Africans would need a visa to enter Britain and would also need to give fingerprints and facial biometrics.²⁵⁵ The inability of the South African government to stem the tide of corruption at the Department of Home Affairs augurs ill for broader efforts to curb the criminalisation of the South African state. Such efforts are absolutely essential if counter-terror efforts are to gain traction in the country.

The provision of safe houses

The use of South Africa as a safe house came to the fore with the arrest in Cape Town of Khalfan Khamis Mohamed – the person responsible for the US Embassy bombing in Tanzania in 1998.²⁵⁶ Barry Gilder, heading South Africa's National Intelligence Coordinating Committee (NICOC), noted that terrorists with links to Afghanistan, Iraq and Pakistan were increasingly spending time in South Africa.²⁵⁷ In October 2004, the Central Intelligence Agency (CIA) identified 29 Al-Qaeda members in management and support positions operating from Pakistan and Iraq to South Africa.²⁵⁸ The reason for the dispersed nature of the command and control structures of Al-Qaeda is understandable following the loss of their base in Afghanistan and the loss of some of their most senior members. It should be noted that at the time of this CIA report, former Minister of Intelligence Ronnie Kasrils, dismissed the report as greatly exaggerated.²⁵⁹ At the same time, Mr Kasrils' position was contradicted by media reports, as well as that of his own intelligence officials. A year later, Mr Kasrils changed his position when he spoke about Al-Qaeda and affiliate groups setting up networks to strike at maritime targets in Africa – along busy sea lanes, in harbours or the offshore oil and gas industry.²⁶⁰

However it is not just maritime targeted being focused upon. A report appeared in the Daily Mail in May 2013 and focused on British-born Samantha Lewthwaite who was married to the London 7 July 2005 Kings Cross bomber, Germaine Lindsay.²⁶¹ British intelligence sources believe her to be an integral member of both Al Shabaab and Al-Qaeda. With her growing seniority in jihadi circles her role has expanded from moving funds raised in the United Kingdom to terror cells in Somalia to commanding her own all-female terror squad. She is also alleged to be associated with Habib Ghani, an experienced Al-Qaeda bomb maker who was trained in Pakistan.

So what is the significance of Samatha Lewthwaite for South Africa? Well, she just happened to spend two years in South Africa under an assumed name building up a terror network that spans the United Kingdom, South Africa and Pakistan. The case of Ibrahim Tantouche, the Libyan national, is also indicative of the poor legal structure in South Africa and how global terror networks may exploit this. Tantouche was deported from Australia after entering that country on a false South African passport. Once in South Africa, in November 2003, he applied for asylum.²⁶² Libya, however asked for his extradition on the grounds that he stole gold which was then used to fund terror activities. Interpol, too, was looking for Tantouche. However, in November 2005, the extradition proceedings against Tantouche were struck from the Pretoria Magistrate's court's roll on account of the fact that the state had not received presidential consent to process Libya's request for the extradition of Tantouche. Such consent was mandatory in a case like this where South Africa had no extradition treaty with Libya.²⁶³

Whether it was an oversight on the part of the South African Presidency or not, the reality is that the South African legal system was just not working. Tantouche, after all, was given

refugee status even though he had lied, bribed and fraudulently obtained a South African passport. Moreover, it emerged that Tantouche had also obtained fraudulent passports from Pakistan, Morocco, Indonesia and Malaysia.²⁶⁴ Whilst in Malaysia, Tantouche had meetings with members of the Libyan Islamic Fighting Group (LIFG) and whilst in South Africa had meetings with members of the Algerian-based Salafist Group for Preaching and Combat (GSPC) which now forms an important part of Al-Qaeda in the Islamic Maghreb (AQIM).²⁶⁵ Tantouche, we shall see, was also instrumental in setting up various financial fronts whilst in South Africa. Were these the actions of a Libyan political dissident fearing for his life, as he claims, or something more sinister?

Beyond competence, the need for a proper legal framework to deal with cases where alleged terrorists are residing in South Africa was highlighted in the case of Khalid Mahmood Rashid, an illegal Pakistani residing in South Africa, who was suspected of having ties with Al-Qaeda.²⁶⁶ His lawyer took the South African government to court to compel the South African government to disclose the whereabouts of his client. Rashid's lawyer stated that he

*believes the South African government handed his client over to British security forces on suspicion that he was involved in an international terrorist organisation.*²⁶⁷

It subsequently emerged that Rashid was not merely deported from South Africa as an illegal immigrant – in an affidavit he admitted to have bribed officials to gain entry into South Africa.²⁶⁸ It would, however, seem that Rashid was the subject of an extraordinary rendition – that he was not deported on a commercial flight but was arrested by crime intelligence officers in Estcourt, KwaZulu-Natal on 31 October 2005. He was then taken to the Cullinan Police Station and from there left on a private Gulfstream II jet with the registration A6-PHY – from Waterkloof Air Force Base in Pretoria. His lawyer was to admit that his client was a member of the Taliban.²⁶⁹ After some months in the custody of Pakistani intelligence, Rashid appeared before a federal review board at the Supreme Court in Islamabad. It would seem that Rashid's contacts with the London July 7, 2005 bombers – which killed 52 Londoners and injured 700 – were being investigated.²⁷⁰ It is tempting to ask whether South Africa was forced to act extra-judicially (and incompetently at that) on account of there not being an adequate legal process to deal with the extradition of terror suspects?

The movement of funds

John Solomon,²⁷¹ writing in *Terrorism Focus* also makes clear why international terrorists may find South Africa so attractive,

With lawlessness, government corruption and a wide range of preferred terrorists financing methods available – Al-Qaeda could indeed partake in illicit and unregulated trade in southern Africa to sustain itself.

The point made by Solomon can be illustrated by numerous examples. The case of Yassin al-Qadi, a US-designated terrorist financier who invested US \$3 million for a 12 percent interest in Global Diamond Resources that mined diamonds in South Africa is but one such example. He also controlled New Diamond Corporation, an offshore company that had mining interests in South Africa.²⁷² The case of Abd al-Muhsin al-Libi, also known as Ibrahim Tantouche,²⁷³ also points to how terrorists secure financing in South Africa. He set up two Al-Qaeda financing fronts – the Afghan Support Committee and the Revival of Islamic Society.²⁷⁴ Both operated as charities that raised money for orphans; however, in reality the orphans were either dead or non-existent. This is the same Tantouche who received refugee status in South Africa.

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Other funding fronts were also established. Hezbollah established the Karbala Liberation Front in Johannesburg, which sent money to Hezbollah in Lebanon.²⁷⁵ Other so-called charitable foundations have also been established to fund terror organisations. In 1992, the same year in which Hamas became active in South Africa, the Al-Aqsa International Foundation (AIF) was established in the country. According to Ronald Sandee, Hamas' political wing is in control of its office in Fordsburg, Johannesburg.²⁷⁶ By 2010, the Al-Aqsa International Foundation found its way on the list of US designated terror organisations and fronts. Whilst AIF's main mission was to collect funds in South Africa and send it to Hamas in the Palestinian Territories, it is also vital to note that staff of AIF was also actively involved in paramilitary training to South Africans. The first such training took place in July 1997 on a farm in Mpumalanga, South Africa.²⁷⁷ The dual nature of such structures is by no means confined to AIF. In South Africa, a seafood business called AOXI is alleged to act as an Al-Qaeda coordinating unit for jihadis who have been trained in Mozambique and who subsequently illegally enter into South Africa.²⁷⁸

The issue of terrorist financing in South Africa emerged again in January 2007, when the *Sunday Times* reported that two South African cousins – Farhad Ahmed Dockrat, the principal of the Darus Salaam Islamic College in Laudium, Pretoria and Dr Junaid Ismail Dockrat – were proposed for consideration on the UN Security Council's list of terror suspects,²⁷⁹ whilst already having been placed on the US Treasury Department's list of Al-Qaeda supporters.²⁸⁰ According to papers submitted to the UNSC, Farhad is alleged to be an Al-Qaeda "facilitator and terrorist financier" who gave R400,000 to the Taliban ambassador in Pakistan.²⁸¹ Farhad Dockrat, who was previously detained in Gambia for suspected terrorist activities in 2005 was also alleged to have provided US \$63,000 to the Al Akhtar Trust. This was a "charity" that was designated as having provided support to Al-Qaeda.²⁸² Junaid, it is claimed, is also an Al-Qaeda 'financier, recruiter and facilitator' who assisted in coordinating the travel of South Africans to Pakistan to train with Al-Qaeda.²⁸³ Junaid Dockrat, it is alleged, raised US \$120,000 for Hazma Rabia, the former Al-Qaeda chief of operations who was killed in 2005 by the US in Pakistan.²⁸⁴ Junaid Dockrat was also a friend of Ganchi.²⁸⁵

Worse was still to come when former Deputy Minister of Foreign Affairs, Aziz Pahad, announced that South Africa has been informed that more of its nationals were to be listed on the United Nations Security Council's (UNSC) list of terror suspects.²⁸⁶ It should be stated that the US government supplied all available evidence to the South African government on these individuals before there was any talk of listing.²⁸⁷ Moreover discussions between the two governments on the Dockrat cousins were on-going for a year before the US felt compelled to act by going ahead with the listing.²⁸⁸ Recently leaked classified documents point out that Washington was so concerned about the Taliban fundraising in South Africa, that it called on Canada to apply diplomatic pressure on Pretoria to stop such fundraising activities.²⁸⁹

Partly in response to these issues of terrorist financing, the South African government has tightened legislation through the Financial Intelligence Control Act, or FICA.²⁹⁰ However, the case of Mohamed Suleman Vaid, who on 25 April 2001 was arrested along with his wife while attempting to smuggle US \$130,000 in local currency across the border with Swaziland, points to the weaknesses of FICA which is primarily aimed at formal banking transactions.²⁹¹ The ensuing police investigation indicated ties to Al-Qaeda via a Lebanese businessman. As Kurt Shillinger²⁹² noted, it was established that in the 18 months prior to his arrest, Vaid had made this trip 150 times! It is also clear that with the formal banking transactions, there are problems. In 2009, the FATF completed a review of South Africa's compliance with FATF standards for anti-money laundering and combating the financing of terrorism. Here it noted that the country needs to pay closer attention at regulating trusts,

monitoring financial institutions compliance with anti-money laundering legislation, and enhancing the disclosure of trans-border transfers of cash.²⁹³

However, the FICA legislation cannot be implemented effectively through corrupt officials. In May 2010, for instance, a forensic investigation commissioned by the Department of Trade and Industry (DTI) uncovered another terrorist finance vehicle in South Africa, which involved Pakistani criminals taking advantage of the corruption occurring with the Companies and Intellectual Property Registration Office or CIPRO. The case involved tax fraud, money laundering, racketeering, organised crime, fraud and siphoning off millions of rands to fund international terrorism.²⁹⁴ One Pakistani suspect who is now in custody, Aliraza Siyed Naqvi, specialised in cloning legitimate companies through the registration with CIPRO of a fake company with the same name as a legitimate company and its own bank account. Monies meant for the legitimate business are then diverted to the fake one. Naqvi's brother, Asad Abbas Naqvi, was listed as a dangerous terrorist by Pakistani authorities. Asad Abbas Naqvi was murdered in South Africa in December 2008.²⁹⁵

The private forensic audit estimates that up to 285,000 fake or dubious companies were created in this way through the abuse of the CIPRO system. This scheme would never have occurred had it not been for corruption within CIPRO itself and the report identified 60 CIPRO officials as being involved in such suspicious activities. South African security agencies are also investigating the probable help these criminals and terrorists have received from corrupt officials within the South African Revenue Services (SARS).²⁹⁶

Paramilitary camps

Reports of paramilitary training camps have also surfaced periodically. As early as 1996 Israel lodged a formal complaint with the South African government regarding the existence of five Hezbollah training camps in the country.²⁹⁷ In March, 2007 Barry Gilder acknowledged the possible existence of small-scale training camps used by terrorists in the country.²⁹⁸ Most of these trainers it would seem came from Pakistan, Somalia, Bangladesh and Jordan. In the same month, a Johannesburg magazine exposed the existence of a jihadi facility outside Port Elizabeth, where instructors provided students with combat training, as well as training in illegal high-calibre handguns, R1 rifles and AK-47s.²⁹⁹ The camp became operational in the mid-1990s with Nazier Desai being the head trainer and his cousin Ahmed Seddick Desai running the finances.³⁰⁰

More worrisome is the existence of terrorist training camps at isolated farms being run *with* the knowledge of elements in the South African government.³⁰¹ Clearly these government officials believe that South Africa will not be targeted by these elements. Unfortunately, the available evidence does not support such wishful thinking. Moreover even when the US, for example, is targeted on foreign soil, as in the East African US embassy bombings, there were 5,000 casualties – overwhelmingly local Kenyans and Tanzanians.³⁰² Likewise, the redoubtable Richard Cornwell has noted that there is nothing preventing South Africa's own citizens from becoming "collateral" in the pursuit of other targets.³⁰³ Unfortunately this belief that South Africa will not be targeted could also account for the fact that despite monitoring these camps for a number of years, no action has been taken.

Like any cancer left alone, these camps started to spread and by May 2010 there were reports that operational militant training camps were established in several provinces in South Africa,³⁰⁴ and that these had links with other camps outside the country. By June 2010, South

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African journalists were in possession of correspondence with former and active trainees of these militant camps.³⁰⁵ This, in turn, raises two important questions. First, if journalists knew about the training camps, and the nature of the training, and were also in contact with militants, why would the South African government have not been as well? Second, if they do have such information, why do they not shut it down? Is it once again the belief that South Africa is immune from such attacks?

South Africa and the explosives link

We live in an age of the democratisation of violence – where thanks to improved technology and the World Wide Web to disperse such technology to individuals, any person with enough hatred for the other can cause widespread damage. Consider here the case of Timothy McVeigh – the Oklahoma bomber – who in 1995 with a truck full of fertilizer managed to kill 168 people and injure nearly 500 more.³⁰⁶ Downloading explosives formulae and attempting to make explosives seems to have been catching on in South Africa. As was mentioned earlier in this chapter, this was what Muizenberg cell was accused of. In January 2009, municipal workers picking up refuse in Laudium, Pretoria, discovered what looked like an explosive device. The police bomb squad arrived and confirmed that it was a homemade explosive device and it was subsequently defused and taken to the police laboratory for further testing.³⁰⁷

For those, however, who want access to more sophisticated explosives – these too are available in South Africa. One of the most lethal and notorious explosives is PETN or pentaerythritol tetranitrate. A mere 100 grams of PETN is highly destructive. It is also extremely difficult to detect with an X-ray machine or metal detector, and is thus referred to as a “transparent” explosive.³⁰⁸ It was PETN that Nigerian Al-Qaeda recruit Umar Farouk Abdulmuttallab had used when he attempted to blow up North-West airlines over Detroit in December 2009. It was also PETN that was found on US-bound cargo flights in November 2010 which resulted in enhanced security measures across the world.³⁰⁹ It is an explosive which is frequently used in the South African construction and mining industry. In May 2010, 2.5 tons of commercial explosives went missing from mining depot City Deep. What concerned security analysts was that it contained thousands of meters of a detonator cord known as Splitex. According to Shanaaz Eggington³¹⁰ Splitex contains up to 6 grams of PETN per metre.

In July 2010, an even more serious dimension was added when local and international police netted four men in Pretoria belonging to a criminal organisation that was involved in the sale of Caesium-137, which is an essential ingredient in the making of a dirty bomb. A dirty bomb fuses conventional explosives with radioactive material and serves to contaminate an area around the explosion thus spreading terror.³¹¹

For those terrorists not seeking as sophisticated a route, other explosives are available. The number of ATM bombings utilising commercial explosives like dynamite suggests that these too are available.³¹² After all, 420 illegal explosions were recorded in South Africa in 2008 and a further 378 in 2009 according to the police.

South Africa as an operational base

The use of South Africa as an operational base to plan operations in other countries came to the fore with the case of Haroon Rashid Aswat, a Briton, in 2005. Aswat was detained in Zambia in late July 2005 after his number appeared on all four of London’s 7 July 2005 suicide bombers.³¹³ Indeed, it emerged that he exchanged a number of phone calls with each of them while in

South Africa just days before the attack.³¹⁴ This resulted in analysts questioning whether there was an operational link between Mohammed Saddiq Khan, who led the suicide cell in London, and Aswat in South Africa.³¹⁵

The Americans, too, had an interest in Aswat – he stood accused of attempting to establish a military training camp in Seattle, Washington³¹⁶ as well as in Bly, Oregon in 1999. Zambian investigators also pointed out that Aswat informed them that he was a bodyguard to Osama bin Laden. Aswat himself denies all charges, pointing out that he earns a living from selling Islamic CDs and DVDs at fleamarkets. However, investigators were unconvinced, arguing out that it was unlikely to finance the amount of travelling Aswat had done.³¹⁷ Moreover when he was caught in Zambia, he was found to be in possession of a South African passport and US \$50,000 in US, British and South African banknotes – clearly the fleamarket business was doing well.³¹⁸ Further research was to reveal that Aswat was the assistant to terrorist ideologue Abu Hamza al Masri at the notorious Finsbury mosque in London, where a number of terrorists had received training, including the infamous “shoe bomber” Richard Reid. Abu Hamza al Masri, in turn, was also linked to Al-Qaeda groupings in both Yemen and Algeria.³¹⁹

It subsequently transpired that Ahmed Al Arine, a Jordanian refugee in Johannesburg, and a business associate of Aswat managed a stall in Fordsburg Square, Johannesburg. Coincidentally, this stall was next to that of Ibrahim Tantouche and that Al Arine did exchange a phone call to Tantouche.³²⁰ Again, there are more questions than there are answers. Was Aswat also linked up to Tantouche via Al Arine or was it all mere coincidence that they knew each other? Was it cases like Aswat he had in mind when Barry Gilder, the head of NICOC, expressed concern about people involved in international terrorism and who had contacts in Afghanistan and Iraq and Al-Qaeda who were spending time in South Africa?³²¹

The issue of South Africa as an operational base and a transit and conduit for international terrorists to their target country also emerged in the case of a Tunisian Al-Qaeda suspect Ihsan Garnaoui in 2004. Garnaoui was an explosives expert who trained in Afghanistan and was “promoted” to being an Al-Qaeda trainer. He held several South African passports in different names (including in the names of Abram Shoman and Mallick Shoman) and travelled via South Africa to Europe where he was accused of planning bombings on American and Jewish targets.³²² According to Ronald Sandee, most of Garnaoui’s preparation for these attacks took place in South Africa where he purchased sophisticated military grade binoculars with an integrated digital camera, diagrams and instructions for the assembly of detonators, as well as setting up networks in Berlin whilst still in South Africa.³²³

The use of South Africa as an operational base and transit point also came to light in the case of Mohammed Gulzer in July, 2006. He together with seven other men are accused of attempting to down at least seven passenger jets leaving from London across the Atlantic by assembling bombs in the aeroplanes – using hydrogen peroxide-based explosives smuggled in soft drink bottles. Gulzer was the leader of the group of men and flew to London via South Africa.³²⁴

Foreign terror networks

Several international terror groups seem to enjoy impunity in operating in South Africa. According to South Africa’s own intelligence sources, Palestinian Hamas has been active in South Africa since at least 1992. They seem to have been involved in raising funds as well as enlisting recruits for military training.³²⁵ However, it is unclear what the purpose of the military training has been since there is no evidence to suggest that these South Africans are intending to

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take on the Israeli Defense Force (IDF) on Palestinian territory. Lebanese-based Hezbollah also has a presence in South Africa.³²⁶ Al-Qaeda, meanwhile, established a presence in the country from at least 1997. The *9/11 Commission Report* found that in 1999 an Al-Qaeda operative, Issa al-Britani provided Riduan Isamuddin aka Hambali, Al-Qaeda's Southeast Asia coordinator, with contact details of an Al-Qaeda contact in South Africa should he need help.³²⁷ It should be stated that whilst for conceptual purposes it might be useful to separate foreign and local terror networks, in reality it might be very difficult to do so on account of local Islamists within the indigenous Muslim population providing them with assistance.³²⁸

In 2002, the respected *Wall Street Journal* reported on growing fears amongst security analysts of the comprehensive nature of the Al-Qaeda presence in South Africa – from using the country as a refuge for its operatives to lay low, to raising funds, and laundering money as well as to plan terror operations.³²⁹ This Al-Qaeda presence was confirmed in 2004 with South African police arresting and deporting the Syrians and Jordanian operatives of Al-Qaeda in South Africa just before the April elections.³³⁰ At the time of their arrest, they were in South Africa for just over a year. They were planning to set off explosive devices at various Western-linked targets.³³¹ Despite this deportation of Al-Qaeda operatives in early 2004, by October 2004, the CIA reported that a second and third tier of Al-Qaeda leadership was present in South Africa. Three aspects related to this development were of concern. First, was the geographical spread – from Cape Town to Gauteng to Durban and the Eastern Cape. Second, was the support they were receiving from elements in the local and immigrant Muslim community. Third, was the fact that the Al-Qaeda presence in South Africa was proving to be “regenerative” in that they seemed to be recruiting from the local community. This latter fact, in turn, could be facilitated by the contacts some local Islamists had with Bin Laden and the Al-Qaeda network in the 1990s and the training they received as mujahideen during the 1990s.³³²

Again, this makes it very difficult to precisely delimit where local jihad networks end and those of foreign ones begins. This is also seen in the fact that it is alleged that the leader of the local chapter of Al-Qaeda is Maulana Achmat Desai in Port Elizabeth, South Africa.³³³ Later that month (October 2004), the South African government expressed fears that some of these Al-Qaeda operatives may be hiding in South African Muslim schools (Darul Uloom).³³⁴ If the latter is indeed the case then it is no wonder that Al-Qaeda is proving “regenerative” – they can indoctrinate and recruit young impressionable minds simultaneously at these schools.

Local terror networks

On 11 December 2006, Shahied Davids was arrested on the N7 highway in Cape Town with three pipe bombs in the boot of his car.³³⁵ According to the South African Police Services (SAPS), Davids' targets included the V&A Waterfront Complex, Constantia Shopping Mall, Kenilworth and Wynberg.³³⁶ One of the problems in analysing such events, is not knowing whether Davids' was acting on his own or part of a broader structure? If part of a broader structure, which and for what purpose? One could ask a similar question about the Muizenberg cell and Mustafa Jonker? If the allegations are correct that they were planning terror attacks, which organisation did they represent and what was the strategic purpose? On the other hand, could this be akin to Major Nidal Hassan case – the democratisation of jihad?

Beyond individuals though, we also have structures promoting the Islamist cause such as Qibla that was established in 1980³³⁷ to promote the aims of the Iranian revolution in South Africa.³³⁸ It is difficult to ascertain how truly indigenous Qibla is, given the fact that it is allegedly controlled by Iran's Revolutionary Guards. Importantly, Anneli Botha³³⁹ reminds

us that Qibla had a twin mission – to propagate the worldview of Tehran and to conduct espionage in South Africa. Indeed, as one report noted, such local structures as Qibla “... have proven highly susceptible to outside co-option”.³⁴⁰ Drawing from this, how indigenous are Qibla-inspired or controlled structures like PAGAD, Muslims Against Global Oppression (MAGO) and Muslims Against Illegitimate Leaders (MAIL)?³⁴¹ Indeed, we are reminded that structures such as PAGAD (whose militant elements were controlled by Qibla) were created by Qibla in order to broaden its support base.³⁴² Qibla and PAGAD do not only have overlapping membership but also share leadership.³⁴³

The independence of these local structures from foreign dictates is also questionable if one considers that PAGAD only attacked US businesses after the US launched a series of missile strikes in Afghanistan and Pakistan in August 1998.³⁴⁴ The problematic demarcation between local and foreign is also seen in the fact that Qibla members were sent to Libya for military training in the 1980s and some of their operatives trained in Pakistan and fought alongside Hezbollah in southern Lebanon.³⁴⁵

In September 2008, PAGAD’s National Coordinator, Abdusalaam Ebrahim, who had spent nearly a decade in jail, was released from Malmesbury Prison on parole. PAGAD, it would appear, was revitalised. Whilst the organisation’s leadership noted that its first priority would be to work for the release of the other 18 PAGAD members in prison, it also promised to mobilise its support base and take people back onto the streets.³⁴⁶ A year later, in August 2009, PAGAD seems to have made a comeback on the Cape Flats – having revived its branches in Grassy Park, Strand, Paarl, and in Lentegeur and Tafelsig in Mitchell’s Plain.³⁴⁷ Concerns around PAGAD resurfaced on 25 October 2010 when police raided the Mitchell’s Plain home of Mogamat Munier Martin in the Cape Flats. Acting on a tip-off, police officials allegedly confiscated six illegal firearms, police-issue bulletproof vests, police appointment cards, police handcuffs, a stun grenade, ammunition, pieces of pipe, various chemicals which could be used to make explosives and 79 devices used to change cellphone software. The SAPS were probing whether Martin had any relationship with PAGAD or its military-wing, the G-Force.³⁴⁸

Neither should this be seen as an exhaustive list of local Islamist groupings. Other groups such as the Durban-based Jihad movement of South Africa (JMSA) also exist. JMSA’s purpose is “... to defend Islam against attacks of the government and individual persons”.³⁴⁹

The connection between foreign and local terror networks

The growing nexus between local and foreign jihadis also came into play with the 2006 plot to plant bombs at the African Cup of Nations in Cairo, involving Muslims in South Africa, Somalis in Kenya and Egyptian extremists.³⁵⁰ Neither is the connection between foreign and local jihadis a new one. Following the Planet Hollywood bombing in 1998, the police announced that they had proof that at least one highly placed PAGAD member was trained in Egypt and Afghanistan by Gama’ al-Islamiyyah – an Egyptian militant group which was responsible for the killing of 57 German tourists in Luxor in Egypt in 1997, as well as other attacks.³⁵¹ Indeed PAGAD’s relationship with external benefactors was to pre-date the Planet Hollywood bombing. They were alleged to have received support from Iran, Libya and Sudan.³⁵²

Several analysts again raised the connection between local and foreign networks after the 2004 arrest of two South Africans – Dr Firoz Ganchi and Zubeir Ismail – at an Al-Qaeda safe house in Pakistan together with top Al-Qaeda operative Ahmed Khalfan Ghailani.³⁵³ Again, it is very difficult to demarcate between local and international terror networks since they have a mutually

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reinforcing relationship. Whilst international terror networks rely on local groupings to assist them with safe houses, the provision of identity documents and the collection of money; local groups rely on such international networks for amongst others paramilitary training. The role of Hamas in providing para-military training to local jihadis whilst raising funds in South Africa is emblematic of this complementary relationship.³⁵⁴

The close interrelationship between local and international terror networks was also highlighted by the number of South Africans who have been arrested in Afghanistan and Pakistan. In November 2004, for instance, a South African was arrested in South Waziristan. A month later, in December 2004, another South African was arrested in Baluchistan for having ties with Al-Qaeda.³⁵⁵ Any effort to understand the connections between local and foreign jihadis needs to also examine the relationship in a broader context of which the terrorism element is but one facet of. The common ideological underpinnings (as explained in Chapter 2) between local and foreign Islamists are a crucial aspect to provide one the basis of such relationships. Indeed, it is the glue for such local and global co-operation. The fact that no fewer than seventeen South African organisations are part of the Global Muslim Brotherhood's Union of Good is also indicative of the common worldview that all Islamists share.³⁵⁶

Target South Africa?

In the run-up to the 2010 World Cup, there was an interesting debate amongst analysts and the security community, namely; to what extent would Islamists target South Africa for a terror attack?

What is interesting is the nuanced position of those who did not believe that South Africa was at risk. Kurt Shillinger stated he would be surprised if terror groups attacked South Africa on account of how useful South Africa is as a support base.³⁵⁷ Similarly, Mark Schroeder, Director of Sub-Saharan Africa for the US-based intelligence company Strategic Forecasting also did not believe that South Africa would be a target given the fact that South Africa was an

*... important logistics hub for both Al-Qaeda and Al-Shabab, and both organisations would be careful not to trigger a backlash by launching attacks in South Africa.*³⁵⁸

Thus, South Africa, would probably not have presented a valuable target for a terror attack, not because of its robust and effective counter-terror apparatus but because the country is too important for terrorists – because of it being a vital support and logistics hub for global terror networks from the provision of safe houses, to serving as an operational base to plan attacks in other countries, to raising money and recruits, and of course acquiring identity documents and passports.

Those who believed that South Africa did indeed face a terror risk pointed out the large numbers of foreign tourists – amongst them 100,000 Americans – who would arrive to support their respective teams. Analysts like Deane-Peter Baker also argued that there was a sophisticated terror infrastructure already in place in South Africa.³⁵⁹ Institute for Security Studies' Anton du Plessis pointed out that it is not so much the size of the attack that counts, but the spectacle.³⁶⁰ Given the size of the television audience watching the tournament (two billion); it becomes an ideal vehicle to send a message – “We are here, we are still relevant, you have not defeated us.” Moreover such an attack would be ideal to further act as a beacon to inspire more recruits for Al-Qaeda and other Islamist groupings. Frans Cronje of the South African Institute of Race Relations maintained that what facilitated such a terror attack was the inability of South African state security structures to detect and act against such a terror threat as well as pointing out

the corrupted nature of these state structures.³⁶¹ All this constituted an opportunity to terror groups – a deadly mix of motive and opportunity.

By August 2009, it was clear that even the South African police started to become concerned about a possible terror threat. Senior Superintendent Vishnu Naidoo expressed concern that some of the teams participating in the tournament, including the United States and England, could be seen as potential terror targets.³⁶² These concerns seem to have been justified, since with each passing month it became more apparent that several Islamist groups were indeed planning to target the FIFA 2010 World Cup. January 2010, for instance, saw the Kenyan authorities deporting Jamaican cleric Sheikh Faisal for urging Muslim youth in Kenya to support Al-Shabab as well as to recruit suicide bombers to target the Soccer World Cup in South Africa.³⁶³ In April 2010, Al-Qaeda in the Islamic Maghreb threatened to attack the World Cup on the radical online website *Mushtaqun Lel Jannah* (Longing for Paradise).³⁶⁴ In the statement posted on the website, AQIM stated,

*How amazing would the match United States vs. Britain be when broadcasted live at a stadium packed with spectators when the sound of an explosion rumbles through the stand. The whole stadium is turned upside down and the number of dead is in their dozens and hundreds, Allah willing.*³⁶⁵

In May 2010, a Saudi army officer Azzam al-Qahtani, also known as Sanan al-Saudi was arrested in Iraq for an alleged Al-Qaeda plot to target the World Cup. He was ostensibly working with Al-Qaeda No. 2, Ayman al-Zawahiri in the planning for the attacks.³⁶⁶

Despite this, though, there was no terrorist attack during the World Cup. Did this mean that those analysts who believed that South Africa was too important a logistical hub for terrorism to be attacked are correct? However, arriving at such a conclusion would be erroneous. First, whilst South Africa does play an important support and logistics role in global terror networks, it does not mean that all Islamist groupings benefit from it equally. A concomitant of this fact is that some Islamist terror groups may have less incentive not to attack South Africa than others. Second, with the democratisation of jihad discussed in Chapter 2, we see growing incidents of independent cells or so-called “lone wolf” terrorists who do not operate within formal structures with proper command and control. Third, and on a related point, the act of jihad at striking at one’s enemy is more important than the political or strategic ramifications. Thus, Islamist terrorists often do not engage in rational cost-benefit analysis. Finally, and more importantly, South Africa was the target of terrorists in the past and continues to be seen as a target. For instance, the Planet Hollywood bombings come to mind or that of the plot in 2004 involving Syrian and Jordan suspects who planned to attack various targets in the run-up to the April 2004 elections,³⁶⁷ the alleged targets of Shahied Davids in 2006 or the activities of the Muizenberg cell. Moreover, as discussed above there were several attempts to target the FIFA Soccer World Cup. Indeed, the investigative team at the *Sunday Times* went further and actually reported on joint Al-Qaeda and Al-Shabab surveillance and strike teams in place getting ready to strike during the tournament.³⁶⁸ The veracity of the terror threat was also confirmed when both the American and Italian governments issued terror warnings to their nationals visiting South Africa for the World Cup. The British government meanwhile confirmed that it had set up rapid-response “resilience teams” in neighbouring countries surrounding South Africa to “ensure the safety of their citizens in the ‘event of any catastrophe.’”³⁶⁹ Judith Sluiter, the Netherlands National Coordinator for Counter-Terrorism confirmed that in the run-up to the 2010 tournament there was constant discussions between the Dutch government, football associations and intelligence agencies.³⁷⁰

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But this still begs the question: why did no terror attack take place during the World Cup? As we will shortly see in the next chapter, it was not the competence of the South African security establishment that prevented an attack; rather it was the competence of the international security community – notably Interpol. Already in 2009, Interpol's Secretary-General, Ronald Noble, spoke of a Pakistani national who was arrested at OR Tambo International Airport thereby preventing a criminal act of great magnitude from taking place.³⁷¹ Interpol also provided South Africa with a range of on-site technical and operational assistance and it deployed its Major Events Support Team to South Africa which enabled its officers to run instant checks against Interpol's global database for wanted persons, as well as stolen and lost travel documents. As South Africa's own former National Police Commissioner Bheki Cele stated,

*Interpol's support was an important part of ensuring the event is as safe and peaceful as possible.*³⁷²

In addition, South African security forces were also supplemented by foreign police contingents.³⁷³ Meanwhile the US, through its State Department's Anti-Terrorism Assistance Program, had trained sixty South African police officers in explosives, nuclear, chemical, radiological and biological weapons detections and defusion. Moreover the US also provided explosives detection equipment to the South African police.³⁷⁴ In the run-up to the 2010 World Cup, aware of the terror threats posed to the tournament and its own vulnerabilities, Pretoria intensified its co-operation with Washington. The scope of such co-operation was truly breath-taking. The two countries co-operated in exchanging information on terrorist financing, US training for South African officials intensified, and the US Customs and Border Protection (CBP), working in close co-operation with the South African Revenue Services (SARS), had a team located in Durban to screen containers entering and leaving the port for contraband, currency, nuclear materials and other Weapons of Mass Destruction (WMD). The US Department of Homeland Security also assisted the SARS to develop a Customs and Border Control Unit, which is modelled after the CBP and Anti-Terrorism Contraband Enforcement Team.³⁷⁵ Thus the fact that there was no terror attack in South Africa during the World Cup may have a lot to do with these foreign agencies mitigating the threat as opposed to the competencies of their South African counterparts. As Frans Cronje noted a few days before the World Cup,

*... Threat detection and mitigation must therefore be left to foreign agencies, many of which probably operate quite freely in South Africa.*³⁷⁶

4

Playing Ostrich: Inadequate Responses to Terrorism

“Our security agents who frequently do security analysis have not yet come up with anything that says that there is Al-Qaeda activity in South Africa.”

Tshepo Mazibuko

– South African Embassy spokesperson, Washington, DC³⁷⁷

“[South Africa] is a perfect place to cool off, regroup, and plan your finances and operations. The communications and infrastructure are excellent, there is a radical Muslim community, and our law enforcement is overstretched.”

Gideon Jones

– former head of the Criminal Investigation Unit of the South African Police Services on the issue of terrorism in the country³⁷⁸

Introduction

In the previous chapter, we have seen how South Africa has been both a vital support and logistics hub for Islamist terror groups worldwide, as well as how the country itself is being targeted by local and international terror networks. With this in mind, this chapter will examine how both the South African government and the local Muslim community, have, firstly, perceived the threat of Islamist terror groups, and secondly, responded to the threat.

Playing ostrich – The ambiguous response of the South African state

In the aftermath of 9/11, Pretoria immediately denounced the terror attacks on American soil, and offered Washington both humanitarian assistance and the full co-operation of its security agencies.³⁷⁹ The 9/11 attack, meanwhile, was one of the catalysts for South Africa to re-examine its own domestic terror laws.

While the world unites to condemn those dastardly acts in the United States [reference to 9/11 attacks], we have to skirt around the issue. We go around making promises to co-operate with everyone but as our law stands, we cannot deal with terrorism. We are the only country that refuses to look terrorism in the face as a unique crime,

said South Africa’s Minister of Safety and Security in 2004 in defence of specific anti-terrorism legislation.³⁸⁰

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According to its anti-terror legislation, the South African government shall:

- Condemn all acts of terror;
- Take all lawful measures to prevent acts of terror and bring to justice those who are involved in acts of terror;
- Undertake to protect foreign citizens from acts of terror in South Africa;
- In the event of an act of terror in a foreign country and involving a South African citizen, co-operate with the host government to resolve the matter;
- Not make concessions that would encourage extortion by terrorists;
- Not allow its territory to be used as a haven to plan, direct or support acts of terror;
- Support and co-operate with the international community in their efforts to prevent and combat acts of terror;
- Use all appropriate measures to combat terrorism; and
- Support its citizens who are victims of terrorism.³⁸¹

The need for such legislation emanated not only from such seminal events as 9/11, but also the urban terror campaign that ravaged the Western Cape. The Protection of Constitutional Democracy Against Terrorist and Related Activities Act of the Republic of South Africa also sought to integrate the country's numerous pieces of anti-terrorism legislation into one coherent and comprehensive law as well as to align these with international instruments to counter terrorism.³⁸² These international instruments include most importantly, United Nations Security Council Resolution 1373, which affirms that any act of international terrorism constitutes a threat to global peace and security and calls on member states to:

- Deny all forms of financial support for terrorist groups;
- To suppress the provision of safe havens, sustenance or support for terrorists;
- To share information with other governments in the investigation, detection, arrest and prosecution of those involved in terrorist activities;
- To criminalise active and passive assistance for terrorism in domestic laws and bring violators of these laws to justice; and
- To become party as soon as possible to the relevant international conventions and protocols relating to terrorism.³⁸³

If it is by these norms that we are to judge South Africa's counter-terror policies, then the country's policies are woefully inadequate as will be demonstrated below.

Given the proximity between organised crime syndicates and international terror networks, South Africa also enacted the Financial Intelligence Control Act (FICA) to stem money laundering as well as joining the Financial Action Task Force (FATF) and the Eastern and Southern African Anti-Money Laundering Group (ESAAMLG).³⁸⁴ In addition to these multilateral commitments as well as its having enacted domestic anti-terror legislation, South Africa also brought the issue of terrorism to the fore through its bilateral relations. In October 2006, during a meeting with the Indian Prime Minister, Manmohan Singh, at the Union Buildings, former South African President Thabo Mbeki declared that the two countries would share intelligence to help prevent terrorist attacks.³⁸⁵ This underscored the notion that terrorism constitutes a global threat and that only acting in partnership, can the international community eradicate this scourge. Following the Al-Shabab terrorist atrocity committed in Kampala, in July 2010, the head of the South Africa delegation visiting Uganda condemned terrorism as evil and urged the international community to work together for its eradication. The South African official went on to state,

As South Africa, we remain committed to continuing to discharge our responsibility – individually as a country and as part of the international community – to combat terrorism in all its manifestations.³⁸⁶

Whatever the rhetoric emanating from Pretoria is, the reality seems to be much different. This gap between promise and performance, and between rhetoric and reality, has resulted in South Africa suffering from a credibility gap in the area of terrorism. Perhaps it is easier, to enact legislation than implementing it, or perhaps it is easier to put signatures on international agreements than actually destroying terrorist infrastructure in one's own country. Is it perhaps a case of a lack of capacity or lack of political will or is it something even more insidious?

One realises these are strong statements to make, which are contested by other analysts. Boshoff and Schonteich³⁸⁷ point out how effectively the government responded to the urban terror campaign in the Western Cape through so-called “intelligence-driven operations” which were given rather grandiose names such as Operations Recoil, Saladin, Good Hope, Crackdown and Lancer. Perhaps it needs to be pointed out here that in retrospect, South Africa's response to this urban terror campaign in the 1990s was disjointed and hardly effective given the fact that PAGAD conducted 189 bomb attacks over a five-year period.³⁸⁸

Moreover if Robert Baer³⁸⁹ is correct, then the eventual ending of the bombing campaign of PAGAD may have less to do with the security forces responses and more to do with changes in Iran itself in the post-Khomeini period. These witnessed Iran being transformed from a revolutionary power attempting to spread the Islamist revolution globally to being more of a statist power – using Islamist rhetoric and proxies to bolster the Iranian state itself. Given the fact that South Africa constituted no threat to Tehran itself, its proxies in the form of PAGAD could be chained up.

This is a process that, no doubt, has been assisted by the South African government having closely allied itself with Iran and its surrogates – that is, Hezbollah and Hamas.³⁹⁰ Tehran and Pretoria, for instance, established a Joint Bilateral Commission to expand political and economic relationships between the two countries. At the 7th South Africa-Iran Joint Bilateral Commission, former Foreign Minister Nkosazana Dlamini-Zuma spoke of,

... the shared values between South Africa and the Islamic Republic of Iran, namely the promotion of democracy, justice, peace and prosperity.³⁹¹

One would assume that the good minister was ignorant of the growing oppression ordinary Iranians have to encounter at the hands of the supposedly pious mullahs.

In June 2003, then Deputy Foreign Affairs Minister Aziz Pahad met with the chief of Hezbollah's Political Bureau, Mohammad Raad, in Beirut.³⁹² Following the meeting, the Foreign Ministry stated that a clear distinction must be made “between terrorism and legitimate struggle for liberation”.³⁹³ Was this a case of viewing Hezbollah through the ANC's own lenses? Similarly former Intelligence Minister Ronnie Kasrils invited Hamas leader Ismail Haniyeh to lead a delegation to South Africa.³⁹⁴ These developments led Jonathan Schanzer in a prescient article to conclude that:

Overtures to Hamas and Hezbollah are indicative of Pretoria's utter indifference to the threat of radical Islamic ideologies and violence. The worst consequence of this blindness may be the creation of safe houses for terrorists in South Africa itself.³⁹⁵

This statement proved prophetic as developments in Chapter 3 demonstrated with the setting up of safe houses, recruitment and training of militants and money laundering.

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Such overtures whether directed at Iran or Hezbollah, would not mean that South Africa is immune from an Iranian-inspired terror attack. Rather, if for instance, there is a strike on its nuclear facilities and if Tehran strikes back (as we witnessed with Hezbollah's terrorist atrocities in Buenos Aires) then Iran's Revolutionary Guard Corps through its local proxies would once more be allowed to strike at specific Western or Israeli targets in South Africa.

The contradictory and confusing, and ultimately ineffective nature of South Africa's fight against global terrorism still needs to be explained. The ineffective nature of South Africa's fight against jihadists could be seen as the result of a multiplicity of factors including the danger of a false sense of security, political correctness, and the politicisation and criminalisation of the state's security apparatus.

The danger of a false sense of security

There is a pathetic sense of naiveté that one gets from senior South African policy-makers on the issue of terrorism. Responding to Ganchi and Ismail's arrest in Pakistan and that they were planning to attack targets in South Africa, Deputy Foreign Minister Aziz Pahad stated,

*anybody who has any sense would know that South Africa had taken consistently correct positions on issues like the Middle East and the war on Iraq, and there was no reason why anyone would want to attack it.*³⁹⁶

So there you have it, we are safe from terrorism because of our "consistently correct" foreign policy positions vis-à-vis the Middle East. After all, South Africa is neither in Iraq nor in Afghanistan and we are pro-Palestinian (whatever this means within the context of pro-West Fatah vs. pro-Iran Hamas).

However, the urban terror campaign conducted by PAGAD in the Western Cape in the 1990s, as well as various attempts to commit terror attacks ever since suggests something different. But there are other reasons to doubt the veracity of such a statement. PAGAD's bombing campaign did not only target the US Consulate in Cape Town or Western-associated restaurants like Planet Hollywood but also synagogues, moderate Muslims, gay nightclubs, and very importantly the organs of the South African state itself. In August 1998, there was an explosion outside the offices of the police special investigation task team, and in September the judge presiding over a case involving a PAGAD member was assassinated.³⁹⁷

There are other reasons to doubt Mr Pahad's statement, and these relate to the ideology of radical Islamism as discussed earlier in Chapter 2. During the 1990s, similar structures to PAGAD were also formed, such as PAPAS or the People Against Prostitutes and Sodomites.³⁹⁸ Structures such as these points to the fact that outside of the Israel-Palestinian question or your Guantanamo Bays' Islamists is fundamentally intolerant to the liberal democratic ethos of the South African Constitution. In this regard it is important to note that whilst South Africa has been critical of US policies in relation to the Middle East, the country,

*... does display the general American preference for liberal democracy and individual freedom and remains part of the capitalist system that Bin Laden insists is preventing Islam from achieving its rightful place as the world's preeminent faith and religion.*³⁹⁹

This is an issue, which also comes out very strongly in the interview with Mustafa Jonker discussed in Chapter 2.

This danger of a false sense of security is made more acute by the engagement the government has with the mainstream of South African Muslim community. According to Iqbal Jhazbhay,⁴⁰⁰

since 1994, the state has “worked out techniques to manage the expression of Islam” resulting in the *de facto* co-option of mainstream Muslim leaders through such structures like the ANC’s Commission for Religious Affairs and the statutory Commission for the Promotion and Protection of Rights for Cultural, Religious and Linguistic Communities. Jhazbhay goes on to note that virtually all the country’s mosques are controlled by the mainstream Muslim Judicial Council, or the United Ulema Council of South Africa so that “if a Taliban inclined imam speaks at a mosque and says dangerous things, the worshippers may ignore him”.⁴⁰¹

Leaving aside, the important qualifier of “may”, this is indeed a dangerous statement, since it also presumes that the mosque is the only potential source of radicalism. International experience increasingly points otherwise. Moreover, with the government overly occupied with co-opting mainstream Muslims, it could easily be ignoring the more radical elements that have influence outside these co-opted channels.⁴⁰² In addition, as was explained in Chapter 2 with the democratisation and decentralisation of global jihad such organisational co-option may prove superfluous. Clearly such co-option strategies did not work for PAGAD, Shaheed Davids or Mustafa Jonker, nor for the Ganchi-Ismail duo nor the Dockrat cousins. The danger of the co-option strategy is when these mainstream Muslim organisations inform the state that radicalism does not exist in the community and the security apparatus of the state believes them.⁴⁰³ In 2004 cabinet ministers met with Muslims religious leaders to discuss government concerns following a Central Intelligence Agency (CIA) report that some second-tier Al-Qaeda operatives were taking refuge in South Africa. Following the meeting Ahmed Sedick the Secretary-General of the Muslim Judicial Council said that his organisation was “... unaware of the existence of al-Qaeda organisations or members, inside or outside South Africa”.⁴⁰⁴ Could such assurances explain why the state security apparatus has largely ignored the spread of Islamist extremism within South Africa’s borders?⁴⁰⁵

The eternal sin of political correctness

Political correctness characterises the highest levels of South Africa’s political establishment and undermines the fight against the scourge of terrorism. Former Minister of Intelligence, Ronnie Kasrils on one occasion stated,

*... we guard against a rising international hysteria which serves to portray all Muslims as potential targets. The cry of ‘a terrorist in every Madrasah’ echoes the ‘red under the bed’ and ‘swart gevaar’ [black danger] phobia of the Cold War and the apartheid era. We must never repeat such witch hunts in our country.*⁴⁰⁶

This ideological blindness on the part of Kasrils refuses to recognise the qualitative difference between the armed struggle against apartheid and the current global jihadist scourge; indeed, it besmirches the noble struggle against the apartheid regime. Whilst there was the infamous Magoos Bar bombing, attacks on soft targets were not countenanced by the African National Congress (ANC) leadership.⁴⁰⁷ The idea that one targets innocent diners in a restaurant or passengers on a bus was anathema to the ANC. In this way, the ANC was able to maintain the moral high ground. Even more important is the limited goals of the ANC – a democratic, non-racial South Africa – compared to the global ambitions of radical Islamists who seek to establish a global Muslim caliphate.⁴⁰⁸

The legacy of apartheid looms large over South African policy-makers both domestically and internationally – and it should. But when policy-makers examine everything through the lens of apartheid, they inevitably get it wrong since other actors (as was mentioned in Chapter 2) are motivated by other compulsions. As Anneli Botha⁴⁰⁹ has cogently argued,

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As a nascent democracy, South Africa is obsessed with protecting basic rights, rights that would be exploited by international terrorists working in tandem with local militants.

Are we then surprised that, despite all the terrorist activity taking place on South African soil, so few individuals have been arrested for terrorism. What Pretoria seems to have forgotten is that these same terrorists that they are treating with kid gloves are willing to deny the most fundamental of all rights – that of the right to life! Kurt Shillinger of the South African Institute for International Affairs (SAIIA) is also of the opinion that the reason why Pretoria has showing little desire to investigate its own Muslim community is because it does not want to alienate it.⁴¹⁰

Internationally too, South Africa's approach to issues of terrorism is coloured by the South African experience. Thus, whilst commiserating with the US following 9/11, the South African government urged Washington to adopt

*... a longer-term response of isolating terrorists through international co-operation to eradicate poverty and underdevelopment.*⁴¹¹

This is something that former President Thabo Mbeki also reiterated in his address to the United Nations General Assembly in 2003.⁴¹² So, in the South African rendition, poverty breeds terrorism – how painfully wrong. Osama bin Laden is a Saudi multi-millionaire. Al-Qaeda's deputy, Ayman al-Zawahiri was a physician, Mohammed al-Atta, the leader of the 9/11 hijackers was a German-trained architect and Umar Farouk Abdulmutallab, was the son of a prominent banker.⁴¹³ According to recent research⁴¹⁴ done on the subject matter there is little to substantiate the notion that poverty leads to terrorism – indeed if anything, global jihadis tend to represent the best and brightest of their societies who if not necessarily affluent are at least middle class.

Further as Eric Rosand⁴¹⁵ argues,

Despite poverty being widespread, most of the world's poorest have not produced terrorist organisations, particularly not ones with an international scope. A Norwegian Institute of International Affairs panel of leading terrorism experts found there is only a weak and indirect relationship between poverty and terrorism.

Other research has indicated that far from using terror to attain certain political or economic objectives, Islamist terror aims only at threatening given social orders without having any feasible alternative. Indeed, this research has concluded that such,

*... terrorist activity is not motivated by a desire to reach any 'constructive' goals, but much rather by a deep-seated psychological want to annihilate those who do not share the cultural worldview of the terrorism himself. In the case of Islamic terrorism, the mere existence of plural and secularist alternatives to a fundamentalist way of life is perceived to be unacceptable: the jihad as a conquest of the dar al-harb, the non-Muslim world; is a core motivation.*⁴¹⁶

It is a sad truism that Pretoria neither know its enemies nor their motivations – the ideological basis which instils hatred and violence towards the proverbial other. How then can it ever hope to defeat terrorism within its borders?

The politicisation of the South African security apparatus

Yet another problem confronting South Africa's intelligence services is their politicisation. Arguably, they often much prefer, for example, to keep tabs on journalists and to maintain

the ruling faction of the ruling party, the ANC, in power than on securing South Africans safety from international terrorism.⁴¹⁷ Indeed since at least 2005 agencies such as the National Intelligence Agency (NIA) have been at the forefront of claims that both (former South African President) Mbeki and (current South African President) Zuma camps were using state structures to further their political goals. It was after all former police Crime Intelligence head Mulangi Mphogo who provided classified material to Zuma's lawyer Michael Hulley. These included conversations between Leonard McCarthy, the former head of the Scorpions and Bulelani Ngcuka, the former National Director of Public Prosecutions. It was on the basis of this information that Hulley scuttled President Jacob Zuma's corruption trial – that the Zuma investigation was politically tainted.⁴¹⁸ Journalists also discovered that a police operation, "Operation Destroy Lucifer", and a related NIA project served:

- To spy on the National Prosecuting Authority;
- To discover the evidence the Scorpions had on then National Police Commissioner Jackie Selebi;
- To attempt to "turn" key Selebi witness Glenn Agliotti;
- To entrap Scorpions investigator Ivor Powell; and
- To interfere in the battles between the ANC and the official political opposition, the Democratic Alliance, in the Western Cape.⁴¹⁹

Small wonder, then, that an Intelligence Ministerial Review Commission found that,

*We are concerned that NIA's mandate may have politicised the agency, drawn it into the realm of party politics, requiring it to monitor and investigate legal political activity ...*⁴²⁰

The outgoing Minister of Intelligence, Ronnie Kasrils, who had commissioned the intelligence review, also urged the ruling ANC to replace him with someone of the highest integrity owing to the sensitivity of the post. As Kasrils himself noted, "The possibility of abuse of power by a rogue Minister or Director-General is immense."⁴²¹ Moreover, there is every indication to suggest that far from being able to focus on terrorists operating inside South Africa, these agencies are still focused inwards. Frans Cronje of the South African Institute of Race Relations concludes,

*There should also be concern at the capacity of South Africa's intelligence services to accurately detect and act against such a [terror] threat. There is some evidence to suggest that the efforts of these agencies have been turned inwards to fight domestic political battles for factions within the ANC. They may not have their eye on the ball internationally to the extent that they should.*⁴²²

Following Jacob Zuma's ascendancy to the presidency in 2009, another round of restructuring began in the country's intelligence services, with an infusion of new blood, which was thought to be an opportune moment to set these flaws right. Alas, the opportunity was squandered and the moment passed by. The new blood gives little hope for the future of the intelligence services. Jeff Maqetuka, was appointed Director-General of the State Security Agency⁴²³ whilst Moe Shaikh was appointed the head of the foreign intelligence service (South African Secret Service: SASS) and Gibson Njenje will now head the domestic intelligence service (National Intelligence Agency: NIA). All three are loyalists of the current President – Jacob Zuma. All had served under him when he was heading the ANC's Department of Intelligence and Security before 1994. Media speculation is that the appointment of these so-called "Zuma loyalists" was an effort by the President to strengthen his hand, as the bruising succession debate once more surfaced within the ruling party.⁴²⁴ For example, Moe Shaikh was considered instrumental in Zuma's trouncing former President Mbeki and his subsequent elevation to the

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presidency of the party and the country. Whilst the likes of Shaikh and Njenje have certainly proven their capabilities in the rough and tumble world of ANC factional politics, do they have the necessary skill sets to respond to Islamist militancy targeting South Africa?

Jeff Maqetuka initially made some promising remarks to shake up the intelligence agencies and to rid it of politically partisan intelligence officers that found themselves in the middle of ANC succession battles.⁴²⁵ It soon became apparent that what he really meant was to rid the intelligence agencies of those intelligence agents who were aligned or appointed by former President Thabo Mbeki. Manala Manzini, the former Director-General of NIA who was appointed by Mbeki, found that his contract was not renewed. Meanwhile the Deputy-Director-General of Operational Support and Systems at NIA, Peter Richer, a consummate professional who supported policy reform and criticised the intelligence services wide mandate and politicisation resigned.⁴²⁶

Perhaps most controversially was the ousting of Arthur Fraser, Deputy Director-General for Operations – another key Mbeki-appointment. In an attempt to marginalise Fraser, Njenje the new Director-General cut off funds controlled by Fraser. As head of operations, this meant that Fraser who controlled the top secret source register could not pay about 100 high-level sources. These sources included key intelligence sources relating to possible threats to the 2010 World Cup. Thus the promised intelligence shake-up only reinforced the politicisation of the intelligence apparatus, thereby undermining intelligence gathering operations.⁴²⁷ Sadly, the impression that one gets is of a NIA flying blind and that its assurances that South Africa is safe from terrorism, cannot possibly be taken seriously.

There are also other indications to support the idea that the politicisation of the intelligence community is continuing apace and that the ruling ANC has a seemingly privileged relationship with the intelligence community. In February 2010, in response to media reports of irregular tenders being awarded to ANC Youth League president Julius Malema, Malema responded that he has secret documents detailing a vendetta against him and others supporting Jacob Zuma ostensibly compiled by state security agencies. This prompted the President of the Congress of the People (COPE), Moiswa Lekota to declare,

In terms of our law, no private citizen is entitled to have access to State information especially not information which is often classified. The revelation by Mr Malema that he is in possession of a State intelligence document suggests that this private citizen has free access to what otherwise is State property from which all private citizens are excluded. COPE is entitled to demand an explanation from President Zuma and the Minister of Intelligence why this special dispensation is accorded to Mr Malema.⁴²⁸

In similar vein, the leader of the opposition United Democratic Movement (UDM), Bantu Holomisa raised questions as to why NIA was trying to undermine political opposition during the local government elections in 2011. According to Holomisa, NIA agents approached a UDM candidate and offered him remuneration to serve as an agent for NIA within UDM structures.⁴²⁹

The on-going ANC leadership tussle is also drawing in the intelligence community once more. The Minister of State Security, Siyabonga Cwele, who is very close to incumbent President Jacob Zuma who seeks a second term in office, wanted some senior ANC leaders to be spied on. The head of his intelligence services, Jeff Maqetuka (heading the State Security Agency), Gibson Njenje heading the NIA) and Mo Shaikh (heading the SASS) all defied the order. Consequently all three have left their respective agencies.⁴³⁰ If our intelligence services are playing political factional battles, who is keeping South Africans safe from the terrorists?

The criminalisation of the state security apparatus

There is increasing evidence to suggest that we are witnessing the growing criminalisation of the state apparatus. In August 2008, the National Prosecuting Authority handed Parliament a confidential document, which pointed out how former members of the apartheid regime and of the ANC, have been involved in the training of paramilitary forces, and in arms smuggling and organised crime.⁴³¹ A former South African intelligence operative has indeed written a book on the subject of the relationship between the ANC and organised crime syndicates.⁴³² One cannot help but wonder whether the Scorpions were closed down because they were too effective. Indeed, their closure did impact on the bilateral relations between Pretoria and other countries, notably the United Kingdom, which provided advice and support to the Scorpions.⁴³³

The infiltration of organised crime does not only affect the political mandarins of state but also its security structure – notably the police. During 2008, 538 police officers were found guilty in internal hearings of crimes ranging from murder, rape, assault, theft and corruption to alcohol and drug abuse.⁴³⁴ In November 2010, a report pointed out that twenty percent of the Johannesburg Metropolitan Police were corrupt with officers soliciting bribes of R1,000 whilst still others stole R1 million.⁴³⁵ In June 2010, for instance media reports indicated that policemen from the Sharpeville and Sebokeng police stations were involved in cash-in-transit heists.⁴³⁶ More than numbers, however, is the seniority of the police officials involved. In 2009, the head of Organised Crime in the West Rand, Senior Superintendent Dumisani Jwara and two of his captains were arrested accused of intercepting drugs en route to forensic laboratories and channelling them to the criminal underworld.⁴³⁷ In the same month – March 2009, Sheryl Cwele, the wife of Minister of Intelligence Siyabonga Cwele was under investigation for international narco-trafficking.⁴³⁸ Subsequently her alleged accomplice, Nigerian national Frank Nabolisa, was apprehended by police in December 2009. Tessa Beetge, who was a former neighbour of Sheryl Cwele was caught with nine kilograms of raw cocaine and was subsequently jailed. She, in turn, implicated both Nabolisa and Sheryl Cwele. Sheryl Cwele was also linked to Beetge and Nabolisa through various emails, SMS' and prison letters.⁴³⁹ In January 2010, Sheryl Cwele was arrested, stood trial and was subsequently convicted.⁴⁴⁰

More importantly there is every indication to suggest that this may well be the tip of the iceberg. According to a 2007 Institute for Security Studies (ISS) survey of the police,

*92 percent agreed that police corruption is a serious challenge, and 54 percent believed that corruption had increased in the previous four years. Over 70 percent stated that most members were aware of other members' involvement in criminal activity, while 68 percent believed that most officers would not report a member they knew to be corrupt.*⁴⁴¹

According to Dr Liza Grobler, a criminologist, many police members lead double lives – often becoming criminals in their first week as a police officer. She notes,

*One guy I interviewed got away with everything for seventeen years. Except murder, he didn't do murder. He was eventually busted for issuing a fake gun license but before that he had hijacked, he was running a prostitution ring, he burgled ... Its unreal.*⁴⁴²

Thus the impression that one gets is not of a few rotten apples but of systemic, widespread corruption. Neither should we expect any end to this situation in the short-term given the reluctance of the police hierarchy to act against their own. In June 2010, The Public Protector, Advocate Thulisile Madonsela called on police chief Bheki Cele to take action against police crime intelligence head Richard Mdluli for “failing to investigate allegations of police drug

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dealing and the illegal towing and ‘chopping’ of cars’.⁴⁴³ By 2011, Mdluli himself was being investigated on murder and fraud charges. The murder charges were related to the 1999 murder of Oupa Ramogibe, the husband of his former lover.⁴⁴⁴

Moreover, organised crime syndicates seem to have exploited such corruption to have penetrated the police. Journalists from the *Sunday Times*⁴⁴⁵ broke the story of a crime syndicate involved in everything from the smuggling of narcotics to human trafficking having spread its tentacles into the police. And according to Mark Shaw over 500 extremely well-financed and superbly armed crime syndicates operate in and from South Africa. He goes on to state that,

*One common denominator of organised crime operations is the ability to penetrate and use the institutions of the state. In countries such as Colombia and Russia it is often difficult to tell where the state ends and organised crime begins.*⁴⁴⁶

It would seem that South Africa is also heading down this road. This holds serious implications for South Africa’s future security since it opens a path for the infiltration and penetration of the country’s security apparatus. Such penetration, in turn, would have knock-on consequences. For instance, why would foreign intelligence agencies want to fully share with their South African counterparts’ intelligence when these could be passed on to organised crime syndicates? Consider, for instance, former National Police Commissioner Jackie Selebi who passed confidential information from the British police to drug dealer and murder suspect Glenn Agliotti.⁴⁴⁷ Could this be why the Iraqi authorities did not share information with the South Africans on the arrest of the Saudi national attempting to conduct terror attacks in South Africa during the World Cup? Indeed the proximity of our security and political mandarins with crime figures is cause to be concerned. Mo Shaikh, the current head of the South African Secret Service (SASS), attended the 2006 ANC conference with Cyril Beeka as his bodyguard – a key figure in the criminal world. Whilst a former ANC military figure, Beeka is now allegedly one of South Africa’s leading narco-traffickers.⁴⁴⁸

Moreover, given the growing nexus between organised crime and Islamist networks such information might well find its way into the hands of radical Islamists. A few years ago, a Muslim cleric approached me and warned that I should not speak to the South African Police about Islamic fundamentalism, since they could not be trusted. When asked about how he came to such a conclusion he informed me that a few weeks prior he was approached by the police to do a high-level presentation about Islamist radicals inside South Africa. According to him he did a presentation to a few senior officers in a room. A week later the cleric’s name was being circulated on a “hit-list” as a police informer and the radical Islamists had apparently acquired a copy of his presentation. The cleric had little choice but to cease all co-operation with the police.

The episode was quite instructive, since if repeated it would mean that our police would have very little human intelligence assets within Islamist circles.

Two other incidents highlight that South Africa’s security structures may be “leaking” information. In the case of Khalid Rashid, a secret file containing correspondence within the Department of Home Affairs and between the South African and Pakistani governments miraculously found its way into the hands of a Pretoria fast food vendor Yaseen Suliman. Justice Poswa, the presiding judge in the case ordered that the contents of the file should not be published.⁴⁴⁹ In that case, how did the confidential document find its ways into the hands of a fast food vendor? The case of Mustapha Jonker is even more problematic. In his interview with Khadija Qahaar⁴⁵⁰ he stated,

As far as indications that this [Muizenberg] raid was coming, I had information just over a month before the raid that I was being monitored by a particular branch of intelligence.

So who had tipped Jonker off? Was it someone from inside the security apparatus or someone from outside? What was the purpose of such a tip-off?

The state of the South African security apparatus

As the primary counter-terrorism instrument, the state of the South African Police Force hardly inspires confidence. A report by fourteen retired police commissioners found that the police suffered from inadequate planning, inadequate training which impacts on poor quality of investigations and low conviction rates, and that command and control was practically non-existent.⁴⁵¹ Amongst the findings of the report were:

- There is a shortage of detectives – 3,343 nationally
- Many inexperienced detectives investigate 150 dockets or more
- The majority of detectives are not trained adequately and that 24 percent of the nation's detectives had not undergone a basic detective course.⁴⁵²

Four months before the 2010 World Cup was to start, journalists reported a serious shortage of trained dogs and handlers within the police. These were indispensable for explosives and narcotics detection. At one time, South Africa was a world leader in such canine training. This is no longer the case. KwaZulu-Natal Province, for instance, used to have 280 dogs in the 1990s trained in explosives and drug detection. In 2010 they only had five such dogs.⁴⁵³ To give one an idea what this means Sello Alcock, points out that one needs twenty dogs to sweep a stadium before a match and that this figure excludes those dogs needed for other sweeps and related activities such as crowd control.⁴⁵⁴

The South African National Defence Force (SANDF) is hardly faring better either – an important issue if one considers that the military plays an important support role to the police. At a briefing at the Saldhana military base in 2002,⁴⁵⁵ members of South Africa's Parliamentary Portfolio Committee on Defence heard that:

- More than half of the country's 76,000 soldiers are medically unfit.
- Many of the riflemen and servicemen are regarded as too old for deployment and active service.
- Lack of funds means the army can deploy only one operational brigade of 3,000 and it is "impossible" to deploy 19 regular army companies and 23 reserve platoons.
- Training has virtually come to a halt. Army reservists, for instance, have not been deployed on training exercises since 1996.
- Equipment is in a deplorable state with only 20 out of 168 Olifant tanks and 16 out of 242 Rooikat armoured cars being deployed due to budget constraints.
- The SANDF is seriously top-heavy, with a ratio of one general for every 293 men, compared with a general for every 2,000 men in the United States Army.

A few years later in its annual report, the Department of Defence gives the impression that the situation is not much better with the South African National Defence Force (SANDF) struggling with vacancy rates of up to 42 percent with the generals and admirals pointing out that the Force was confronting a serious exodus of skilled soldiers, sailors, pilots and technical personnel that could pose a threat to the security of the country.⁴⁵⁶

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Whilst not really part of the security apparatus, the Department of Home Affairs could be an effective part of any counter-terror strategy since it is this Department's passports and identity documents that are so abused by international terrorists both in South Africa and abroad. Moreover, it is this Department with its so many corrupt officials, which allow terrorists and criminals into the country. In May 2010, Minister of Home Affairs Dr Nkosazana Dlamini-Zuma briefed Parliament's Joint Public Hearing that her Department was to launch a Movement Control System first at Johannesburg's OR Tambo International Airport and then it was to be rolled out to the other 32 ports of entry. The aim of the new control system was to

*... assist the country in regulating the movement of people in and beyond the country's borders, whilst monitoring those who overstay their welcome and simultaneously assist the law enforcement agencies in combating crime and corruption.*⁴⁵⁷

Whilst the establishment of the Movement Control System is to be welcomed, what is at issue here is the fact that such a system was only to be started a few weeks before the start of the World Cup and that too it was only to be implemented initially in only one out of 32 ports of entry. This was definitely a case of too little, too late. Moreover with more and more reports that Al-Qaeda was planning to strike at the World Cup,⁴⁵⁸ it would have meant that cells had to be put in place months, if not years, ahead of the great sporting event. This, in turn, meant that time to have placed the Movement Control System in place was years ago not a few weeks before the tournament.

Whatever good in terms of safety which was to accrue from the implementation of the Movement Control System was severely undermined when a week before the 2010 Soccer World Cup, the Minister Nksozana Dlamini-Zuma signed a Memorandum of Understanding with her Mozambican counterpart to expedite the entry and exit of visitors from both countries for the duration of the World Cup.⁴⁵⁹ Thus despite growing evidence of a terror threat during the 2010 World Cup with active terror cells in Mozambique, our Department of Home Affairs saw it fit to expedite the entry and exit of visitors from Mozambique. It raises some interesting questions on how policy is formulated in that government department.

The effectiveness of the state security apparatus

The nature and extent of the terrorist threat raises important questions as to the state of readiness of the South African security services. The answer has to be poorly. Various incidents bear out this truism. In October 1999, the Federal Bureau of Investigation (FBI) arrested Khalfan Khamis Mohamed, a wanted fugitive who was smuggled into South Africa from Pakistan and wanted by the US for his involvement in the bombing of the US Embassy in Dar es Salaam. He took refuge in Cape Town, and was eventually extradited. As Shaun Edge⁴⁶⁰ noted, a CIA case officer spotted him by accident rather than as a result of any actions on the part of the South African government's security services. It truly boggles the mind that a wanted terrorist can enter the country illegally and then proceed to live in South Africa, evading the local security services, to be then accidentally spotted by an American. This, however, did not stop the South African government from claiming the arrest as a victory for their counter-terrorism efforts.⁴⁶¹

In another incident demonstrating the inept nature of our security services, *Molotov Cocktail*, reported the story of an alleged jihadi training facility outside Port Elizabeth. It would seem however that all activities ceased at the camp following a botched surveillance operation.⁴⁶² Similarly, whilst the South African intelligence services ostensibly had Haroon Rashid Aswat

under surveillance, he slipped away from their gaze and entered Zambia on 6 July 2005, he was subsequently picked up by Zambian intelligence two weeks later.⁴⁶³

In August 2009, the prosecution of two PAGAD members – Faizel Waggie and Shahied Davids – for the attempted bombings of the Keg and Swan restaurant in November 2000 was quietly abandoned. This case tells us quite a bit about the incompetence of the state security apparatus. It would seem that the case was abandoned since conversations of the accused were bugged illegally and that the police had lied under oath. More importantly the two alleged accomplices of Waggie and Davids – Yusuf and Fahiema Enous – who had turned state witnesses – were assassinated while in witness protection. Neither was this the first time that witnesses were killed. Ebrahim Gallie who was to testify in another PAGAD-related trial was abducted and later shot dead. Needless to say this case, too, had to be dropped.⁴⁶⁴ Here lies the rub – if potential witnesses are aware how unsafe witness protection is, will they really come forward to testify. And if such witnesses do not come forward can cases be successfully tried?

There are also times when South African security services have moved too quickly, thus not apprehending the kingpins of terror network operations thereby allowing them to go underground. In April 2004 three Al-Qaeda operatives – one Syrian and two Jordanians – were arrested by the SAPS and deported. According to then SAPS National Police Commissioner, Jackie Selebi, they were planning to disrupt the elections in April by detonating explosives at several Western-linked targets in South Africa. Selebi then went on to claim that as a result of the operation in South Africa arrests had taken place in Jordan, Syria and Britain.⁴⁶⁵ Both Ganchi and Ismail had several meetings with these individuals.⁴⁶⁶ However, subsequent media reports indicate that the arrest was not as successful as Selebi may have indicated since the leader of the group eluded arrest possibly because the police had swooped in too early.⁴⁶⁷

Another case of moving too fast, and blowing it, occurred during the September 2009 closures of the US embassy following a threat from Al-Shabab. It would seem that National Police Commissioner Cele jumped the gun by going on national television to say that arrests in this case were imminent – this prompted the Al-Shabab cell to discard the phones and SIM cards they were using and to go underground.⁴⁶⁸ Not having found them, it is understandable that Cele subsequently found the threat to be “not credible”.⁴⁶⁹ It should be noted that US Embassy spokesperson Sharon Hudson-Dean referred to these threats as “credible”. Moreover given the fact that it was the US who had intercepted the call from the Al-Shabab cell in Khayaletsha⁴⁷⁰ as opposed to South African intelligence, one should perhaps give greater weight to the American claim of “credible” as opposed to Cele’s “not credible”. It should also be added that it was the first time in over a decade – since 9/11 – that the US offices had to be closed down.⁴⁷¹

A structural problem may also exist within the intelligence community. Mid-and lower-level operatives who often risk their lives gathering information on these various Islamist groups often complain that their tip-offs and warnings are either ignored or not being relayed to the higher echelons of policy-makers.⁴⁷² Why is this so? Is it a structural problem, which prevents certain kinds of actionable intelligence from getting to policy-makers? Is it somewhat more malevolent where it is being deliberately blocked? Or does it actually get to policy-makers but that intelligence, which does not accord with their politically correct viewpoints, is simply not acted upon? Whatever the reason, this is an issue that needs to be corrected as a matter of grave urgency.

Incompetence, however, does only bedevil our security apparatus but also the commercial sector as well. The Airports Company of South Africa (ACSA) points out that it worked in line with various international and national safety guidelines. ACSA also works closely with government security agencies as well as private security companies. In addition ACSA pointed

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out to security measures being further strengthened at OR Tambo Airport in Johannesburg with, for example, the introduction of closed circuit television cameras.⁴⁷³ This however did not stop journalists from *EyeWitness News*, in an effort to prove exactly how lax security measures at our airports are, from carrying dangerous items in hand luggage onto ten departing airplanes leaving from major tourist hubs in South Africa.⁴⁷⁴ This proves that whatever security measures being embarked upon; it can only be as effective as the people who are implementing them.

These problems are only exacerbated when one considers the state of South Africa's private security sector. There is, for instance, a shortage of security officers trained specifically to handle major events. According to the Private Security Industry Regulatory Authority there were only 1,000 officers who had completed their special training in the run-up to 2010 tournament.⁴⁷⁵ It gets worse however. A week before the Confederations Cup was to start no security company had been appointed to safeguard VIPs, hotels, stadiums and training grounds on account of a pay dispute. Eventually a small, unknown Cape Town security firm was appointed – Chippa Security Services. Its Managing Director Siviwe Mpengisa acknowledged that the company had to scramble to fulfil the requirements of the Confederations Cup. As he put it, "What we did was to give the guys a one-day training on how to conduct security at special events ..."⁴⁷⁶ It need hardly be stressed that this is far from ideal. The NIA also had to vet the security guards to be used. Proper vetting takes at least a few weeks. This meant that private security guards with one-days' worth of training who were not properly vetted were utilised for the Confederations Cup – the curtain raiser for the 2010 FIFA World Cup.⁴⁷⁷

The bungling of the security apparatus is also seen at the local level in the private sector. Months before Planet Holly was bombed in 1998, Graham McCormack, a British security consultant warned the restaurant that it was a potential terror target and urged them to have three security guards on the premises. This recommendation, however, was dismissed by management.⁴⁷⁸ To make matters worse, the security video cameras in the restaurant were not activated on the night of the blast.⁴⁷⁹

Moreover, there is evidence also to suggest that organised crime syndicates may also have penetrated the private security sector.⁴⁸⁰ Thus problems we see at the level of the state are being mirrored at the level of private sector. This means that the private security industry cannot be simply looked upon as a force multiplier to augment that of the state.

Sharing intelligence

It is also of concern that the different elements of the state security apparatus are really not sharing intelligence with each other despite the existence of structures like the National Intelligence Coordination Committee (NICOC) whose aim is to do precisely this. Following report of a threat to the World Cup in 2010, Rich Mkhondo, the chief communications officer for the FIFA 2010 World Cup Local Organising Committee South Africa said that that security agencies, "... merely alerted us that embassies would be shut without providing details."⁴⁸¹ It would seem that they like the rest of South Africa's public had to rely on the press to provide them with the details.

Not only is intelligence sharing between agencies erratic, at least, but also practically non-existent within agencies. In May 2010 Ronald Sandee, the Research Director of the NEFA Foundation warned the US Congress of a credible terror threat confronting South Africa.⁴⁸² In response, Minister of Police Nathi Mthethwa dismissed the NEFA report stating, "There is no threat to South Africa as we speak now."⁴⁸³ However Sandee's presentation also drew on data

from South African police intelligence reports which contained detailed information about terror training camps. Sandee goes on to note,

*The fact that officials (now) refute this is reason to believe that they don't have their apparatus under control.*⁴⁸⁴

So there you have it – police intelligence reports having detailed information about terror training camps in South Africa whilst the Minister of Police is unaware of it!

One also gets the impression that foreign intelligence agencies have shut out the South African intelligence community or only allow them limited information at best on account of possibly the criminalisation of the state security apparatus. In May 2010, the German News Agency Deutsche Press Agentur reported the case of Saudi Colonel Azzam al-Qahtani, also known as Sanan al-Saudi, who had illegally entered Iraq, and was plotting with Al-Qaeda No. 2 Ayman al-Zawahiri to plan attacks in South Africa during the World Cup.⁴⁸⁵ When asked to comment on the alleged plot, police spokesperson Colonel Vishnu Naidoo stated, “I know nothing about that, I am making enquiries.”⁴⁸⁶ Clearly the Iraqis did not trust the South Africans enough to share with them this important information.

The problem of self-delusion

There is also the problem of self-delusion. Despite growing evidence that Al-Qaeda and its ilk intended to target the 2010 Games coupled with the incompetence, politicisation and political correctness of the intelligence services, South African officials were still under the illusion that all would be well. Local Organising Committee CEO, Danny Jordaan expressed confidence that the country would host a safe event.⁴⁸⁷ Not to be outdone, Brigadier-General Les Lombard, in charge of Planning and Execution of Airspace Security claimed that the South African Air Force was prepared to deal with any airborne threats that presented themselves.⁴⁸⁸ Despite the confidence exuded by the good general, one's confidence is eroded when one finds that South Africa was virtually powerless to prevent a nightmare 9/11 scenario during the 2010 FIFA World Cup. According to Paul Kirk⁴⁸⁹ on account of South Africa being amongst the first to buy BAe System's controversial Gripen fighter and Hawk trainer jets, the country was compelled to prematurely retire all its existing fighter jets, as the operational costs could not afford both the new purchases and retaining the older fighters. Unfortunately, no missiles have been designed for the Gripen fighter yet (air-to-air missiles to arm it will only be available three years later!) In a nightmare 9/11 scenario, then, the only deterrence air capability the country has is the Hawk trainer aircraft, which is relatively slow and does not have the radar to track a hostile aircraft.

Given the fears around the mounting terrorist threat in the run-up to the World Cup, Minister of Police Nathi Mthethwa announced that the police was spending R1,3 billion to secure the safety of the hundreds of thousands of foreign and local fans.⁴⁹⁰ However the exact amount being used may be less of a problem than the issue of what it was spent on. Much of the money was being spent on forty helicopters, one hundreds BMW highway-patrol cars and water cannons.⁴⁹¹ How this would stop an IED or a suicide bomber detonating his or her belt or a motor vehicle rigged with explosives as outlined by Ronald Sandee in his presentation to the US Congress, is beyond comprehension.⁴⁹² Again, it comes down to knowing one's enemy and clearly South Africa's security establishment does not know its enemy. The danger though is that when one sees these helicopters hovering above or these BMW highway patrol cars screeching through streets one might well create the illusion of security. As Cronje has noted,

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*... one of the most effective assets that any terrorist group can possess is to convince its next target that they are no longer at risk. South Africans should therefore be a little less hasty to dismiss the risk of the World Cup being targeted and realise that the scourge of global terror applies to all societies ...*⁴⁹³

The problem of self-delusion is only exacerbated by a cabinet-approved Risk Audit being undertaken in the immediate 9/11 period which suggested that South Africa confronted little risk of a terror attack.⁴⁹⁴ Setting aside the fact that this was extremely dated in that it was done during the immediate post-9/11 period or whether the Department of International Relations and Co-operation should be the government department to chair the working group which produced the report, one cannot but doubt its conclusion given the politicised, criminalised, politically correct and ineffective intelligence structure we have which has been discussed above. A flawed structure drawing on the flawed results of partisan spooks are bound to produce a flawed outcome.

This self-delusion on the part of the South African security establishment is feeding into a false hubris on the part of the South African state – the notion that all is under control. What is urgently needed is for Pretoria's mandarins to adopt a more humble attitude and realise that at the most basic level of security – that of crime it is failing its own citizens. Consider in this regard that the murder rate in South Africa in 2006 was 39.5 per 100,000 people – more than eight times the international average. In other words, more than 50 murders per day. In addition, there are 150 women raped per day in the country. Research demonstrates that only between a third and two-thirds of rape cases are reported, so the actual figure could well be up to 450 rapes per day⁴⁹⁵ – hardly figures to crow about!

Similarly we were informed that a massive 41,000 additional policemen were deployed before the 2010 tournament.⁴⁹⁶ Perhaps, however, security is not a case of quantity but quality. Unfortunately, the quality of our policemen is open to serious questioning given the criminalised and ineffectiveness of the state security apparatus discussed above. The fact that there was no terror attack during the World Cup Games had more to do with Interpol and other such foreign entities than South Africa's own incompetent security establishment.

Ambiguity in South Africa's counter-terror response

Increasingly, ambiguity has come to characterise South Africa's counter-terror response. This ambiguity arises from the gap between the dictates of the political correctness approach and a harsh reality that contradicts this. As was mentioned Jackie Selebi, informed the media of various Al-Qaeda operatives who were planning to stage terror attacks during April 2004. A few months later though, in August 2004, first government spokesman Joel Netshitenzhe, then National Intelligence Agency (NIA) Director-General Vusi Mavimbela and Ray Lalla, Head of SAPS Crime Intelligence denied that South Africa has been targeted by Al-Qaeda, but when they were pressed for further information, they refused to provide any, stating "operational security" precluded them from doing so.⁴⁹⁷ So which is it – do we listen to the National Police Commissioner or to the head of the police Crime Intelligence Unit? Moreover, if South Africa is not targeted what operational security considerations would there be which would prevent one from sharing this with the media? These denials also contradicted what Pakistan's Gujarat Chief of Police, Raja Manwar Hussain, had asserted at the time following their arresting two South Africans (Ganchi and Ismail) in Pakistan – that they were plotting attacks in their home country.

In another example of double-speak, Intelligence Minister Ronnie Kasrils in October 2004 denied media reports that South Africa was being used as a base for Al-Qaeda operations. But in August 2005, he warned that Al-Qaeda was possibly trying to set up networks in southern Africa and that it would be easy for them to attack harbours.⁴⁹⁸ So, does the 2005 statement from Mr Kasrils supersede the 2004 statement? Is Al-Qaeda using this region as a base for their operations? Is it a “yes” or a “no”? It certainly cannot be both!

Pretoria’s ambiguous response to terrorism also extends into the international sphere. As was mentioned earlier, in October 2006 during his meeting with the Indian Prime Minister, former President Mbeki spoke of the need for international co-operation in the area of counter-terrorism. When such co-operation is needed from the South Africans, they balk. In January 2007, when South Africa was informed that the US intended to place two South Africans – the Dockrat cousins – on the UN Security Council’s list of terror suspects, South Africa was vehemently opposed to this.⁴⁹⁹ Needless to say, relations between Washington and Pretoria soured. These incidents raise the question of whether South Africa is prepared to walk the talk in the global fight against terrorism. Put differently, is South Africa a credible partner in the fight against terrorism?

Following the closure of the US embassy and consulates as well as the offices of USAID in September 2009 following the Al-Shabab threat, South Africa’s National Police Commissioner (later General) Bheki Cele said that police were investigating the threat but he added that the police had not ruled out the possibility of a hoax. In the same statement though he said that police were pursuing some people and there would be arrests.⁵⁰⁰ So if the threat was a possible hoax why are the police pursuing suspects and why was there to be imminent arrests? Moreover if the threat was a hoax or “not credible” as Cele subsequently asserted, why did it worry the SASS to send agents to Kenya and Somalia to gather their own intelligence on Al-Shabab?⁵⁰¹ This hoax and not-so-credible threat also prompted NIA to conduct raids on a Somali organisation in Johannesburg in November 2009.⁵⁰² This so-called hoax and not credible threat did, however, also result in a joint operation involving senior police officers, members of NIA and American agents that resulted in the arrest of militants linked to extremists in Somalia and Mozambique and from there these were linked to Al-Qaeda lieutenants in Afghanistan and Pakistan.⁵⁰³

We have also seen this ambiguity in Chapter 3 around the contrasting utterances emanating from our security establishment around cases like Ganchi and Ismail. What could account for this problem of ambiguity and double-speak characterising South Africa’s counter-terror policies? Might it not be a combination of the politicisation and ineffectiveness of the South African security establishment combined with a political correctness which seeks not to alienate the Muslim community despite the Islamists in their midst which is corrupting the faith and undermining the security of the state?

Playing ostrich: The flawed response of South Africa’s Muslim community

As was explained in Chapter 2, Islamists constitute a major threat to all Muslims and the Islamic faith in general on account of their corrupting the faith from within. Moreover as was also demonstrated, it is Muslims who are overwhelmingly targeted by Islamists. The reason is not hard to fathom: through intimidation of and violence against moderates, moderate discourses become silent. In the vacuum, created, the extremist message holds sway. In addition to Islam itself being corrupted and fellow Muslims being cowed into silence; the faith and all its adherents are then seen to be extremist and violent in the popular culture and media. Unfortunately, this

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also finds its way into politics if one considers Geert Wilders and his Islamophobic politics in the Netherlands.

Here I would agree with Naeem Jeenah when he blames Muslims for perpetuating stereotypes by refusing to condemn those from within:

Unless there are different voices within the community, including voices who speak out boldly and loudly that we cannot accept human rights abuses, even when it is in the name of Islam, for example the kidnappings and beheadings that are taking place in Iraq, unless there are these voices, can we really as a Muslim community blame people who stereotype us?⁵⁰⁴

It all started out so well ...

Initial Muslim reaction to terror perpetrated in the name of Islam was condemnatory and swift and needs to be lauded. Following the bombing of Planet Hollywood in 1998, the United Ulema Council of South Africa, representing the country's major Muslim theological formations, issued a statement condemning the bombing. The statement went on to note that,

To arrogate oneself the right to arbitrarily execute punitive measures, is a violation of Islamic faith and does not bode well for a harmonious environment.⁵⁰⁵

Immediately following the bomb blast, a march of members of the Inter-Religious Commission on Crime and Violence took place where the bombing was once more condemned. Upon reaching the scene of the blast, Mohamed Moerat of Zeenatul Islam Mosque in District Six read the following important statement:

The Commission, which comprises a broad spectrum of leaders from Christian, Muslim, Jewish communities, African Independent Churches, Hindu and Bahai religions, is horrified that once again, members of the public have been subjected to terrorist violence this time at the Waterfront. None of our religions condone this barbarism.⁵⁰⁶

These actions and the statement from these brave Muslims and Muslim organisations in defence of Islam need to be praised. It was an attempt to separate Islam from the Islamists. It was an attempt to win back Islam as a religion of peace and thereby denying the extremists any legitimacy.

Moral relativism ... What's in a name?

A few years later, though, Muslim reaction to Islamist terrorism was anaemic at best or positively defensive of terrorist organisations. In response to Barry Gilder's statement of terror suspects spending time in the country and South African passports being obtained by Al-Qaeda, one Muslim cleric wrote, "history has shown that today's illegitimate organisation and suspected terrorist may just be tomorrow's hero."⁵⁰⁷ Whatever happened to the Islamic prohibition on not targeting civilians? Why has the reaction inside the Muslim community changed in a few short years from condemning the terrorist atrocity at Planet Hollywood to one of moral relativism, which is fundamentally anti-Islamic? Could this be as a result of a combination of intimidation to moderates alluded to in Chapter 1 and the spread of Islamism in Muslim communities, which was alluded to in Chapter 2?

John Solomon's critique of the Media Review Network (MRN) which ostensibly aims to "dispel the myths and stereotypes about Islam and Muslims" is indeed applicable to many Muslim organisations in the country. He cogently argues that the MRN

... chafes at the suggestion that those Muslims who use suicide tactics against civilians should be characterised as terrorists. Advancing Afghanistan, Iraq, Chechnya, Israel and Somalia, the author writes that, '... solidarity and activism for just causes should, in fact, be encouraged'. Use of the adjective 'terrorist' seems to be the core issue of the South African Muslim community's response. The underlying assumption of both of these statements is that if political objectives are understood to be legitimate or 'just' then suicide attacks against civilian populations – conventionally defined as terrorism – are permissible.⁵⁰⁸

As outlined in Chapter 2, this perspective resonates rather depressingly with the "end justifies the means" argument and as argued there is fundamentally anti-Islamic on account of its moral relativity.

Moulana Bham of the Council of Muslim Theologians expressed a similar variation of this when asked about his views about suicide bombings and beheadings in Baghdad. Bham's replied, "I cannot pass judgement on people who are oppressed."⁵⁰⁹ In similar vein, Ayesha Soni criticised another author in a letter to the editor,

With his blinkers on he fails to see any connection between terrorism and the West Bank and Gaza ... Just because the media is quick to cover, expose and elaborate (extravagantly might I add) whenever Muslims retaliate against some of the harsh conditions imposed upon them it does not mean that there are many; far more brutal, terrorists out there who are not of Muslim origin.⁵¹⁰

So does this mean that those who are deemed to be oppressed can engage in suicide bombings and beheadings on account of their oppression? More importantly, these positions of Bham and Soni reflect a worrying trend of the internalisation of the Islamist discourse by local Muslims. Indeed John Solomon⁵¹¹ argues that

... an equally worrying development is that opinion leaders in South Africa's Muslim community demonstrate an implicit acceptance of jihadi discourse.

On a more positive note, the viewpoints of Bham and Soni are clearly opposed to by the South African Muslim academic Imraan Buccus who argued in an illuminating article that

... acts of wanton violence and barbarism are contrary to the teachings of Islam. In Islamic ethics, the end does not justify the means.⁵¹²

Similarly former Western Cape Premier Ebrahim Rasool, has stated,

It is okay for us to blame President Bush for the war on Iraq that has led to the radicalisation of an entire Muslim generation, but we must also condemn and distance those who use Islam and quote from our scriptures to commit acts of terror.⁵¹³

Denial

Another common strategy evoked by the local Muslim community is outright denial. Following the detention of Mufti Hussain Bhayat and Haroon Saley by members of the Ugandan Anti-Terror Task Force at Entebbe Airport, both the MRN and MJC stated that they were

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*outraged that Muslims of undeniable integrity and a track record of poverty alleviation have been profiled as terrorists.*⁵¹⁴

They then called on then Minister of Intelligence Ronnie Kasrils, to intervene on their behalf. The problem with this reaction is that there is no willingness to engage this issue from the Ugandan side. Why did the Ugandans first detain, then deport them and say that they were “not good people”. Of course, one is innocent until proven guilty but there is absolutely no questioning as to why other Muslims enter and leave Uganda at will whilst these two were detained? In other words, what do the Ugandans think they know that we do not?

We see this denialism again in 2009 following various reports of Tableegh Jamaah fronting for Al-Qaeda. Ihsaan Hendricks, President of the MJC fumed,

*I strongly reject the allegations because it is out of character of Tableegh Jamaah. This is not how we know them. They are peaceful people doing good work. The things said against them are completely unacceptable and if the Tableegh Jamaah stands accused, we will reject such accusations in their totality.*⁵¹⁵

Again, one is not expecting the President of the MJC to merely accept the allegations made but to critically engage the evidence (as outlined in Chapter 3) and to engage Tableegh Jamaah on these issues for the sake of the organisation and the broader ummah (Muslim community).

This denialism was on show again but with an additional twist in June 2010 when the United Muslim Forum of South Africa issued a statement in response to media reports of a terror plot to the World Cup involving Islamists. The statement read:

*We categorically state that we know of no plans from the Muslim community to jeopardise the safety of the World Cup. We express concern however that there may be a conspiracy to raise false flags against the Muslim community and to implicate the local and international Muslim community in unsubstantiated allegations of terror threats to the 2010 World Cup ... At a meeting convened by representatives of the Forum, it was argued that we seek an urgent meeting with the relevant authorities to raise concerns about the possibility of Israeli manipulation in framing Muslims in any possible attacks.*⁵¹⁶

There are of course several problems here, because “we” do not know of any terror attack, allegations of such has to be baseless. If any such attack does take place it is a “false flag” operation by the Israelis to frame Muslims! The context of these terror threats, the trajectory of growth of extremism in South Africa, the fact that South African Muslims were involved in attempting to target the final of the African Nations Cup in Cairo are all omitted. Since all such allegations are baseless, one would be tempted to ask this Forum what evidence they have of Israeli involvement in such a “false flag” operation.

Neither was this the first time that blame was shifted on to others. Following the arrest of Ismail and Ganchi in Pakistan in 2004, Iqbal Jassat of the MRN dismissed claims that they were planning attacks in South Africa as “ludicrous”. He went on to state,

*This statement issued by Pakistani intelligence probably at the behest of their masters in the American CIA/Mossad, surely cannot be considered by even the most dim-witted as credible.*⁵¹⁷

Once more there is no attempt to deal not just with the statement from the Pakistani authorities but all the other information pertaining to the two individuals in Pakistan as discussed in Chapter 3.

Sadly blanket denialism and shifting the blame on to others has increasingly become the default position of many South African Muslims when having to deal with the reality of Islamist

terrorism. In responding to media reports that Al-Qaeda members were using Darul Ulooms as hideouts, the MJC stated,

*It is unfounded that Darul Ulooms in South Africa serve as safe havens for Al-Qaeda or other foreign agents. Darul Ulooms are institutions that promote, teach and advocate Islamic social and moral values. Whether the existence of Al-Qaeda is a myth or a reality, or a fabrication of America's President George Bush should be investigated.*⁵¹⁸

Such blanket denialism is problematic on various grounds. First, by denying that a problem exists, South African Muslims do not have to deal with the growth of Islamism within their ranks, thus allowing the cancer to spread. Second, and following from Naeem Jeenah's statement quoted above, by not criticising those from within, all Muslims are getting tarred with the same brush – in other words we are contributing to the stereotypical image of the Muslim – the fanatic with the finger on the detonator of his suicide vest. Third, statements such as these also contribute to a siege mentality amongst Muslims – we are being targeted because we are Muslim! Such a siege mentality is problematic since it automatically contributes to a conflictual dimension to the “us-them” dichotomy.

Ambiguous responses

At other times, like government, prominent South African Muslims seem to give ambiguous responses. Following the Al-Shabab plot to target US interests and the broader plot to target the World Cup were exposed in the media, an International Peace University of South Africa (IPSA) statement, which was also supported by the Muslim Judicial Council (MJC), read:

*As committed citizens of this country, we pledge unequivocal support to the government and its security forces (and) to assist in whatever way we can to avert any attack on our people or visitors to our country during the World Cup.*⁵¹⁹

Whilst this first part of the statement should be praised, the second part of the statement undermines it completely by warning South Africans against “information peddlers who mislead the public with information that has no basis in fact.”⁵²⁰ In other words, there is no threat. Moreover despite the fact that those media reports quoted various sources in the intelligences agencies, these sources were to be dismissed as “information peddlers”. As Seraj Hendricks, imam at the Azzavia Mosque in District Six said, “The media should critically examine its sources.”⁵²¹ The fact that corroboration was coming from several sources and was part of a wider trend of the growing footprint of Islamism in South Africa as discussed in Chapter 3 was simply ignored. Indeed one IPSA member stated that reports of the Al-Qaeda terror network were unsubstantiated and devoid of truth and created a bad image of Muslims here and abroad.⁵²² Far from dealing with the ugly truth of the spread of Islamism in South Africa, South African Muslims would prefer it seems to play ostrich. The Somali community in South Africa meanwhile followed this narrative labelling the Al-Shabab allegations unfounded and expressing fear that they who have suffered so much as a result of xenophobia in the country will once more be targeted.

In an incisive article, Barry Rubin pointed out that such proclamations of loyalty by Muslims to the South African state is irrelevant since a tiny number of individuals can stage a huge terror attack.⁵²³ Moreover, with the democratisation of jihad we see small cells or individuals operating outside of formal structures engaging in acts of terror. As for the Somali community's response, Rubin eloquently argues,

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*Obviously, innocent people should not be targeted but this is hardly an argument for refusing to confront the potential danger ...*⁵²⁴

Moreover, reports indicated Al-Shabab as an organisation not all Somalis. To conflate these two as the Somali community is doing is the real danger. In addition, as the recent (July 2010) Al-Shabab attack on Uganda has illustrated, Al-Shabab is an international terrorist threat not just a Somali one.⁵²⁵

From marginalised to dominant discourses

It should be stated, however, that there are also voices of reason and moderation in the Muslim community. In 2004 Adley Jacobs of the Call of Islam stated explicitly and unambiguously,

*We don't believe groups who fight imperialism and invasion should do it through terrorism. We condemn terror and the killing of innocents.*⁵²⁶

Similarly, South African academic, Dr Rashid Omar, argued that extremism is condemned by the Prophet of Islam who is said to have thrice declared that, "The extremists shall perish".⁵²⁷ Naeem Jeenah, meanwhile, courageously wrote on his website: "We *do* have people in our community who are sympathetic to Al-Qaeda and the Taliban; we do have people in our community who hold the same ideologies as those groups."⁵²⁸ This is an important admission since recognising the problem (unlike the denialism quoted above) confronting the local community is a necessary first step in its resolution.

Whilst these voices exist, my sense is that they are increasingly marginalised by the Islamist juggernaut. Moreover, whilst reminding us of these Islamic prohibitions and injunctions, they do not explain to us why so many ostensibly Muslims are willing to kill, maim and generally terrorise in God's name. They also do not explain how Mustafa Jonker can hold the views he does. It does not explain why "Muslims" would attack innocent diners at Planet Hollywood. It does not explain, frankly, how or why radicalism or extremism is spreading amongst South African Muslims.

At the same time, this is a necessary first step – recognising that such extremism does not belong to Islam. The next step, and more difficult one, is how to wrest Islam from the Islamists by actively delegitimising their actions – preventing it from being draped in a religious garb. In other words, how does one allow these marginalised voices to once more become the dominant discourse? This is part of our subject matter in the next chapter.

5

Responding to Terrorism: The Way Forward

“There is, in short, considerable scope for improving the overall direction of counter-terrorism policy in South Africa. The key will be to formulate policies that reflect an integrated and holistic approach to state security, both in terms of the nature of specific tools and programs and the wider societal contexts in which they emerge. The goal should be one of sustained national resilience that is intolerant to and effective against terrorist and associated extremist/criminal designs.”

Andrew Holt⁵²⁹

Introduction

As has been argued, global jihad has found a comfortable base in South Africa. Not only does this constitute a threat to the security of the country and its citizens, but it also constitutes a threat to countries as far away as the United Kingdom, as terrorists use South Africa as a base and operational hub for their activities elsewhere. Whilst the South African government has belatedly recognised that there is a problem,⁵³⁰ specifically after the September 2009 Al-Shabab threat,⁵³¹ such recognition has receded now that the World Cup is over. What is urgently needed are radical reforms within the political establishment and security community so that the scourge of terrorism may be approached more effectively. Moreover what is needed are not merely piecemeal reforms to beef up this or that aspect of the existing counter-terror regime but a radical restructuring of South Africa’s police, intelligence, and criminal justice communities. As Andrew Holt⁵³² has argued,

... many of these modalities are bereft of political will, lack sufficient human, material and technical resources and exists in the absence of an integrated and rationalised overall national counter-terrorism strategy. Moreover, there has arguably been no real attempt to link internal security initiatives with a broader array of policies and reforms designed to augment general institutional state development and the systems of national governance.

Agreeing with Holt, Eric Rosand argues that such counter-terror initiatives cannot merely take the form of political reactions to the specific threat of terror posed; rather he observes that they must be strategic decisions with corresponding technical objectives.⁵³³

This study has highlighted various challenges confronting both the security community and Muslims in South Africa. What this chapter will attempt to do is to propose some solutions to deal with these challenges. Such solutions will also be informed by international best practice.

Responding to terrorism: Finding the requisite political will

Before discussing what could be done to fight the scourge, an important caveat should be added at this point: the best approaches to counter-terrorism will fail if the South African government lacks the political will to carry out the policies. Despite the positive provisions in South Africa's own counter-terror legislation that, for instance, prohibits the support and harbouring of proscribed organisations, the government has not acted on its own Protection of Constitutional Democracy Against Terrorist and Related Activities Act.⁵³⁴ Whilst it is a known fact that Islamists are using commodities like gold, diamonds and platinum to fund their terror activities and using such commodities to transfer wealth between cells and between countries, little is being done about this. This, too, is prohibited by the existing anti-terror legislation.

In the same vein Shaun Edge, notes that the Act places an obligation on South Africa to "... prevent its territory from becoming a stage for the planning, organisation and execution of terrorist acts".⁵³⁵ Yet, we have seen South Africa becoming a staging area for such terror attacks in other countries and the authorities have failed to act. In resisting efforts by the US to list the Dockrat cousins, Pretoria stated that there was some ambiguity on how to judge "participation" in terrorist organisations. Once more the country's own legislation is very clear on participation, which includes recruiting persons and providing funds through direct and indirect means⁵³⁶ – precisely what the Dockrat duo was accused of. Similarly, the Act does provide for government to turn over citizens to third party organisations or states should they feel unable to deal with an issue. Here too we have witnessed, in the case of Tantouche, how South Africa has failed to deal with extraditions effectively – and where it has done so, as in the case of Khalid Rashid, it did so in an illegal and amateurish manner – quietly hoping not to attract the attention of the local Muslim community. Why it would behave in such a manner when the Act grants it the right to transfer such individuals to third parties goes to the heart of political will.

We have discussed some of the reasons for this inaction – including government not wishing to alienate the local Muslim population. However, until South Africa finds the will to decisively take action no amount of policy documents or training of the security personnel will fix the problem or grant South Africa's counter-terror efforts a modicum of credibility.

Responding to terrorism: Countering Islamist ideologies and its attendant radicalism

As this study has repeatedly argued a certain type of ideology drives terrorism. As such, the issues of radicalisation⁵³⁷ and de-radicalisation have to be dealt with on the part of both government and the South African Muslim community. The aim of such de-radicalisation would be the disruption of a few key elements in the critical pathways leading to radicalisation.⁵³⁸ This deradicalisation lies at the core of what the Obama Administration terms Countering Violent Extremism (CVE). According to Daniel Benjamin, the US State Department's top counter-terrorism advisor,

The primary goal of countering violent extremism is to stop those most at risk of radicalisation from becoming terrorists. Its tools are non-coercive and include social programs, counter-ideology initiatives, and working with civil society to delegitimise the Al-Qaeda narrative and, where possible, provide possible alternative narratives.⁵³⁹

It is also important to realise that CVE is not just an American strategy; the Saudi Arabian government also arrived at such a strategy through hard experience.

Following 9/11, the Saudi government engaged in an aggressive counter-terrorism campaign which involved destroying Al-Qaeda cells, arresting thousands of suspects, capturing or killing their leadership, seizing large arms caches, and establishing joint task forces with global partners, including the US. Riyadh, however, soon realised that these strategies were insufficient following the Riyadh compound bombing in May 2003.⁵⁴⁰ In addition to their counter-terror campaign, Saudi authorities therefore also developed a strategy at discrediting the radical ideology in motivating and justifying terror.

The primary aim of the Saudi strategy was to confront thought with thought by emphasising that Islam was about tolerance of the other – that Islamism fundamentally contradicted Islam. This campaign against Islamism was pursued at several levels including a media campaign, engaging in a national dialogue, disrupting the activities of those who promote violent extremism, a national solidarity campaign against terrorism, the review of sponsored publications, as well as internet filtering.⁵⁴¹ More importantly, 3,200 Islamist prisoners have gone through a counselling process with ulema well-schooled in the jihadi discourse. From these 3,200 prisoners, 1,500 have renounced their former radical beliefs.⁵⁴² Small wonder then, that General David Petraeus has stated that,

*The Saudi role in taking on Al-Qaeda, both by force, but also using political, social, religious educational tools, is one of the most important, least reported positive developments in the war on terrorism.*⁵⁴³

Might a similar program not be also tried in South Africa where Islamist material could be banned under proposed laws of incitement? In Britain, for instance, incitement to racial or religious hatred is a penal offense.⁵⁴⁴ At the same time platforms are given to the moderate voices mentioned in the previous chapter so they could be the dominant discourse – a discourse of reason. Another part of the strategy would be to ensure that moderate voices would not be silenced as occurred in the 1990s when PAGAD targeted moderate Muslims scholars and clerics. As we have seen several South African Muslim organisations have pledged their loyalty to the state – this would now give them a chance to act on that pledge by actively waging war on those who wish to corrupt the faith and kill the innocent.

Recognising the role of the internet in contributing to radicalisation, there have been attempts to regulate online content. However as Tim Stevens notes, the technical aspects of such regulation is extremely difficult. More importantly, it might drive jihadi forums deeper underground. He suggests that a social approach be pursued that educates and empowers online communities.⁵⁴⁵ This would essentially promote positive messages to counter the violently negative messages from Islamists. In addition, he suggests that one should focus on the prosecution of the producers, rather than the consumers of extremist material.⁵⁴⁶

The potential danger of Muslim schools has been discussed in this book from both the perspective of potential hiding places for extremists as well as sources of radicalisation and recruitment into the Islamist cause. How does one respond to this? Once more it is important to note that this is not a uniquely South African phenomenon. The 9/11 Commission for instance expressed concern that some of Pakistan's religious schools or madrassahs were serving as "... incubators for violent extremism".⁵⁴⁷ Pakistani Professor Pervez Hoodbhoy goes further and argues that, "Pakistani schools – and not just madrassahs – are churning out fiery zealots fuelled with a passion for jihad and martyrdom."⁵⁴⁸

How did the Pakistani authorities respond? Former Pakistani President Pervez Musharraf enacted the Pakistan Madrassa Education Board Ordinance to include regular school subjects in madrassa curriculum including English, Mathematics and Computer Science. The

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International Centre for Religion and Democracy, meanwhile, has been working with Pakistani madrassas training the faculty in religious tolerance and human rights.⁵⁴⁹

In Singapore, meanwhile, the Islamic Religious Council has moved away from teaching by rote learning and making Islamic education more relevant to the wider context in which students find themselves. In Britain, the Bradford Council of Mosques has incorporated citizenship education in the curriculum of their madrasahs.⁵⁵⁰ The point being made here is an important one: the state cannot ignore the curriculum at the madrasahs. In the battle between Islam and Islamism, the South African state and all its citizens have a vested interest whether these madrasahs promote the values of peace and tolerance or whether they are serving to train the next generation of jihadis.

Mauritania, too, has suffered the scourge of terrorism in the form of AQIM. In August 2010, Mauritanian President Mohamed Ould Abdel Aziz launched a new radio station, Radio Qur'an, as part of the country's initiative to undermine Islamist extremism. It is a bold initiative to wrest Islam from the Islamists and needs to be commended especially in light of the real financial constraints Nouakchott faces.⁵⁵¹

Walid Phares also proposes various other measures to curb extremism. These include:

- Enact laws that would ban ideologies that discriminate within societies, divide humanity into war and peace zones and legitimise violence;
- Reform the educational system to increase public awareness of the threat faced and to counter the radicalism by promoting tolerance and pluralism; and
- Ensure that the general populace is also informed of the nature of the threat confronted through the public media and that the media ensures that the distinction between Islam and Islamism; Muslims and Islamists are made. In this way, too, Islam and Muslims are not targeted by a populist backlash.

Another aspect of this radicalisation, as was also pointed out, was how Osama bin Laden has successfully redefined jihad and took it out of the ulema's hands and put into the ambit of individual Muslims. This, of course, was not merely ideological but also organisational – the dispersed nature of Al-Qaeda following the loss of its base in Afghanistan. This decentralisation of global jihad will see more of what Daniel Benjamin called

*self-starter, home-grown terrorists who may have little connection to Al-Qaeda or other pre-existing groups but have been won over by the ideas of Osama bin Laden and his followers. Self-recruited and often self-trained, they have relied on the internet, operating without external support or instructions from what might remain of the Al-Qaeda hierarchy to carry out deadly attacks.*⁵⁵²

Whilst the democratisation of jihad is a reality, the notion of a “leaderless jihad” is a myth. Whilst radicalisation is taking place from different sources, there needs to be a catalyst for that individual to move from angry words to murderous actions. This catalyst is often the charismatic leader who acts almost as a “father figure” to the recruit. The members of the London July 21st terror cell lived in different parts of London. Connections between them were forged through a gym and the city's notorious Finsbury mosque⁵⁵³ whose preacher was the charismatic Abu Hamza al Masri.

For Major Nidal Hassan his movement towards radical Islamism was facilitated when he began attending the Dar Al-Hijrah mosque in Falls Church, Virginia – where the charismatic cleric Anwar al-Awlaki preached. Al-Awlaki seems to have straddled the divide between operations and ideological motivator/mentor. He had raised money for Hamas, met with two of the 9/11

hijackers at his previous mosque in San Diego, and had various associations with Islamist groupings worldwide.⁵⁵⁴ It was Al-Awlaki who through his sermons had motivated Somali youth living in Minneapolis to travel to Somalia to join Al-Shabab.⁵⁵⁵ It was also Al-Awlaki who had motivated Umar Farouk Abdulmutallab to attempt the bombing of the US airliner. Al-Awlaki was also connected to another American – Sharif Mobley – who was arrested by Yemeni authorities on account of his connections to Al-Qaeda in the Arabian Peninsula. Disturbingly, Mobley worked for half a decade at various nuclear plants – doing the maintenance on nuclear reactors.⁵⁵⁶ In South Africa, we have seen how a mystery Al-Qaeda recruiter, “Ahmed”, is also alleged to have played a similar mentoring role to Ganchi and Ismail. Understanding this then means that if a counter-terror strategy seeks to identify and neutralise the influence of these mentors, we might well be breaking a key element in the chain from radicalised individual to terrorist atrocity. In the process, counter-terrorism itself becomes more manageable as the security apparatus would know who and what to look for.

Responding to terrorism: Ensuring a greater level of restraint

We have seen how the South African security apparatus has moved too quickly to stop terrorists – often with disastrous consequences. In the case of the Khayaletsha Al-Shabab cell, they went underground and in the case of the mysterious “Ahmed” – he simply disappeared. Thus South African security agencies and their political masters need to learn restraint. As Smith⁵⁵⁷ reminds us, premature action can undermine the development of in-depth intelligence to neutralise an entire terrorist group. At the same time, such restraint is also needed to prevent over-reaction on the part of the state by imposing severe restrictions on the populace – in the process alienating them and undermining the legitimacy of government actions.⁵⁵⁸ Thus restraint is needed to ensure that counter-terror responses are both effective and legitimate and therefore have the broad support of the population.

Responding to terrorism: The de-politicisation and de-criminalisation of the state security apparatus

The criminalisation of the state security apparatus is neither a new nor a distinctly South African phenomenon. Other countries have gone through this and have reversed such criminalisation. Whilst difficult, the examples of Columbia and Mexico illustrate that the decriminalisation of the state is not an impossible task.

Beginning in the 1980s, the Mexican drug cartels expanded their influence into the heart of government and its security structures. Mexico started to reverse this trend by destroying the culture of impunity that senior organised crime figures enjoyed by arresting them and using those state institutions that were least corrupt to enforce the law. After all, state structures are not all equally penetrated to the same extent. In the Mexican case, it was the military that were seen to be least corrupt whilst the police was seen to be penetrated by the cartels.⁵⁵⁹ In South Africa, too, we could apply this lesson – utilising those institutions seen to be more effective and least corrupt to fight back for control of the apparatus of state. The South African situation is however complicated by the fact that one of the most efficient apparatus of state, the Scorpions, was disbanded.

In Columbia, organised crime’s influence on the country’s security structures was minimised by the police employing better-vetted and better-educated officers, as well as paying them more and rotating personnel on a more regular basis. Moreover, internal affairs within police

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structures aggressively pursued those of its members who acted outside the law.⁵⁶⁰ So, to stem the tide of the criminalisation of the state, the South African government could start by getting the police to implement its own Corruption and Fraud Prevention Strategy.⁵⁶¹ The Department of Home Affairs has already implemented its own anti-corruption policies.⁵⁶² Similar policies would also need to be pursued by the SARS and CIPRO.

Moreover, understanding the nexus between organised crime and terrorist groupings, many countries have started to amend and extend criminal law to defeat international terrorism. We see this, for instance, in Britain with the British Prevention of Terrorism Act of 1999 and the Anti-Terrorism, Crime and Security Act of 2001.⁵⁶³

An effective intelligence apparatus, however, is not only the result of its decriminalisation but also of its depoliticisation. In this regard, the ANC government would need to appoint people on the basis of their competence, not their personal or ideological proximity to the ruling party and the president. Whether the ANC would act in the national interest, as opposed to what is best in their interests, is a moot point. Should the ANC, however, find the requisite political will to de-politicise the intelligence community, it would find the way clearly outlined in the Ministerial Intelligence Review Commission discussed earlier. This Commission, amongst others, pointed out the incredibly wide mandate given to NIA to gather political intelligence and urged that NIA's mandate be narrowed to focus on

*... terrorism, sabotage, subversion, espionage, proliferation of weapons of mass destruction, organised crime and corruption and large-scale violence and drug-trafficking.*⁵⁶⁴

The need to create a depoliticised and decriminalised and more effective intelligence apparatus is crucial if the war against the jihadis is to be won. Referring to the centrality of intelligence in any counter-terror endeavour, Smith argues,

*In addition to the terrorists' strength, skills, equipment, logistic capabilities, leader profiles, source of supply, and tactics, more specific information is needed. This includes the groups' goals, affiliations, indications of their willingness to kill or die for their cause, and significant events in their history such as the death of martyrs or some symbolical event ... Unless terrorists' specific interests are known, predicting the likely target is pure chance.*⁵⁶⁵

Responding to terrorism: Moving from reactive to pro-active measures

Analyst Anneli Botha⁵⁶⁶ has stated that South Africa is much too reactive in its approach to counter-terrorism. For example, it was, after all of little use to apprehend and incarcerate terrorists after the Planet Hollywood bombing when civilians had already been killed and maimed. As was also explained that with the democratisation of jihad there has also been the related development of the democratisation of violence – that as a result of technology, a single individual or a tiny cell can wrought great damage. As a result, former US Secretary of State Colin Powell noted in 2002 that such terrorist mayhem needs to be pre-empted.⁵⁶⁷ To put it differently then, the question is how to respond in a more pro-active manner to prevent the terrorist atrocity from occurring as opposed to picking up the pieces afterwards.

On this point, it might be useful to look at the French counter-terrorism example. France learned hard lessons from the 1980s and 1990s when Islamist terrorism in the form of Hezbollah's network as well as the Algerian Armed Islamic Group (GIA) staged attacks on French soil.⁵⁶⁸ Key elements of the French strategy included a special relationship between the intelligence services and dedicated magistrates. In this way, cases do not have to crumble when suspected

terrorists are hauled before court as we have seen in the South African case. Second, acts of terrorism were seen as an autonomous offense attracting higher penalties. In this way, too, the law itself served as a powerful deterrence. Third, the pro-active nature of French counter-terrorism strategy is seen in the pre-emptive judicial approach being followed by the French in the legal designation “conspiring to terrorism”.⁵⁶⁹ Fourth, the pro-active element was once more seen in the nation-wide security alert plan the French developed. These were pre-planned extra security measures for public places and public transport.

Fifth, understanding that the nature of the threat was constantly mutating, these changes had to be monitored and needed all government institutions to be involved in this process, the French elevated the fight against terror as a national priority. As Ludo Block noted all “... government institutions actively searched for indications and information pointing to processes of radicalism in society”.⁵⁷⁰

In this regard it might be a good idea to merge this French idea with the American notion of a Department of Homeland Security so that there is one central institution receiving all this information and developing a strategy for the country as a whole. We have already seen mixed signals emanating from NIA and the police, for instance, when responding to the issue of Ganchi and Ismail’s arrest in Pakistan. Having such a body coordinating the counter-terror efforts across the country would also serve to ameliorate the mixed signals emanating from different government bodies as well as from within the same body. Importantly, members of this structure must be appointed on the basis of competence, not party loyalty, and who, following the Columbian experience, are well-paid, and well-vetted.

The sixth and final element of the French counter-terrorism strategy is the compilation of a white book on the internal security threat and the threat of terrorism. As Ludo Block once more notes, various government departments had to provide answers to strategic, operational and pedagogical questions involving:

- Evaluating the actual threat level;
- Mapping the types of threats and targets relevant for France;
- Exploring new technological counter-terrorism possibilities;
- Finding an equilibrium between liberties and security;
- Enhancing international counter-terrorism co-operation; and
- Informing society adequately without creating unnecessary fear.⁵⁷¹

Such a scientifically compiled white book might well be the answer for the discourse on the terror threat posed to South Africa, which suffers from ambiguity, naiveté and political correctness as described earlier. In compiling the threat assessment scientifically and objectively, policies that flow from these are relatively untinged of personal bias and ideology. Moreover such a white book will allow the South African government to engage with the local Muslim community authoritatively. In other words, sitting down with the Muslim community and saying we have reason to be concerned and this does not emanate from Washington and is not a false flag operation (as was discussed in the previous chapter) but rather the information was compiled by internal sources and in a scientific manner. Such a white book may also have an additional use within the security apparatus itself. The mixed signals emanating from inside South Africa’s security apparatus as well its politicians may confuse not only the public but also security officials at the coal face who may not prioritise this as a serious enough threat. Such a white book will provide direction and provide the basis for synchronised efforts across the spectrum of government departments.

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Whilst South Africa could do well from learning the French experience, it should be noted that pro-active measures need to be seen on a continuum. Whilst attempting to identify and disrupt processes of radicalism may be at the outset of pro-active measures, what happens if one faces an already radicalised jihadi? Other pro-active measures can then be taken. These include disrupting terror finances, destroying weapons caches and information for training or destroying training camps. Failing this, in other words, you already have a trained, armed terrorist with the financial resources to initiate the attack, other pro-active measures still further down the continuum can be undertaken. According to Boshoff and Schonteich⁵⁷² these would include isolating the target from the terrorist or the terrorist from the target or sabotaging the terror plan. This, of course, would assume that through good intelligence one would know what the targets are who the terrorists were and what the plan is. For this reason, the South African state needs to think long-term and have in place long-term human intelligence assets within jihadi structures.

In addition to human intelligence assets, the South African state will also need to beef up its technological interception capabilities. As was explained, it was US not South African intelligence that intercepted the mobile call from the Al-Shabab cell in Khayaletsha, outside Cape Town. On this issue the South Africans would do well to look at the American legal framework for such technological surveillance. The *Uniting and Strengthening America Bill* of October 2001 makes provision for the FBI and other federal security bodies to put wiretaps on suspects and permit unspecified and undefined interception of website browsing and email activities of suspects.⁵⁷³

Responding to terrorism: The need to develop smarter partnerships

The need to develop smarter partnerships to defeat terror networks is an imperative and this stems from a number of motivations. First, we have seen the problems plaguing the state security apparatus. These will not be fixed overnight. In the short- to medium-term therefore, government may well have to rely on such partnerships – domestic and foreign – to assist it with its counter-terror efforts. Second, even if fixed, the government would still be confronted with financial constraints. Developing partnerships with others will serve to minimise the financial drain whilst at the same time serving as a force-multiplier. Third, counter-terror efforts, to be successful will have to be inclusive in nature. Indonesia successfully defeated the jihadis by utilising such an inclusive approach – specifically involving civil society and the media.⁵⁷⁴ Such an inclusive approach would include citizens, especially the Muslim community, the business sector and the international community. How the local Muslim community could partner with government was discussed earlier in this chapter so we now turn to the business and international community.

A partnership should be established with the vibrant local business community in South Africa, which also has a vested interest in the stability of this country. Private security guards outnumber police officers by a ratio of 4:1. Hence partnering with the private sector may well serve as a force multiplier effect. After all, closed circuit cameras operated by the business community are not only useful against criminals but also terrorists. However, as was pointed out earlier, the private security industry has also suffered from various failures and security breaches. Thus the success of the partnership would also be determined to the extent that the private security industry sorts out its own problems.

The South African government needs to acknowledge that terrorism constitutes a global and a ubiquitous threat and that it cannot therefore seek to respond to the threat on its own. Strategic

partnerships need to be forged with a variety of external actors to assist the government with responding speedily and efficiently to those who wish to terrorise the innocent. We have seen how Interpol played a key role in ensuring the security of the FIFA World Cup. Moreover, given the state of the security services, analysts like Frans Cronje are of the opinion that in the short-to-medium term,

... threat detections and mitigation must therefore be left to foreign agencies, many of which probably operate quite freely in South Africa anyway.⁵⁷⁵

One again the effectiveness of such co-operation is contingent upon South Africa fixing its own internal security problems. After all which foreign intelligence agency would want to fully share information with their South African counterpart when such information may be leaked to the suspect, as we saw earlier in the Glenn Agliotti case? Should South Africa become a credible partner in the fight against global jihad, it would need to find international partners who are prepared to provide resources to the country not only for the sake of its own citizens, but for all Africans. The British Select Committee on Foreign Affairs, for instance, concluded its report by stating,

We recommend that the United Kingdom continue to offer substantial assistance to ensure that South Africa can both combat international terrorism within its own borders and act as a catalyst for improving Africa's ability to respond to the threat.⁵⁷⁶

Responding to terrorism: The regional dimensions

In Chapter 3 we have witnessed how the terror threat is regionalised. Frans Cronje, for instance, refers to a “terror belt” extending from the Gulf of Aden through Kenya and Tanzania and ending in Cape Town and another separate but reinforcing one from the Arab Maghreb ending in the southern-most tip of Africa.⁵⁷⁷ We have seen how Al-Qaeda members were using various second hand car dealerships in Botswana as a front. We have seen how trainees from jihadi camps in Mozambique have crossed over the border into South Africa. Further afield, we have seen how Al-Shabab angered at the killing of one of their senior commanders planned to take revenge against the US on South African soil. All this points to the regional dimensions of the threat posed. Thus in addition to beefing up the national security apparatus, the sub-regional and regional architecture of African security also needs also to be strengthened. At the regional level, the level of the African Union – the Peace and Security Council (PSC) needs to be greatly strengthened and institutional ties between it and sub-regional entities as well as between it and national governments and the broader international community needs strengthening. Whilst the AU has several counter-terrorism legal instruments, including a 1999 Convention on the Prevention and Combating of Terrorism, a 2002 Protocol to the Convention, and a 2004 Plan of Action – there is a vast discrepancy between what is on paper and measures being taken for the implementation of this counter-terrorism regime. The US State Department euphemistically refers to the AU’s “counter-terrorism capability gaps”.⁵⁷⁸ One of the AU structures for instance – its African Centre for the Study and Research on Terrorism (ASCRT)⁵⁷⁹ arm in Algiers – needs far greater resources and a much stronger mandate. It would be most useful for each of the sub-regions in Africa to have their own regional arm of the ASCRT co-located with each of the sub-regional organisations such as the Southern African Development Community, the Inter-Governmental Agency on Development and the Economic Community of West African States. Such AU structures also need to connect with African civil society – at least those operating on a regional basis such as the African Council of Religious Leaders (ACRL).

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In its Tripoli Declaration of December 2008 the ACRL stressed the importance to educate, "... religious leaders to address heresies and misinterpretation of the Holy Scriptures to ensure peaceful co-existence and tolerance."⁵⁸⁰ Partnering with civil society elements might not only strengthen the effectiveness of AU initiatives but also serve to legitimise them in the eyes of the African citizen.

At the level of the Southern African Development Community (SADC) two structures need to be mentioned – the Inter-State Defense and Security Committee (ISDSC) which consists of amongst others senior defence and intelligence officials from the various countries and the Southern African Regional Police Chiefs Co-operation Organisation (SARPCCO). As the name suggests, it consists of the heads of the police of each of the SADC states. Moreover, this organisation also acts as the Interpol arm for Southern Africa so there is an important interface between the sub-region and the international. This interface needs to be expanded upon. Co-operation between these two bodies needs to be expanded upon and further institutionalised. Co-operation should not just be occurring for big events like the World Cup and then decrease in intensity and regularity after such an event. Moreover, institutions such as the ISDSC and SARPCCO need greater capacity. For a start, ways could be examined to beef up both organisations' secretariat. Second, they could develop a common list of terrorist organisations, and, within them, certain high-value individuals. This would greatly assist in focusing the attention of security agencies in the region on specific targets, so as not to waste resources on a generalised approach to counter-terrorism where the enemy is not clearly identified and targets are therefore hazy.

Such sub-regional co-operation should not preclude bilateral or even trilateral co-operation occurring within Southern Africa. France and Spain for instance formed joint anti-terrorism investigation teams.⁵⁸¹ Similarly given the growing nexus between jihadis in South Africa and Mozambique, these countries could form similar joint task teams.

Responding to terrorism: Connecting the global and regional dimensions

The need to ensure that all efforts at national, bilateral, sub-regional, regional and international levels need to be synchronised is to prevent overlapping mandates, foster greater co-operation and by utilising existing resources more efficiently, to prevent costly duplication. Implicit too, in this is that the threat of jihad is truly global in nature and that only through global and multilateral efforts can it be beaten. After all, should South Africa minimise or eliminate the threat of Hezbollah inside the country, it will only grow back like a multi-headed hydra if it is not also simultaneously weakened in Lebanon, in the Democratic Republic of the Congo and elsewhere.

Our earlier discussions focused on the connection between the national and sub-region (South African within SADC) as well as the connection between sub-region and the regional (SADC within the AU), however in order to ensure that all international efforts are synchronised, there also needs to be the connection between the region and the global. To a certain extent this has started happening especially in the area of money laundering and anti-terrorism finance. The FATF, as the international standard-setting body to address threats of money laundering and terrorist financing, has spawned a number of regional bodies, or in official parlance, FATF-Style Regional Bodies (FSRBs). In sub-Saharan Africa, two such FSRBs are the Eastern and Southern Africa Anti Money Laundering Group (ESAAMLG) and the Inter-governmental Action Group against Money Laundering and Terrorist Financing (GIABA).⁵⁸² This is an important development since it connects the regional and global, thereby squeezing terrorist

organisations' access to finance. However, what is needed is for these connections between global and regional to be emulated in other areas such as broader intelligence sharing and issues of radicalisation. After all this is truly a global jihad with entities such as Al-Shabab operating not only in Mogadishu, but Cape Town, Copenhagen, Minnesota, Sanaa and Wazirstan. Similarly counter-terror efforts have to be synchronised at every level from the local to the international.

It is also imperative that, if international efforts are to be reinforced, then the war against the jihadis cannot be dictated from Washington or London. Rather it is crucial that because it is a global initiative, leadership has to be more diffuse – thus giving efforts greater legitimacy. Moreover, because Islamists threaten Islam and all Muslims first, it is urgent that Muslim countries take the lead. Here it is gratifying to see that countries like Indonesia with the largest Muslim population in the world and Saudi Arabia, the birthplace of Islam, are indeed taking the lead. The Organisation of the Islamic Conference (OIC) at its Summit in 2005 reaffirmed,

*... Islam as a religion of moderation and modernity. It rejected bigotry and extremism. It supported work to establish the values of Islam as those of understanding, tolerance, dialogue and multilateralism.*⁵⁸³

6

Conclusion — Jihad: A South African Perspective

“We are here – the real Islamic front and the real Islamic opposition against Zionism, Communism, and imperialism.”

Ayman al-Zawahiri

– at his trial in Cairo, 4 December 1982⁵⁸⁴

A global war is being waged by Islamists against the moderate Muslim, the non-Muslim, the secular, the democrat, the feminist, the gay, the music-lover, the soccer-fan – in short on all the freedoms which we often take for granted. Theirs is an ideology of hatred, not love. Syed Qutb once wrote:

The white man crushes us underfoot while we teach our children about his civilisation, his universal principles and noble objectives ... We are endowing our children with amazement and respect for the master who tramples our honour and enslaves us. Let us instead plant the seeds of hatred, disgust, and revenge in the souls of these children. Let us teach these children from the time their nails are soft that the white man is the enemy of humanity, and that they should destroy him at the first opportunity.⁵⁸⁵

Their objective is the creation of a gulag state characterised by slavish obedience to a political elite made up of self-styled mullahs, imams and sheikhs. This is their nirvana. As we have seen, however, in Taliban-controlled Afghanistan and post-1979 Iran, the nirvana is often a nightmare to ordinary Afghans and Iranians. Whilst this global war is in the first instance ideational, terrorism is the weapon of choice of Islamists to enforce their ideas on the world. The 1998 East African bombings, the Planet Hollywood bombings, 9/11, the Bali bombings of 2002, the 2005 London bombings all ultimately stem from a violent Manichean worldview. This, however, is being vigorously resisted by Muslims and non-Muslims alike.

The reversals suffered by the Islamists elsewhere have focused their attention on the vast ungoverned territories of Africa from which to organise and expand their activities. From Al-Shabab in Somalia to AQIM in the north to Boko Haram in the West, there has been a marked Islamist penetration of the continent. Because of its vulnerabilities – permeable borders, corrupt officials, linkages between foreign and local terror networks – South Africa has been specifically targeted and has come to play a pivotal role in global terror support networks. Ineffective and ambiguous government responses, combined with structural problems, in the security apparatus has served to only embolden the Islamists further. To protect the innocent, South Africa needs to aggressively fight this Islamist scourge – nationally, regionally and internationally.

We also need to accept the fact that this war against Islamists will last a long time and therefore patience and perseverance would need to characterise anti-terror strategies. The war would last for a long time for three inter-related reasons. First, goals are not as clear-cut as regime

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change in Iraq. The reasons for this relates to the ideology of Islamism, which is expansive in nature as was discussed in Chapter 2. Second, Islamists take a long view of history. In his 1996 “Declaration of War against the American occupying the Land of the Two Holy Places” Bin Laden discussed 1500 years of historical “wrongs” done to Muslims, where Americans are just the recent manifestation of the crusader.⁵⁸⁶ A similar historical view is also adopted by Sarhane Ben Abdelmajid Fakhet, the leader of the terrorist group which conducted the March 11, 2004 Madrid train bombings. In his suicide note justifying the attack he mentions the expulsion of Muslim rulers from Spain in 1492 and calls for the restoration of *Al Andalus* – that is the restoration of Islamic rule over the Iberian Peninsula. As Jan Schellenbach notes, 192 people were killed and over 1800 wounded as retaliation for an event that occurred 512 years earlier.⁵⁸⁷ The South African government is therefore seriously mistaken to believe that poverty (as seen in Chapter 3) lies at the basis of the Islamist rage.

The point is that we too need to adopt a long view of history – a view that with each passing century freedom is becoming increasingly widespread and institutionalised but an acknowledgement that freedom too has its enemies. In the last century it was Communism, Fascism and Nazism. Beginning in the latter half of the twentieth century and into the twenty-first Islamism has become the enemy of freedom. Chris Brown explains this fundamentalism succinctly,

Such fundamentalists want a world with modern technology, but with scientific rationality confined to the technical; a world with IT and mass media but with its content strictly regulated; a world where the community of Believers exercise political power and non-believers are disenfranchised and, a consistent theme of fundamentalism of a variety, a world where women remain subjected to men, and transgressive sexual identities are delegitimised. This is the basis of Islamo-fascism.⁵⁸⁸

Third, as with Fascism and Nazism in the last century, there is no possibility of compromise and it needs to be defeated. For Al-Qaeda, its goals are non-negotiable. For those on the side of freedom, there is no possibility of giving up these freedoms to live in a gulag state as proposed by the Islamists. At the same time, all freedom-loving people everywhere can take heart in the fact that Islamo-fascist ideologies are increasingly losing their appeal. Three reasons could account for this. First, between freedom and a global gulag state, most rational people would choose freedom. Second, as Islamists continue to define themselves by what they are against as opposed to what they are, their negative approach is increasingly losing hearts and minds. Third, the Islamists’ contempt for human life⁵⁸⁹ is bringing more pain to the ummah, and Muslims are increasingly discovering the anti-Islamic basis of Islamists. In Anbar province, Iraq, the heart of the Sunni insurgency, the local community was repulsed when Islamists would routinely cut off the fingers of smokers. Small wonder then, when these turned against the Islamists.⁵⁹⁰

We are beginning to see the reversals in Islamist fortunes throughout the world. The Pakistani military offensive in the Federally Administered Tribal Areas has resulted in severe Al-Qaeda leadership losses as well as the loss of a base to train recruits and plan operations in other countries.⁵⁹¹ These military reversals have been replicated in Indonesia, Saudi Arabia, Yemen, Algeria and elsewhere. Moreover it is clear that Al-Qaeda and Islamists are losing the hearts and minds of Muslims. Following the Mumbai terrorist attacks in 2008 by the Indian Mujahideen, which cost the lives of innocent civilians, 6,000 ulema and Muftis from different parts of India ratified the fatwa against terrorism issued by the powerful Darul Uloom Deoband, the renowned seminary and Islamic academic centre.⁵⁹² In the process, these Muslim clerics were sending a powerful message to the Islamist extremists: “You do not speak in our name!” As these Islamists continue to demonstrate their contempt for Muslim lives, their support in Muslim countries like Saudi Arabia and Pakistan are diminishing. The percentage of Pakistanis, for instance, who

view the Taliban negatively doubled from 2009 to 2010.⁵⁹³ In Jordan, polls show that only 12 percent of the population believes that suicide bombings are “often or sometimes justified”.⁵⁹⁴ As in Pakistan, Iraq, Indonesia and other Muslim countries, public opinion against the Islamists changed following the bombing of an innocent Jordanian wedding party on account of it being held in a Western-hotel chain.⁵⁹⁵

More than the general populace, hardline Islamists themselves are defecting from their campaign. One such hardliner was Noman Benotman, who as leader of the Libyan Islamic Fighting Group met with Bin Laden in 2000. He was part of a group of 200 jihadis to discuss the prosecution of global jihad with the Al-Qaeda leader. Benotman’s prognosis for the jihadi cause was bleak noting that they had lurched from one failure to another. He also noted that jihadis had failed to mobilise people to the cause. One of the examples he gave was Algeria where battles between Islamists and government forces in the 1990s left over 100,000 people dead. In the process local support and sympathy for the Islamist cause evaporated.⁵⁹⁶ Benotman went on to publicly criticise Al-Qaeda. Neither is Benotman alone in this. Respected Saudi religious cleric and one of Bin Laden’s erstwhile heroes went on public television addressing the Al-Qaeda leader,

*My brother Osama, how much blood has been spilt? How many innocent people, children, elderly, and women have been killed in the name of Al-Qaeda? Will you be happy to meet God Almighty carrying the burdens of these hundreds of thousands or millions [of victims] on your back?*⁵⁹⁷

More than just denunciations, former Al-Qaeda jihadis who fought in Afghanistan, like Usama Hassan have helped to establish the Quilliam Foundation to counter Islamist radicalisation.⁵⁹⁸

The long-term prognosis looks good for the cause of freedom. In the long run, Islamism will be confined to the dustbin of history together with the ideologies of the Soviet Union, Nazi Germany and Fascist Italy. But in the short-to medium-term Islamism is proving altogether more lethal than a Hitler or Mussolini precisely because it is not a state but an ideology. This was illustrated with Al-Qaeda’s attempted assassination in August 2009 of Saudi Arabia’s head of counter-terrorism, Prince Mohammed bin Nayif. We saw it, too, with the 2009 kidnappings of French, German, Italian and Spanish citizens in Mali, Mauritania and Nigeria by AQIM. It was also illustrated by the murderous Al-Shabab attack on the Ugandan capital, Kampala, in July 2010 as well as the rise of Islamist movements like Boko Haram in northern Nigeria and Ansar Dine in northern Mali. Moreover, because the threat is so decentralised it is more difficult to detect and target. In addition, it is proving highly adaptable to counter-terror measures. However at the same time we need to acknowledge that countries as diverse as Indonesia, Syria, Jordan, Algeria, Saudi Arabia, the Netherlands, the United Kingdom and France as well as the United States have all been turning back the Islamo-fascist tide.

The South African government, too, can join other allies around the world in defeating this scourge. All it needs is the political will. The solutions exist. Indeed, the South Africa government has already demonstrated that where it found its will and co-operated with international partners, it was able to thwart a terrorist atrocity targeting the World Cup.

It is time for South Africa to draw the line – there will be no South African passports and identity documents for jihadis. South Africa will no longer be a safe haven for global terrorists. South Africa will not allow terrorists to raise funds on its territory. South Africa will not allow terror-training camps to exist with impunity. South Africa will not serve as an operational hub from where terrorists plan to attack other countries. South Africa will not allow another Planet Hollywood bombing on its own soil!

Chronology of Terror-Related Incidents in South Africa

- May 2013** Media reports of British-born Samantha Lewthwaite, linked to both Al-Qaeda and Al-Shabab who spent two years in South Africa setting up a terror network which spanned the United Kingdom, South Africa and Pakistan.
- 2011** Radical restructuring in South Africa's intelligence services.
- October 2010** SAPS raids home of Mogamat Munier Martin, arms, ammunition and chemicals which could be used to make explosives were confiscated.
- July 2010** Interpol and SAPS net suspects in Pretoria attempting to sell highly radioactive material suspected to be used in "dirty bomb".
- July 2010** Al-Shabab detonates two bombs in Kampala, Uganda.
- June 2010** Zimbabwe police arrest two Pakistani men heading to South Africa, one of them allegedly under an international arrest warrant for terrorism.
- June 2010** Further reports of terror training camps in South Africa – journalists in possession of correspondence from former and current trainees of militant camps.
- May 2010** Reports of operational militant training camps in several provinces in South Africa.
- May 2010** Pakistan and Somali militants run training camps in northern Mozambique trainees being infiltrated across the border into South Africa.
- May 2010** South African Department of Home Affairs announces a new Movement Control System to regulate the movement of people in and beyond the country's borders.
- May 2010** Reports indicate that corruption at CIPRO funds global terror networks.
- April 2010** Al-Qaeda in the Arab Maghreb threaten to attack the 2010 World Cup tournament in South Africa.
- February 2010** Media reports new purge in South Africa's intelligence community.
- January 2010** Jamaican cleric Sheikh Faisal deported from Kenya whose authorities accuse him of recruiting suicide bombers to target the 2010 World Cup tournament in South Africa.
- January 2010** Sheryl Cwele, wife of South Africa State Security Minister Siyabonga Cwele, arrested – linked to Nigerian drug cartel.
- October 2009** NIA, SAPS and American agents launch joint operation to foil plot to attack 2010 World Cup – arrest made and those arrested had links to extremists in Somalia and Mozambique.
- October 2009** Interpol and SAPS team up to ensure safety of FIFA 2010 World Cup.
- October 2009** Reports from Botswana point to Al-Qaeda operating using second hand car dealerships as a front to strike at the World Cup.

Chronology of Terror-related incidents

- October 2009** Jeff Maquetuka appointed Director-General of the State Security Agency promises intelligence shake-up.
- September 2009** US closes all its embassies and consulates and the offices of USAID in response to terror threat from Al-Shabab.
- September 2009** PAGAD revives its branches in Grassy Park, Strand, Paarl, and Mitchell's Plain.
- September 2009** Man with fake Pakistani passport arrested at OR Tambo International Airport. Interpol says criminal act about to be perpetrated in South Africa.
- March 2009** FIFA General Secretary Jerome Valcke calls a crisis evaluation committee meeting in Johannesburg to discuss 2010 FIFA World Cup security following terror attack on the Sri Lankan cricket team in Pakistan.
- January 2009** Explosive device found in rubbish bin in Laudium, outside Pretoria.
- 2009** 378 illegal explosions occur in South Africa.
- 2008** 538 police officers found guilty in internal hearings of crimes ranging from murder, rape, assault, theft, corruption and liquor and drug abuse.
- July 2008** Zambian authorities capture and deport Haroon Rashid Aswat to Britain. Aswat evaded South African surveillance when he left South Africa to enter Zambia.
- March 2008** Intelligence Minister Ronnie Kasrils warns of Al-Qaeda members seeking refuge in SA and possibly attempting setting up networks.
- March 2008** State cuts deal with Muizenberg coup plot accused.
- January 2008** Raid on Muizenberg (Cape Town) homes of suspected terrorists.
- August 2008** Two South Africans detained at Entebbe Airport by the Uganda Joint Anti-Terrorism Task Force.
- March 2007** Reports of terrorists with links to Afghanistan, Pakistan and Iraq spending time in South Africa.
- March 2007** Concern expressed by South African government official of terrorists using South African banks and identity documents.
- March 2007** Report of a paramilitary training facility in Port Elizabeth.
- January 2007** US lists two South African cousins for UNSC lists of terror suspects whilst putting them on US Treasury Department's list of Al-Qaeda supporters.
- 2007** Alleged Al-Qaeda financier Ibrahim Ali Tantouche given asylum in South Africa.
- December 2006** Yusuf and Fahiema Enous killed whilst under witness protection.
- December 2006** Shahied Davids arrested in possession of three pipe bombs, a year later all charges against him withdrawn without explanation.
- November 2006** Alleged Taliban member Khalid Rashid arrested and subsequently extraordinary renditioned.
- August 2006** Cape Town man deported from Britain.

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- July 2006** Alleged ringleader of plot to down seven trans-Atlantic flights from Britain arrives in London via South Africa.
- August 2005** Scorpion and US DEA joint operation discover clandestine cell in Cape Town which specialises in shipping Al-Qaeda operatives from Afghanistan and Pakistan to the United Kingdom.
- December 2004** Reports that South Africa has become an important operational and logistical hub for pan-Islamist terror networks appear.
- November/
December 2004** South Africans arrested in Pakistan and southern Afghanistan for having links with Al-Qaeda.
- October 2004** Ringleader of Al-Qaeda cell in South Africa evades capture and is on the run in Africa.
- October 2004** Media reports point to local militants having contact with Osama bin Laden and his Al-Qaeda network.
- October 2004** CIA reports that second and third tier of Al-Qaeda leadership hiding in Pakistan, Iraq and South Africa.
- August 2004** South African police intelligence agents confirm terror plot to target South Africa with Gauteng Province the first to be targeted.
- August 2004** South African government expresses fear that Al-Qaeda operatives may be hiding in Muslim theological schools.
- August 2004** Influx of theological students to South Africa from countries like Pakistan where some theological schools were closed down from fears that they were a breeding ground for terrorists.
- July 2004** South African national arrested in US, later deported to South Africa.
- July 2004** Two Pretoria residents, Zubeir Ismail and Dr Feroz Ganchi, arrested in Pakistan caught in an Al-Qaeda safe house with senior Al-Qaeda commander Ahmed Khalfan Ghailani.
- June 2004** Alleged Al-Qaeda banker and Libyan national, Ibrahim Tantouche, fights his extradition to Libya in court, wanting to stay in South Africa.
- June 2004** South African Department of Home Affairs link to Al-Qaeda operatives captured in London confirmed.
- June 2004** Minister of Home Affairs confirms Al-Qaeda operative using South African passports.
- May 2004** South African police capture suspected Al-Qaeda operatives from Jordan and Syria.
- May 2004** British Select Committee on Foreign Affairs recommends that greater assistance be provided to SA to combat international terrorism.
- 2004** Reports of active terrorist camps in Mozambique surface.
- July 2003** Israeli Security Service declares that there is “recognisable Hamas activity” in South Africa.

Chronology of Terror-related incidents

- 2003** Tunisian Ihsan Garnaoui arrested in Germany for attempting terror attacks in the country – planning for it done whilst Garnaoui was in South Africa.
- 2002** NIA and FBI warn that South Africa was being used to raise funds and as a safe haven for international terrorist organisations.
- 2002** *Wall Street Journal* expresses concern over Al-Qaeda presence in South Africa.
- February 2000** Abduction and later killing of state witness Ebrahim Gallie.
- October 1999** Khalfan Khamis Mohamed, wanted for his role in the US Embassy bombings in East Africa is caught in Cape Town.
- 2001** PAGAD designated as a Foreign Terrorist Organisation by the US State Department.
- November 2000** Faizel Waggie and Naziem Davids arrested allegedly just after they planted a bomb in front of the Keg and Swan restaurant in Durbanville, Cape Town, seven years later case was closed.
- 1998 – 2000** PAGAD blamed for a series of bombings, including the 25 August 1998 Planet Hollywood blast.
- October 1999** Khalfan Khamis Mohamed, part of Al-Qaeda cell that attacked US embassies in East Africa, arrested in Cape Town.
- 1998** President Thabo Mbeki asks NIA to report on Hamas and its activities in South Africa.
- 1997** Al-Qaeda established foothold in South Africa.
- 1997** Hamas representatives visit South Africa assessing paramilitary camps – these deemed to basic and needed to be upgraded.
- 1996** Israel lodges a formal complaint to the South African government of the existence of five Hezbollah training camps.
- December 1995** PAGAD established.
- 1995** Cassiem appointed head of the Islamic Unity Convention – an umbrella organisation representing 250 South African Muslim groups.
- 1992** Al-Aqsa International Foundation established in South Africa.
- 1992** Hamas active in South Africa.
- 1990s** Qibla members fight with Hezbollah in South Lebanon.
- 1984-1985** Islamic Liberation Movement of Azania established.
- 1980s** Criminal networks develop across Southern Africa.
- 1980s** Qibla members get military training from Libya and Pakistan.
- 1980** Qibla is established by Achmed Cassiem.

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APPENDIX

South Africa's Protection of Constitutional Democracy Against Terrorist and Related Activities Act, 2004

To provide for measures to prevent and combat terrorist and related activities; to provide for an offence of terrorism and other offences associated or connected with terrorist activities; to provide for Convention offences; to give effect to international instruments dealing with terrorist and related activities; to provide for a mechanism to comply with United Nations Security Council Resolutions, which are binding on member States, in respect of terrorist and related activities; to provide for measures to prevent and combat the financing of terrorist and related activities; to provide for investigative measures in respect of terrorist and related activities; and to provide for matters connected therewith.

PREAMBLE

WHEREAS the Republic of South Africa is a constitutional democracy where fundamental human rights, such as the right to life, and free political activity are constitutionally enshrined;

AND WHEREAS terrorist and related activities, in whichever form, are intended to achieve political and other aims in a violent or otherwise unconstitutional manner, and thereby undermine democratic rights and values and the Constitution;

AND WHEREAS terrorist and related activities are an international problem, which can only be effectively addressed by means of international co-operation;

AND WHEREAS the Government of the Republic of South Africa has committed itself in international fora such as the United Nations, the African Union and the Non-Aligned Movement, to the prevention and combating of terrorist and related activities;

AND WHEREAS the United Nations Security Council Resolution 1373/2001, which is binding on all Member States of the United Nations, as well as the Convention for the Prevention and Combating of Terrorism, adopted by the Organisation of African Unity, requires Member States to become Party to instruments, dealing with terrorist and related activities, as soon as possible;

AND WHEREAS the Republic of South Africa has already become Party to the following instruments of the United Nations:

- (a) The Convention on Offences and Certain Other Acts Committed on Board Aircraft, signed at Tokyo on 14 September 1963. The Republic became a Party thereto, by accession on 26 May 1972;

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- (b) The Convention for the Suppression of Unlawful Seizure of Aircraft, signed at The Hague on 16 December 1970. The Republic became a Party thereto by ratification on 30 May 1972;
- (c) The Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation, concluded at Montreal on 23 September 1971. The Republic became a Party thereto by ratification on 30 May 1972;
- (d) The Convention on the Prevention and Punishment of Crimes against Internationally Protected Persons including Diplomatic Agents, adopted by the General Assembly of the United Nations on 14 December 1973. The Republic became a Party thereto by accession on 23 September 2003;
- (e) The International Convention Against the Taking of Hostages, adopted by the General Assembly of the United Nations on 17 December 1979. The Republic became a Party thereto by accession on 23 September 2003;
- (f) The Protocol for the Suppression of Unlawful Acts of Violence at Airports Serving International Civil Aviation, adopted at Montreal on 24 February 1988. The Republic became a Party thereto by accession on 21 September 1988;
- (g) The Convention on the Marking of Plastic Explosives for the Purpose of Detection, signed at Montreal on 1 March 1991. The Republic became a Party thereto by accession on 1 December 1999;
- (h) The International Convention for the Suppression of Terrorist Bombings, adopted by the General Assembly of the United Nations on 15 December 1997. The Republic became a Party thereto by ratification on 1 May 2003; and
- (i) The International Convention on the Suppression of the Financing of Terrorism, adopted by the United Nations General Assembly on 9 December 1999. The Republic became a Party thereto by ratification on 1 May 2003;

AND WHEREAS the Republic of South Africa desires to become a Party to the following remaining instruments of the United Nations, not yet ratified or acceded to by the Republic:

- (a) The Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation, adopted at Rome on 10 March 1988;
- (b) The Protocol for the Suppression of Unlawful Acts against the Safety of Fixed Platforms on the Continental Shelf, adopted at Rome on 10 March 1988; and
- (c) The Convention on the Physical Protection of Nuclear Material, adopted at Vienna on 26 October 1979, and signed on behalf of the Republic on 18 May 1981;

AND WHEREAS the Republic of South Africa has become a Party by ratification, on 7 November 2002, to the Convention on the Prevention and Combating of Terrorism, adopted by the Organisation of African Unity at Algiers on 14 July 1999;

AND WHEREAS the United Nations Security Council from time to time passes resolutions under Chapter VII of the United Nations Charter, requiring Member States to combat terrorist and related activities, including taking effective measures to prevent and combat the financing of terrorist and related activities, and the freezing of funds, assets or economic resources of persons who commit terrorist and related activities;

AND WHEREAS our national laws do not meet all the international requirements relating to the prevention and combating of terrorist and related activities;

AND WHEREAS international law, and in particular international humanitarian law, including the purposes and principles of the Charter of the United Nations and the Declaration on Principles of International Law concerning Friendly Relations and Co-operation among States in accordance with the said Charter recognizes acts committed during a struggle waged by peoples, including any action during an armed struggle, in the exercise or furtherance of their legitimate right to national liberation, self-determination and independence against colonialism, or occupation or aggression or domination by alien or foreign forces, as being excluded from terrorist activities;

AND REALISING the importance to enact appropriate domestic legislation necessary to implement the provisions of relevant international instruments dealing with terrorist and related activities, to ensure that the jurisdiction of the courts of the Republic of South Africa enables them to bring to trial the perpetrators of terrorist and related activities; and to co-operate with and provide support and assistance to other States and relevant international and regional organisations to that end;

AND MINDFUL that the Republic, has since 1994, become a legitimate member of the community of nations and is committed to bringing to justice persons who commit such terrorist and related activities; and to carrying out its obligations in terms of the international instruments dealing with terrorist and related activities;

BE IT THEREFORE ENACTED by the Parliament of the Republic of South Africa, as follows:—

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CHAPTER 1

Definitions and interpretation

Definitions

1.(1) In this Act, unless the context indicates otherwise –

- (i) “appropriate government body”, with reference to section 15, means an appropriate government body as defined in section 1 of the International Co-operation in Criminal Matters Act, 1996 (Act No. 75 of 1996);
- (ii) “Convention offence” means-
 - (a) an offence, created in fulfillment of the Republic’s international obligations in terms of instruments dealing with terrorist and related activities, referred to in Part 2 of Chapter 2;
 - (b) an offence referred to in section 56(1)(h) of the Nuclear Energy Act, 1999 (Act No. 46 of 1999); and
 - (c) an offence referred to in section 2(1) or (2) of the Civil Aviation Offences Act, 1972 (Act No.10 of 1972);
- (iii) “Director of Public Prosecutions” means a Director of Public Prosecutions appointed under section 13(1) of the National Prosecuting Authority Act, 1998(Act No. 32 of 1998);
- (iv) “entity”, with reference to sections 3, 4, and 14 (in so far as it relates to the aforementioned sections), 22, 23 and 25, means a natural person, or a group of two or more natural persons (whether acting in the furtherance of a common purpose or conspiracy or not), or a syndicate, gang, agency, trust, partnership, fund or other unincorporated association or organisation, or any incorporated association or organisation or other

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- legal person, and includes, where appropriate, a cell, unit, section, sub-group or branch thereof or any combination thereof;
- (v) “explosive”, with reference to the definition of “explosive or other lethal device” in this section, and sections 5 and 13, means an explosive referred to in section 1 of the Explosives Act, 2003;
 - (vi) “explosive or other lethal device”, with reference to sections 5 and 13, means—
 - (a) an explosive or incendiary weapon or device which is designed or manufactured, or has the capability, to cause death, serious bodily injury or material damage;
 - (b) a weapon or device which is designed or manufactured, or has the capability, to cause death, serious bodily injury or material damage through the release, dissemination or impact of toxic chemicals, biological agents or toxins or similar substances or radiation or radioactive material; or
 - (c) any weapon of mass destruction, as defined in section 1 of the Non-Proliferation of Weapons of Mass Destruction Act, 1993 (Act No. 87 of 1993);
 - (vii) “fixed platform”, with reference to sections 6 and 15, means an artificial island, installation, or structure permanently attached to the sea-bed for the purpose of exploration or exploitation of resources or for economic purposes, but does not include a ship;
 - (viii) “infrastructure facility”, with reference to the definition of “terrorist activity” in this section and section 5, means any publicly or privately owned facility providing or distributing services for the benefit of the public, such as water, sewage, energy, fuel or communications;
 - (ix) “instruments dealing with terrorist and related activities”, means any of the following instruments:
 - (a) The Convention on Offences and Certain Other Acts Committed on Board Aircraft, signed at Tokyo on 14 September 1963;
 - (b) the Convention for the Suppression of Unlawful Seizure of Aircraft, signed at The Hague on 16 December 1970;
 - (c) the Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation, concluded at Montreal on 23 September 1971;
 - (d) the Convention on the Prevention and Punishment of Crimes against Internationally Protected Persons including Diplomatic Agents, adopted by the General Assembly of the United Nations on 14 December 1973;
 - (e) the International Convention Against the Taking of Hostages, adopted by the General Assembly of the United Nations on 17 December 1979;
 - (f) the Convention on the Physical Protection of Nuclear Material, adopted at Vienna on 26 October 1979;
 - (g) the Protocol for the Suppression of Unlawful Acts of Violence at Airports Serving International Civil Aviation, adopted at Montreal on 24 February 1988;
 - (h) the Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation, 1988, adopted at Rome on 10 March 1988;

- (i) the Protocol for the Suppression of Unlawful Acts against the Safety of fixed Platforms on the Continental Shelf, 1988, adopted at Rome on 10 March 1988;
- (j) the Convention on the Marking of Plastic Explosives for the Purpose of Detection, signed at Montreal on 1 March 1991;
- (k) the International Convention for the Suppression of Terrorist Bombings, adopted by the General Assembly of the United Nations on 15 December 1997;
- (l) the Convention on the Prevention and Combating of Terrorism, adopted by the Organisation of African Unity at Algiers on 14 July 1999; and
- (m) the International Convention on the Suppression of the Financing of Terrorism, adopted by the General Assembly of the United Nations on 9 December 1999;
- (x) “international organisation”, with reference to the definitions of “intergovernmental organisation”, “internationally protected person” and “terrorist activity” in this section, means an international organisation of states, and includes an intergovernmental organisation;
- (xi) “intergovernmental organisation”, with reference to the definitions of “international organisation”, “internationally protected person”, “State or government facility” and “terrorist activity” in this section, and section 7, means an international organisation established by the governments of states;
- (xii) “internationally protected person”, with reference to section 8, means-
 - (a) a Head of State, including any member of a collegial body performing the functions of a Head of State under the constitution of the State concerned, a Head of Government or a Minister for Foreign Affairs, whenever any such person is in the Republic, as well as members of his or her family accompanying him or her; or
 - (b) any representative or official of a State or any official or other agent of an international organisation or intergovernmental organisation or of an intergovernmental character who, at the time when and in the place where a crime against him or her or his or her official premises, his or her private accommodation or his or her means of transport is committed, is entitled, pursuant to international law to special protection from any attack on his or her person, freedom or dignity, as well as members of his or her family forming part of his or her household;
- (xiii) “judge” means a Judge of the High Court;
- (xiv) “Minister” means the Minister for Safety and Security;
- (xv) “National Commissioner” means the National Commissioner of the South African Police Service appointed in terms of section 207(1) of the Constitution;
- (xvi) “National Director” means the National Director of Public Prosecutions appointed in terms of section 179(1) of the Constitution;
- (xvii) “place of public use”, with reference to section 5, includes those parts of any building, land, street, waterway or other location that are at any time accessible or open to members of the public, whether continuously, periodically or occasionally;

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- (xviii) “police official” means a “member” as defined in section 1 of the South African Police Service Act, 1995 (Act No. 68 of 1995), and with reference to section 24, includes a member of the South African National Defence Force employed in co-operation with the South African Police Service in terms of section 201(2)(a) of the Constitution in the prevention and combating of crime and maintenance and preservation of law and order within the Republic, as contemplated in section 19(1) of the Defence Act, 2002 (Act No. 42 of 2002);
- (xix) “property” means real or personal property of any description, and whether tangible or intangible and includes—
 - (a) an interest in any real or personal property;
 - (b) funds, cash, assets or any other property, tangible or intangible, however acquired;
 - (c) any type of financial resource, including cash or the currency of any State, bank credits, traveller’s cheques, bank cheques, money orders, shares, securities, bonds, drafts, letters of credit or any other negotiable instrument in any form, including electronic or digital form; or
 - (d) any letter or document conferring or containing any evidence of rights in respect of any security;
- (xx) “public transportation system”, with reference to section 5, means all facilities, conveyances and instrumentalities, whether publicly or privately owned, that are used in or for publicly available services for the transportation of persons or cargo;
- (xxi) “ship”, with reference to the definition of “fixed platform” in this section and section 10, means a vessel of any type whatsoever not permanently attached to the sea-bed, including dynamically supported craft, submersibles or other floating craft, but does not include-
 - (a) a warship;
 - (b) a ship owned or operated by a State; or
 - (c) a ship which has been withdrawn from navigation or laid up;
- (xxii) “specified offence”, with reference to section 4, 14 (in so far as it relates to section 4), and 23, means-
 - (a) the offence of terrorism referred to in section 2, an offence associated or connected with terrorist activities referred to in section 3, a Convention offence, and an offence referred to in sections 13 and 14; and
 - (b) any activity outside the Republic which constitutes an offence under the law of another state and which would have constituted an offence referred to in paragraph (a), had that activity taken place in the Republic;
- (xxiii) “State or government facility”, with reference to section 5, includes any permanent or temporary facility or conveyance that is used or occupied by representatives of a State, members of Government, the legislature or the judiciary or by officials or employees of a State or any other public authority or entity of the Republic or by employees or officials of an intergovernmental organisation in connection with their official duties;

- (xxiv) “terrorist activity”, with reference to this section and sections 2, 3 and 17(2), means—
- (a) any act committed in or outside the Republic, which—
- involves the systematic, repeated or arbitrary use of violence by any means or method;
 - involves the systematic, repeated or arbitrary release into the environment or any part of it or distributing or exposing the public or any part of it to-
 - (aa) any dangerous, hazardous, radioactive or harmful substance or organism;
 - (bb) any toxic chemical; or
 - (cc) any microbial or other biological agent or toxin;
 - endangers the life, physical integrity or physical freedom of, or violates the physical freedom of, or causes serious bodily injury to or the death of, any person, or any number or group of persons;
 - causes serious risk to the health or safety of the public or any segment of the public;
 - causes the destruction of or substantial damage to any property, natural resource, or the environmental or cultural heritage, whether public or private;
 - is designed or calculated to cause serious interference with or serious disruption of an essential service, facility or system, or the delivery of any such service, facility or system, whether public or private, including, but not limited to—
 - (aa) a system used for, or by, an electronic system, including an information system;
 - (bb) a telecommunication service or system;
 - (cc) a banking or financial service or financial system;
 - (dd) a system used for the delivery of essential government services;
 - (ee) a system used for, or by, an essential public utility or transport provider; an essential infrastructure facility; or any essential emergency services, such as police, medical or civil defense services;
 - causes any major economic loss or extensive destabilisation of an economic system or substantial devastation of the national economy of a country; or
 - creates a serious public emergency situation or a general insurrection, whether the harm contemplated in paragraphs (a)(i) to (vii) is or may be suffered in or outside the Republic, and whether the activity referred to in subparagraphs (ii) to (viii) was committed by way of any means or method; and
- (b) is intended, or by its nature and context, can reasonably be regarded as being intended to, in whole or in part, directly or indirectly-
- threaten the unity and territorial integrity of a State;

intimidate, or to induce or cause feelings of insecurity within, the public, or a segment of the public, with regard to its security, including its economic security, or to induce, cause or spread feelings of terror, fear or panic in a civilian population; or

unduly compel, intimidate, force, coerce, induce or cause a person, a government, the general public or a segment of the public, or a domestic or an international body, organisation or intergovernmental organisation or institution, to do or to abstain or refrain from doing any act, or to adopt or abandon a particular standpoint, or to act in accordance with certain principles,

whether the public or the person, government, body, or organisation or institution referred to in subparagraphs (ii) or (iii), as the case may be, is inside or outside the Republic; and

(c) which is committed, directly or indirectly, in whole or in part, for the purpose of the advancement of an individual or collective political, religious, ideological, or philosophical motive, objective, cause or undertaking;

- (xxv) “terrorist and related activities” means any act or activity related to or associated or connected with the commission of the offence of terrorism, or an offence associated or connected with a terrorist activity, or a Convention offence, or an offence referred to in sections 11 to 14.
2. For purposes of this Act, “act” includes “omission”.
 3. For purposes of paragraphs (a)(vi) and (vii) of the definition of “terrorist activity”, any act which is committed in pursuance of any lawful advocacy, protest, dissent or industrial action and does not involve action resulting in the harm contemplated in paragraphs (a)(i) to (vi) of such definition, shall not be regarded as a terrorist activity within the meaning of that definition.
 4. Notwithstanding any provision of this Act or any other law, any act committed during a struggle waged by peoples, including any action during an armed struggle, in the exercise or furtherance of their legitimate right to national liberation, self-determination and independence against colonialism, or occupation or aggression or domination by alien or foreign forces, in accordance with the principles of international law, especially the international humanitarian law, including the purposes and principles of the Charter of the United Nations and the Declaration on Principles of International Law concerning Friendly Relations and Co-operation among States in accordance with the said Charter, shall not, for any reason, including for purposes of prosecution or extradition, be considered as a terrorist activity, as defined in subsection (1).
 5. Notwithstanding any provision in any other law, and subject to subsection (4), a political, philosophical, ideological, racial, ethnic, religious or any similar motive, shall not be considered for any reason, including for purposes of prosecution or extradition, to be a justifiable defense in respect of an offence of which the definition of terrorist activity forms an integral part.
 6. For the purposes of this Act a person has knowledge of a fact if—
 - (a) the person has actual knowledge of that fact;

- (b) the person fails to obtain information to confirm or refute the existence of that fact; or
 - (c) the person believes that there is a reasonable possibility of the existence of that fact.
7. For the purposes of this Act a person ought reasonably to have known or suspected a fact if the conclusions that he or she ought to have reached, are those which would have been reached by a reasonably diligent and vigilant person having both—
- (a) the general knowledge, skill, training and experience that may reasonably be expected of a person in his or her position; and
 - (b) the general knowledge, skill, training and experience that he or she in fact has.

CHAPTER 2

Offences and penalties

Part 1

Offence of terrorism and offences associated or connected with terrorist activities

Offence of terrorism

1. Any person who engages in a terrorist activity is guilty of the offence of terrorism.
2. For purposes of subsection (1) and section 3 the expression “engages in a terrorist activity”, includes—
 - (a) the commission, performance or carrying out of;
 - (b) the facilitation of, participation or assistance in, or contribution to the commission, performance or carrying out of;
 - (c) the performance of an act in preparation for or planning of; or
 - (d) instructing, directly or indirectly, the-
 - (i) commission, performance, carrying out of;
 - (ii) facilitation of, participation or assistance in, or contribution to the commission, performance or carrying out of; or
 - (iii) performance of an act in preparation for or planning of,

a terrorist activity, and the expressions “to engage in a terrorist activity” and “engagement in a terrorist activity”, shall be construed accordingly.

Offences associated or connected with terrorist activities

3. (1) Any person who—
 - (a) does anything which will, or is likely to, enhance the ability of any person or entity to engage in a terrorist activity, including to provide or offering to provide a skill or an expertise;
 - (b) enters or remains in any country; or
 - (c) makes himself or herself available,

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for the benefit of, at the direction of, or in association with any person or entity engaging in a terrorist activity, and who knows or ought reasonably to have known or suspected, that such act was done for the purpose of enhancing the ability of such person or entity to engage in a terrorist activity, is guilty of the offence associated with a terrorist activity.

(2) Any person who—

- (a) provides or offers to provide any weapon to any other person for use by or for the benefit of, a person or entity;
- (b) solicits support for or gives support to a person or entity;
- (c) provides, receives or participates in training or instruction, or recruits a person or entity to receive training or instruction;
- (d) recruits any person or entity;
- (e) collects or makes a document; or
- (f) possesses a thing,

connected with the engagement in a terrorist activity, and who knows or ought reasonably to have known or suspected that such weapons, soliciting, training, recruitment, document or thing is so connected, is guilty of an offence connected with terrorist activities.

Part 2

Convention Offences

Offences associated or connected with financing of specified offences

4 (1) Any person who, directly or indirectly, in whole or in part, and by any means or method.

- (a) acquires property;
- (b) collects property;
- (c) uses property;
- (d) possesses property;
- (e) owns property;
- (f) provides or makes available, or invites a person to provide or make available property;
- (g) provides or makes available, or invites a person to provide or make available any financial or other service;
- (h) provides or makes available, or invites a person to provide or make available economic support; or
- (i) facilitates the acquisition, collection, use or provision of property, or the provision of any financial or other service, or the provision of economic support,

intending that the property, financial or other service or economic support, as the case may be, be used, or while such person knows or ought reasonably to have known or suspected that the property, service or support concerned will be used, directly or indirectly, in whole or in part—

- (i) to commit or facilitate the commission of a specified offence;
- (ii) for the benefit of, or on behalf of, or at the direction of, or under the control of an entity which commits or attempts to commit or facilitates the commission of a specified offence; or
- (iii) for the benefit of a specific entity identified in a notice issued by the President under section 25,

is guilty of an offence.

(2) Any person who, directly or indirectly, in whole or in part, and by any means or method.

- (a) deals with, enters into or facilitates any transaction or performs any other act in connection with property which such person knows or ought reasonably to have known or suspected to have been acquired, collected, used, possessed, owned or provided.
 - (i) to commit or facilitate the commission of a specified offence;
 - (ii) for the benefit of, or on behalf of, or at the direction of, or under the control of an entity which commits or attempts to commit or facilitates the commission of a specified offence; or
 - (iii) for the benefit of a specific entity identified in a notice issued by the President under section 25; or
- (b) provides financial or other services in respect of property referred to in paragraph (a),

is guilty of an offence.

(3) Any person who knows or ought reasonably to have known or suspected that property is property referred to in subsection (2)(a) and enters into, or becomes concerned in, an arrangement which in any way has or is likely to have the effect.

- (a) of facilitating the retention or control of such property by or on behalf of.
 - (i) an entity which commits or attempts to commit or facilitates the commission of a specified offence; or
 - (ii) a specific entity identified in a notice issued by the President under section 25;
- (b) converting such property;
- (c) concealing or disguising the nature, source, location, disposition or movement of such property, the ownership thereof or any interest anyone may have therein;
- (d) removing such property from a jurisdiction; or
- (e) transferring such property to a nominee,

is guilty of an offence.

Offences relating to explosive or other lethal devices

5. Any person who intentionally delivers, places, discharges or detonates an explosive or other lethal device in, into or against a place of public use, a state or government facility, a public transport facility, a public transportation system, or an infrastructure facility, with the purpose, amongst others, of causing—

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- (a) death or serious bodily injury; or
- (b) extensive damage to, or destruction of such a place, facility or system, where such destruction results in or is likely to result in major economic loss,

is guilty of an offence relating to explosive or other lethal devices.

Offences relating to hijacking, destroying or endangering safety of a fixed platform

6. Any person who intentionally—

- (a) seizes or exercises control over a fixed platform by force or any other form of intimidation;
- (b) performs an act of violence against a person on board a fixed platform, which act is likely to endanger the safety of that fixed platform;
- (c)
 - (i) destroys such a fixed platform; or
 - (ii) causes damage to it, which damage is likely to endanger the safety of that fixed platform;
- (d) places or causes to be placed on a fixed platform, by any means whatsoever, a device or substance, which is likely to destroy that fixed platform or likely to endanger its safety; or
- (e) injures or kills any person in connection with the commission of any of the acts referred to in paragraphs (a) to (d),

is guilty of an offence relating to the hijacking, destroying or endangering of a fixed platform.

Offences relating to taking a hostage

7. Any person who intentionally—

- (a) seizes or detains; and
- (b) threatens to kill, to injure or to continue to detain,

any other person, hereinafter referred to as a hostage, in order to compel a third party, namely a State, an intergovernmental organisation, a natural or juridical person, or a group of persons to do or abstain from doing any act as an explicit or implicit condition for the release of the hostage, is guilty of an offence of taking a hostage.

Offences relating to causing harm to internationally protected persons

8. Any person who, knowing that a person is an internationally protected person, intentionally—

- (a) murders or kidnaps or otherwise violently attacks the person or liberty of that person; or
- (b) executes a violent attack upon the official premises, the private accommodation or the means of transport of that person, which attack is likely to endanger his or her person or liberty,

is guilty of an offence relating to causing harm to an internationally protected person.

Offences relating to hijacking an aircraft

9. Any person who intentionally, by force or threat thereof, or by any other form of intimidation, seizes or exercises control of an aircraft and with the purpose of—
- (a) causing any person on board the aircraft to be detained against his or her will;
 - (b) causing any person on board the aircraft to be transported against his or her will to any place other than the next scheduled place of landing of the aircraft;
 - (c) holding any person on board the aircraft for ransom or to service against his or her will; or
 - (d) causing that aircraft to deviate from its flight plan,

is guilty of an offence of hijacking an aircraft.

Offences relating to hijacking a ship or endangering safety of maritime navigation

10. Any person who intentionally—

- (a) seizes or exercises control over a ship by force or threat thereof or any other form of intimidation;
- (b) performs any act of violence against a person on board a ship if that act is likely to endanger the safe navigation of that ship;
- (c) destroys a ship or causes damage to a ship or to its cargo which is likely to endanger the safe navigation of that ship;
- (d) places or causes to be placed on a ship, by any means whatsoever, a device or substance which is likely to destroy that ship, or causes damage to that ship or its cargo which endangers or is likely to endanger the safe navigation of that ship;
- (e) destroys or seriously damages maritime navigational facilities or seriously interferes with their operation, if such acts are likely to endanger the safe navigation of a ship;
- (f) communicates information, knowing the information to be false and under circumstances in which such information may reasonably be believed, thereby endangering the safe navigation of a ship; or
- (g) injures or kills a person, in connection with the commission of any of the acts set forth in paragraphs (a) to (f),

is guilty of an offence relating to hijacking a ship or endangering the safety of maritime navigation.

PART 3

Other offences

Offences relating to harbouring or concealment of persons committing specified offences

11. Any person who harbours or conceals any person, whom he or she knows, or ought reasonably to have known or suspected, to be a person who has committed a specified offence, as referred to in paragraph (a) of the definition of “specified offence”, or who is likely to commit such an offence, is guilty of an offence.

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Duty to report presence of person suspected of intending to commit or having committed an offence and failure to so report

12. (1) Any person who-

- (a) has reason to suspect that any other person intends to commit or has committed an offence referred to in this chapter; or
- (b) is aware of the presence at any place of any other person who is so suspected of intending to commit or having committed such an offence,

must report such suspicion or presence, as the case may be, or cause such suspicion or presence to be reported to any police official.

(2) Any person who fails to comply with the provisions of subsection (1)(a) or (b), is guilty of an offence.

(3) Upon receipt of a report referred to in subsection (1), the police official involved, must take down the report in the manner directed by the National Commissioner, and forthwith provide the person who made the report with an acknowledgement of receipt of such report.

(4) (a) The National Commissioner must within three months of the commencement of this Act, publish the direction contemplated in subsection (3) in the Gazette.

(b) Any direction issued under subsection (3) must be tabled in

Parliament.

Offences relating to hoaxes

13. (1) (a) Any person who, with the intention of inducing in a person anywhere in the world a false belief that a substance, thing or device is or contains, or is likely to be, or contains a noxious substance or thing or an explosive or other lethal device—

- (i) places that substance, thing or device in any place; or
- (ii) sends that substance, thing or device from one place to another, by post, rail or any other means whatsoever,

is guilty of an offence.

(b) Any person who, directly or indirectly, communicates any information, which he or she knows, or ought reasonably to have known or suspected, or believes to be false, with the intention of inducing in a person anywhere in the world a belief that a noxious substance or thing or an explosive or other lethal device is likely to be present (whether at the time the information is communicated or later) in or at any place, is guilty of an offence.

(2) For the purposes of this section “substance” includes any biological agent and any other natural or artificial substance (whatever its form, origin or method of production).

Threat, attempt, conspiracy and inducing another person to commit offence

14. Any person who—

- (a) threatens;
- (b) attempts;

- (c) conspires with any other person; or
- (d) aids, abets, induces, incites, instigates, instructs or commands, counsels or procures another person,

to commit an offence in terms of this chapter, is guilty of an offence.

CHAPTER 3

PROVISIONS RELATING TO OFFENCES AND PENALTIES

Part 1

Provisions relating to offences

Jurisdiction in respect of offences

15 (1) A court of the Republic has jurisdiction in respect of any specified offence as defined in paragraph (a) of the definition of “specified offence”, if—

- (a) the accused was arrested in the territory of the Republic, or in its territorial waters or on board a ship or aircraft registered or required to be registered in the Republic; or
- (b) the offence was committed—
 - (i) in the territory of the Republic;
 - (ii) on board a vessel, a ship, an off-shore installation, or a fixed platform, or an aircraft registered or required to be registered in the Republic at the time the offence was committed;
 - (iii) by a citizen of the Republic or a person ordinarily resident in the Republic;
 - (iv) against the Republic, a citizen of the Republic or a person ordinarily resident in the Republic;
 - (v) on board an aircraft in respect of which the operator is licensed in terms of the Air Services Licensing Act, 1990 (Act No. 115 of 1990), or the International Air Services Act, 1993 (Act No. 60 of 1993);
 - (vi) against a government facility of the Republic abroad, including an embassy or other diplomatic or consular premises, or any other property of the Republic;
 - (vii) when during its commission, a national of the Republic is seized, threatened, injured or killed; or
 - (viii) in an attempt to compel the Republic to do or to abstain or to refrain from doing any act; or
- (c) the evidence reveals any other basis recognised by law.

(2) Any act alleged to constitute an offence under this Act and which is committed outside the Republic by a person other than a person contemplated in subsection (1), shall, regardless of whether or not the act constitutes an offence or not at the place of its commission, be deemed to have been committed also in the Republic if that—

- (a) act affects or is intended to affect a public body, any person or business in the Republic;

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- (b) that person is found to be in South Africa; and
- (c) that person is for one or other reason not extradited by South Africa or if there is no application to extradite that person.

(3) Any offence committed in a country outside the Republic as contemplated in subsection (1) or (2), is, for the purpose of determining the jurisdiction of a court to try the offence, deemed to have been committed—

- (a) at the place where the accused is ordinarily resident;
- (b) at the accused person's principal place of business.

(4) Where a person is charged with conspiracy or incitement to commit an offence or as an accessory after that offence, the offence is deemed to have been committed not only at the place where the act was committed, but also at every place where the conspirator, inciter or accessory acted or, in case of an omission, should have acted.

(5) Whenever the National Commissioner receives information from an appropriate government body of a foreign State that a person who is alleged to have committed or is convicted of or is sentenced in respect of any Convention offence in respect of which—

- (a) court in the Republic has jurisdiction as referred to in subsection (1); or
- (b) any court in a foreign State may have jurisdiction,

may be present in the Republic, the National Commissioner must cause such measures to be taken as he or she may deem necessary to investigate the matter.

(6) Where it appears on reasonable grounds from the investigation referred to in subsection (5) that extradition or criminal proceedings may be instituted against such person, that person may be arrested as contemplated in section 40(1) of the Criminal Procedure Act, 1977 (Act No. 51 of 1977), in order to ensure his or her presence at such proceedings.

(7) The National Director must, upon an arrest contemplated in subsection (6), promptly be notified thereof by the police official effecting such arrest.

(8) Upon being notified in terms of subsection (7), the National Director must promptly notify any foreign State that might have jurisdiction over the offence in question, either directly or through the Secretary General of the United Nations—

- (a) of the fact that the person is in custody;
- (b) of the circumstances that justify the person's detention; and
- (c) whether he or she intends to prosecute the person,

with a view to the surrender of such person to a foreign State for prosecution by that State, should the National Director decline to prosecute.

(9) The provisions of subsection (5) must be exercised subject to the provisions of the Extradition Act, 1962 (Act No. 67 of 1962).

Consent of National Director to institute proceedings and reporting obligations

16. (1) No prosecution under Chapter 2 may be instituted without the written authority of the National Director.

- (2) The National Director must communicate the final outcome of the proceedings promptly to—
- (a) the Secretary General of the United Nations, so that he or she may transmit the information to other members of the United Nations, if a person is prosecuted for an offence referred to in clause 4, 5, 7, or 8;
 - (b) the Council of the International Civil Aviation Organisation if a person is prosecuted for an offence referred to in section 9; or
 - (c) the Secretary General of the International Maritime Organisation if a person is prosecuted for an offence referred to in section 6 or 10.

Evidential matters and exclusions

17. (1) If in any proceedings in a court of law any question arises as to whether or not any person is an internationally protected person, or is pursuant to international law entitled to special protection from any attack on his or her person, freedom or dignity, a certificate under the hand or issued under the authority of the Director General of the Department of Foreign Affairs, stating any fact relating to that question, is prima facie evidence of that fact.
- (2) A person commits an offence under section 2, 3, 4, 11, 12(2) or 14 (in so far as it relates to the aforementioned sections), notwithstanding whether the terrorist activity occurs or not.
- (3) A person commits an offence under section 3, 4, 11 or 14 (in so far as it relates to the aforementioned sections), whether or not—
- (a) the actions of the accused actually enhance the ability of any person to commit a specified offence; or
 - (b) the accused knows or ought reasonably to have known or suspected the specific offence that may be committed.
- (4) Nothing in section 4 makes it an offence to provide or collect funds intending that they be used, or knowing or while a person ought reasonably to have known or suspected that they are to be used, for the purpose of advocating democratic government or the protection of human rights.
- (5) If a person reports the presence of a person referred to in section 11, as soon as possible in accordance with section 12, he or she shall not be liable for prosecution, under section 11.
- (6) A person charged with committing an offence under section 4 may raise as a defence the fact that he or she had performed any act in connection with the property in question, or allowed or facilitated the performance of any act in connection with that property, solely for the purpose of preserving the value of that property.
- (7) A person who acts reasonably in taking or omitting to take measures to comply with section 4(2) shall not be liable in any civil action arising from having taken or omitted to have taken those measures if the person proves that he or she took all reasonable steps to satisfy himself or herself that the relevant property was not owned, controlled, or possessed by or on behalf of or for the benefit of or at the direction of an entity referred to in the said section 4(2).

(8) A person is guilty of an offence under section 13(1)(a) or (b), notwithstanding whether he or she has any particular person in mind as the person in whom he or she intends to induce the belief in question.

Part 2

Penalties and matters relating to penalties

Penalties

18. (1) Any person who is convicted of an offence referred to in—

- (a) section 2, 5, 6, 7, 8, 9 or 10 is liable—
 - (i) in the case of a sentence to be imposed by a High Court, to a fine or to imprisonment for a period up to imprisonment for life;
 - (ii) in the case of a sentence to be imposed by a regional court, to a fine or to imprisonment for a period not exceeding 18 years;
 - (iii) in the case of a sentence to be imposed by any magistrate's court, to a fine or to imprisonment for a period not exceeding 5 years;
- (b) section 3 or 11 is liable—
 - 1. in the case of a sentence to be imposed by a High Court or a regional court, to a fine or to imprisonment for a period not exceeding 15 years;
 - 2. in the case of a sentence to be imposed by any magistrate's court, to any penalty which may lawfully be imposed by that court;
- (c) section 4, is liable—
 - 1. in the case of a sentence to be imposed by a High Court or a regional court, to a fine not exceeding R100 million or to imprisonment for a period not exceeding 15 years;
 - (ii) in the case of a sentence to be imposed by any magistrate's court, to a fine not exceeding R250,000.00, or to imprisonment for a period not exceeding 5 years;
- (d) section 13(1)(a) or (b), is liable—
 - 1. in the case of a sentence to be imposed by a High Court or a regional court, to a fine or to imprisonment for a period not exceeding 10 years;
 - 2. in the case of a sentence to be imposed by any magistrate's court, to any penalty which may lawfully be imposed by that court;
- (e) section 12(2), is liable—
 - 1. in the case of a sentence to be imposed by a High Court or a regional court, to a fine or to imprisonment for a period not exceeding 5 years;
 - 2. in the case of a sentence to be imposed by any magistrate's court, to any penalty which may lawfully be imposed by that court;
- (f) section 14, is liable to the punishment laid down in paragraph (a), (b), (c) (d) or (e) for the offence which that person threatened, attempted or conspired to commit or aided, abetted, induced, instigated, instructed, commanded, counseled or procured another person to commit.

(2) (a) The court, in imposing a sentence on a person who has been convicted of an offence under section 13(1)(a) or (b), may order that person to reimburse any party incurring expenses incidental to any emergency or investigative response to that conduct, for those expenses.

(b) A person ordered to make reimbursement under paragraph (a), shall be jointly and severally liable for such expenses with each other person, if any, who is ordered to make reimbursement under that paragraph for the same expenses.

(c) An order of reimbursement under paragraph (a), shall, for the purposes of enforcement, be treated as a civil judgment.

Declarations of forfeiture on conviction

19. (1) Whenever any person is convicted of an offence under this Act, the court in passing sentence must, in addition to any punishment which that court may impose in respect of the offence, declare any property which is reasonably believed to have been used—

(a) in the commission of the offence; or

(b) for the purpose of or in connection with the commission of the offence,

and which was seized under any power exercised under section 22, or is in the possession or custody or under the control of the convicted person, to be forfeited to the State.

(2) The court which makes a declaration of forfeiture of property referred to in subsection (1), must order the registrar of the High Court concerned or clerk of the Magistrate's Court for the district concerned to forthwith publish such declaration calling upon interested parties through the media and by notice in the Gazette.

(3) Anything forfeited under subsection (1) must, if it was seized under any power exercised under section 22, be kept or, if it is in the possession or custody or under the control of the convicted person, be seized and kept

(a) for a period of 45 days after the date of the notice published in the Gazette; or

(b) if any person referred to in section 20(1) has, within the period contemplated in paragraph (a), made an application to the court concerned regarding his or her interest in such thing, until a final decision has been rendered in respect of any such application.

Interests of third parties

20. (1) A declaration of forfeiture in terms of section 19(1) does not affect any interest, which any person other than the convicted person may have in the property in question, if the former person proves—

(a) that he or she acquired the interest in that property in good faith and for consideration, whether in cash or otherwise; and

(b) that

(i) the circumstances under which he or she acquired the interest in that property were not of such a nature that he or she knew or ought reasonably to have known or suspected that it was property used as contemplated in section 19(1); or

- (ii) he or she could not prevent the use of that property as contemplated in that section.
- (2) (a) Subject to the provisions of subsection (1), the court concerned or, if the judge or judicial officer concerned is not available, any judge or judicial officer of that court, may at any time within a period of three years from the date of the declaration of forfeiture, on the application of any person, other than the convicted person, who claims that he or she has any interest in the property in question, inquire into and determine any such interest.
- (b) If a court referred to in paragraph (a) finds —
 - (i) that the property is wholly owned by the applicant, the court must set aside the declaration of forfeiture in question and direct that the property be returned to the applicant or, if the State has disposed of it, direct that the applicant be compensated by the State in an amount equal to the value of the property disposed of; or
 - (ii) that the applicant has an interest in the property—
 - (aa) the court must direct that the property be sold by public auction and that the applicant be paid out of the proceeds of the sale an amount equal to the value of his or her interest therein, but not exceeding the proceeds of the sale; or
 - (bb) if the State has disposed of the property, the court must direct that the applicant be compensated by the State in an amount equal to the value of his or her interest therein.
1. Any person aggrieved by a determination made by the court under subsection (2), may appeal against the determination as if it were a conviction by the court making the determination, and such appeal may be heard either separately or jointly with an appeal against the conviction as a result of which the declaration of forfeiture was made, or against a sentence imposed as a result of such conviction.

Evidence in respect of declarations of forfeiture and certain interests

21. In order to make a declaration of forfeiture under section 19(1) or to determine any interest under section 20(2), the court may refer to the evidence and proceedings at the trial or hear such further evidence, either orally or by affidavit, as it may deem fit.

CHAPTER 4

INVESTIGATING POWERS AND FREEZING ORDERS

Powers to investigate terrorist and relating activities

22. (1) Whenever the National Director has reason to believe that—
- (a) any person may be in possession of information relevant to—
 - (i) the commission or intended commission of an alleged offence under Chapter 2; or
 - (ii) any property which—
 - (aa) may have been used in the commission, or for the purpose of or in connection with the commission, of an offence under this Act;

- (bb) may have facilitated the commission of an offence under this Act, or enabled any entity to commit such an offence, or provided financial or economic support to an entity in the commission of such an offence; or
- (cc) may afford evidence of the commission or intended commission of an offence referred to in subparagraph (i);
- (b) there may be in any building, receptacle or place, or in the possession, custody or control of any entity any property referred to in paragraph (a)(ii); or
- (c) any entity may be in possession, custody or control of any documentary material relevant—
 - (i) to an alleged offence referred to in paragraph (a)(i); or
 - (ii) in respect of any property referred to in paragraph (a)(ii) or (b),

he or she may, prior to the institution of any civil or criminal proceeding, under written authority direct that a Director of Public Prosecutions shall have, in respect of a specific investigation, the power to institute an investigation in terms of the provisions of Chapter 5 of the National Prosecuting Authority Act, 1998 (Act No. 32 of 1998), relating to the commission or intended commission of an alleged offence referred to in paragraph (a)(i) or any property contemplated in paragraph (a)(ii), or to any property referred to in paragraph (b), or to the possession, custody or control of any documentary material referred to in paragraph (c).

(2) For purposes of subsection (1), a reference in the said Chapter 5 to—

- (a) the “head of the Directorate of Special Operations” or an “Investigating Director” shall be construed as a reference to a Director of Public Prosecutions authorized under subsection (1): Provided that for purposes of section 28(2)(a) of the said Act, a Director of Public Prosecutions, may only designate a Deputy Director of Public Prosecutions;
- (b) a “special investigator” shall be construed as to include a “police official”.

(3) If any property, contemplated in subsection (1)(a)(ii), seized under any power exercised under subsection (1), consists of cash or funds standing to the credit of a bank account, the Director of Public Prosecutions who has instituted the investigation under that subsection, shall cause the cash or funds to be paid into a banking account which shall be opened with any bank as defined in section 1 of the Banks Act, 1990 (Act No. 94 of 1990), and the Director of Public Prosecutions shall forthwith report to the Financial Intelligence Centre established in terms of section 2(1) of the Financial Intelligence Centre Act, 2001 (Act No. 38 of 2001), the fact of the seizure of the cash or funds and the opening of the account.

Freezing order

23. (1) A High Court may, on ex parte application by the National Director to a judge in chambers, make an order prohibiting any person from engaging in any conduct, or obliging any person to cease any conduct, concerning property in respect of which there are reasonable grounds to believe that the property is owned or controlled by or on behalf of, or at the direction of—

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- (a) any entity which has committed, attempted to commit, participated in or facilitated the commission of a specified offence; or
 - (b) a specific entity identified in a notice issued by the President under section 25.
- (2) An order made under subsection (1) may include an order to freeze any such property.
- (3) A High Court may make an interim order under subsection (1) pending its final determination of an application for such an order.

Cordoning off, stop and search of vehicle and person

24. (1) If, on written request under oath to a judge in chambers by a police official of or above the rank of director, it appears to the judge that it is necessary in order to prevent any terrorist or related activity, the judge may issue a warrant for the cordoning off, and stopping and searching of vehicles and persons with a view to preventing such terrorist or related activity, in a specified area, and such warrant applies for the period specified therein, which period may not exceed 10 days.

(2) Under such warrant any police official who identifies himself or herself as such, may cordon off the specified area for the period specified and stop and search any vehicle or person in that area, for articles or things which could be used or have been used for or in connection with the preparation for or the commission or instigation of any terrorist or related activity.

(3) The police official may seize any article or thing contemplated in subsection (2), and Chapter 2 of the Criminal Procedure Act, 1977 (Act No. 51 of 1977), applies with the necessary changes required by the context in respect of any such article or thing.

(4) Section 29 of the Criminal Procedure Act, 1977 (Act No. 51 of 1977), applies in respect of the powers conferred upon police officials in terms of this section.

(5) The provisions of this section shall not be construed as affecting the rights of any police official or law enforcement officer to use any other power in any other law in respect of cordoning off, search or seizure.

CHAPTER 5

RESOLUTION OF UNITED NATIONS SECURITY COUNCIL

Notification by President in respect of entities identified by United Nations Security Council

25. The President must, by Proclamation in the Gazette, and other appropriate means of publication, give notice that the Security Council of the United Nations, under Chapter VII of the Charter of the United Nations, has identified a specific entity as being—

- (a) an entity who commits, or attempts to commit, any terrorist and related activity or participates in or facilitates the commission of any terrorist and related activity; or
- (b) an entity against whom Member States of the United Nations must take the actions specified in Resolutions of the said Security Council, in order to combat or prevent terrorist and related activities.

Parliamentary supervision

26. Every Proclamation issued under section 25 shall be laid upon the Table in Parliament for its consideration and decision and Parliament may thereupon take such steps as it may consider necessary.

CHAPTER 6

GENERAL PROVISIONS

Amendment and repeal of laws and transitional provisions

27. (1) The laws set out in the Schedule are hereby amended or repealed to the extent indicated in the third column of that Schedule.

(2) All criminal proceedings which immediately prior to the commencement of this Act were instituted in terms of the provisions of the Internal Security Act, 1982 (Act No. 74 of 1982), and which proceedings have not been concluded before the commencement of this Act, shall be continued and concluded, in all respects as if this Act had not been passed.

(3) An investigation, or prosecution or other legal proceedings, in respect of conduct which would have constituted an offence under the Internal Security Act, 1982, and which occurred after the commencement of that Act but before the commencement of this Act, may be conducted, instituted and continued as if this Act had not been passed.

(4) Notwithstanding the repeal or amendment of any provision of any law by this Act, such provision shall, for the purpose of the disposal of any criminal proceedings, investigation, prosecution or legal proceedings contemplated in subsection (2) or (3), remain in force as if such provision had not been repealed or amended.

Short title and commencement

28. This Act is called the Protection of Constitutional Democracy against Terrorist and Related Activities Act, 2004, and comes into operation on 31 March 2004 or such earlier date determined by the President by proclamation in the *Gazette*.

SCHEDULE

SCHEDULE OF LAWS AMENDED OR REPEALED: SECTION 27

ACT NO.	YEAR	TITLE	EXTENT OF AMENDMENT OR REPEAL
67	1962	Extradition Act	<p>1. The insertion of the following new section:- “Extradition in respect of terrorist and related activities”</p> <p>22. (1) Notwithstanding the provisions of section 15, a request for extradition based on the offences referred to in section 4 or 5 of the Protection of Constitutional Democracy against Terrorist and Related Activities Act, 2004, may not be refused on the sole ground that it concerns a political offence, or an offence connected with a political offence or an offence inspired by political motives, or that it is a fiscal offence.</p> <p>(2) The provisions of this section shall in no way affect the application of sections 11(6)(iv) or 12(2)(ii) of this Act.</p> <p>(3) Promptly, after being detained as contemplated in section 7 or 9 of this Act a person who is not a-</p> <p>(a) South African citizen;</p> <p>(b) person ordinarily resident in the Republic; or</p> <p>(c) citizen of any State,</p> <p>must be informed that he or she is entitled, and must be permitted-</p> <p>(i) to communicate without delay with the nearest appropriate representative of-</p> <p>27. the State of which the person is a citizen;</p> <p>28. if the person is not a citizen of any State, the State in whose territory the person ordinarily resides; or</p> <p>29. the State, if any that is otherwise entitled to protect the person’s rights; and</p> <p>(ii) to be visited by such representative.</p>
51	1977	Criminal Procedure Act	<p>1. The insertion in Schedule 5 of the following offences: “The offences referred to in section 4(2), 4(3), 13 or 14 (in so far as it relates to the aforementioned sections) of the Protection of Constitutional Democracy against Terrorist and Related Activities Act, 2004.”</p> <p>2. The insertion in Schedule 6 of the following offences: “The offences referred to in section 2, 3(2)(a), 4(1), 5, 6, 7, 8, 9, 10 or 14 (in so far as it relates to the aforementioned sections) of the Protection of Constitutional Democracy against Terrorist and Related Activities Act, 2004, section 2(1) and (2) of the Civil Aviation Offences Act, 1972 (Act No. 10 of 1972), section 26(1)(j) of the Non-Proliferation of Weapons of Mass Destruction Act, 1993(Act No. 87 of 1993) and section 56(1)(h) of the Nuclear Energy Act, 1999(Act No. 46 of 1999.”</p>
74	1982	Internal Security Act	<p>1. The repeal of the whole Act.</p>
87	1993	Non-Proliferation of Weapons of Mass Destruction Act	<p>1. The amendment of section 26(1) of the Act by –</p> <p>(a) the substitution for paragraph (h) of the following paragraph: “(h) refuses or fails to comply to the best of his ability with any lawful requirement, request or order of an officer or employee of the Department, an inspector or a person authorised by the Council; [or].”</p> <p>(b) the insertion of new paragraphs (j) and (k): “(j) intentionally uses, or threatens to use, a weapon of mass destruction against—</p> <p>(aa) a citizen of the Republic or a person ordinarily resident in the Republic, whether that person is in or outside the Republic;</p> <p>(bb) any person within the Republic; or</p> <p>(cc) any property that is owned, leased or used by any such citizen or resident of the Republic or by any public or private body or agency of the Republic, whether the property is within or outside of the Republic, or</p> <p>(k) threatens, attempts, conspires with any other person, or aids, abets, induces, incites, instigates, instructs or commands, counsels or procures another person, to commit an offence referred to in subparagraph(i),”</p> <p>(c) the insertion of a new subparagraph (v):</p>

ACT NO.	YEAR	TITLE	EXTENT OF AMENDMENT OR REPEAL
87	1993	Non-Proliferation of Weapons of Mass Destruction Act	<p>“(v) in the case of an offence referred to in paragraph (j) or (k) to a fine or to imprisonment for a period up to imprisonment for life.”</p> <p>(d) The insertion of section 26A:</p> <p>“26A. No prosecution under section 26(i)(j) or (k) may be instituted without the written authority of the National Director of Public Prosecutions.”</p>
105	1997	Criminal Law Amendment Act	<p>1. By the addition to Part 1 of Schedule 2 of the following item:</p> <p>“Any offence referred to in section 2, 5, 6, 7, 8, 9, 10 or 14 (in so far as it relates to the aforementioned sections) of the Protection of Constitutional Democracy against Terrorist and Related Activities Act, 2004, when it is proved that the offence has-</p> <p>(a) endangered the life or caused serious bodily injury to or the death of, any person, or any number or group of persons;</p> <p>(b) caused serious risk to the health or safety of the public or any segment of the public; or</p> <p>(c) created a serious public emergency situation or a general insurrection.”</p> <p>2. By the addition to Part II of Schedule 2, of the following item:</p> <p>“Any offence referred to in section-</p> <p>(a) 2, 5, 6, 7, 8, 9, 10 or 14 (in so far as it relates to the aforementioned sections) of the Protection of Constitutional Democracy against Terrorist and Related Activities Act, 2004, in circumstances other than those referred to in Part I; or</p> <p>(b) 4 or 13.”</p>
121	1998	Prevention of Organised Crime Act	<p>1. The substitution for the long title of the following long title:</p> <p>“To introduce measures to combat organised crime, money laundering and criminal gang activities; to prohibit certain activities relating to racketeering activities; to provide for the prohibition of money laundering and for an obligation to report certain information; to criminalise certain activities associated with gangs; to provide for the recovery of the proceeds of unlawful activity; for the civil forfeiture of criminal [assets] property that [have] has been used to commit an offence, [or assets] property that [are] is the proceeds of unlawful activity or property that is owned or controlled by, or on behalf of, an entity involved in terrorist and related activities; to provide for the establishment of a Criminal Assets Recovery Account; to amend the Drugs and Drug Trafficking Act, 1992; to amend the International Co-operation in Criminal Matters Act, 1996; to repeal the Proceeds of Crime Act, 1996; to incorporate the provisions contained in the Proceeds of Crime Act, 1996; and to provide for matters connected therewith.”</p> <p>2. The amendment of the preamble by—</p> <p>(a) the insertion after the tenth paragraph of the following paragraph:</p> <p>“AND WHEREAS effective legislative measures are necessary to prevent and combat the financing of terrorist and related activities and to effect the preservation, seizure and forfeiture of property owned or controlled by, or on behalf of, an entity involved in terrorist and related activities;”; and</p> <p>(b) the substitution for the eleventh paragraph of the following paragraph:</p> <p>“AND WHEREAS there is a need to devote such forfeited assets and proceeds to the combating of organised crime, [and] money laundering and the financing of terrorist and related activities;”.</p> <p>3. The insertion in section 1—</p> <p>(a) after the definition of “enterprise” of the following definition:</p> <p>“entity’ has a corresponding meaning with the expression in section 1 of the Protection of Constitutional Democracy against Terrorist and Related Activities Act, 2004;”;</p> <p>(b) after the definition of “property” of the following definition:</p> <p>“property associated with terrorist and related activities’ means property which—</p> <p>(a) was acquired, collected, used, possessed, owned or provided for the benefit of, or on behalf of, or at the direction of, or under the control of an entity which commits or attempts to commit or facilitates the commission of a specified offence as defined in the Protection of Constitutional Democracy against Terrorist and Related Activities Act, 2004; or</p>

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ACT NO.	YEAR	TITLE	EXTENT OF AMENDMENT OR REPEAL
121	1998	Prevention of Organised Crime Act	<p>(b) has provided financial or economic support to an entity in the commission or facilitation of an offence referred to in paragraph (a);”</p> <p>4. The substitution in section 38 for subsection (2) of the following subsection: “(2) The High Court shall make an order referred to in subsection (1) if there are reasonable grounds to believe that the property concerned— (a) is an instrumentality of an offence referred to in Schedule 1; [or] (b) is the proceeds of unlawful activities; or (c) is property associated with terrorist and related activities.”</p> <p>5. The substitution in section 50 for subsection (1) of the following subsection: “The High Court shall, subject to section 52, make an order applied for under section 48 (1) if the Court finds on a balance of probabilities that the property concerned— (a) is an instrumentality of an offence referred to in Schedule 1; [or] (b) is the proceeds of unlawful activities; or (c) is property associated with terrorist and related activities.”</p> <p>6. The substitution for section 51 of the following section: “Notice of reasonable grounds that property is concerned in commission of offence or associated with terrorist and related activities 51.(1) The National Director may apply to a judge in chambers or a magistrate for an order notifying a person having an interest in or control over property that there are reasonable grounds to believe that such property is an instrumentality of an offence referred to in Schedule 1 or is property associated with terrorist and related activities. (2) The judge or magistrate shall make an order referred to in subsection (1) if the judge or magistrate is satisfied that there are reasonable grounds to believe that the property concerned is an instrumentality of an offence referred to in Schedule 1 or property associated with terrorist and related activities. (3) When a judge or magistrate makes an order under subsection (1), the registrar of the High Court concerned or clerk of the Magistrate’s Court for the district concerned shall issue a notice in the prescribed form to the person referred to in the order, informing him or her that there are reasonable grounds to believe that property in which he or she has an interest or over which he or she has control, is an instrumentality of an offence referred to in Schedule 1 or property associated with terrorist and related activities. (4) A notice issued under subsection (3) shall be served on the person concerned in the manner in which a summons whereby civil proceedings in the High Court are commenced is served.”</p> <p>7. The substitution in section 52— (a) for subsection (2A) of the following subsection: “(2A) The High Court may make an order under subsection (1), in relation to the forfeiture of an instrumentality of an offence referred to in Schedule 1 or property associated with terrorist and related activities, if it finds on a balance of probabilities that the applicant for the order had acquired the interest concerned legally, and— (a) neither knew nor had reasonable grounds to suspect that the property in which the interest is held is an instrumentality of an offence referred to in Schedule 1 or property associated with terrorist and related activities; or (b) where the offence concerned had occurred before the commencement of this Act, the applicant has since the commencement of this Act taken all reasonable steps to prevent the use of the property concerned as an instrumentality of an offence referred to in Schedule 1 or property associated with terrorist and related activities.” (b) for subsection (3) of the following subsection: “(3) (a) If an applicant for an order under subsection (1) adduces evidence to show that he or she did not know or did not have reasonable grounds to suspect that the property in which the interest is held, is an instrumentality of an offence referred to in Schedule 1 or property associated with terrorist and related activities, the State may submit a return of the service on the applicant of a notice issued under section 51 (3) in rebuttal of that evidence in respect of the period since the date of such service. (b) If the State submits a return of the service on the applicant of a notice issued under section 51 (3) as contemplated in paragraph (a), the applicant for an order under subsection (1) must, in addition to the facts referred to in subsection (2) (a) and (2) (b) (i), also prove on a balance of probabilities that, since such service, he or she has taken all reasonable steps to prevent the further use of the property concerned as an instrumentality of an offence referred to in Schedule 1 or property associated with terrorist and related activities.”</p>

ACT NO.	YEAR	TITLE	EXTENT OF AMENDMENT OR REPEAL
121	1998	Prevention of Organised Crime Act	<p>(c) for subsection (4) of the following subsection:</p> <p>“(4) A High Court making an order for the exclusion of an interest in property under subsection (i) may, in the interest of the administration of justice or in the public interest, make that order upon the conditions that the Court deems appropriate including a condition requiring the person who applied for the exclusion to take all reasonable steps, within a period that the Court may determine, to prevent the future use of the property as an instrumentality of an offence referred to in Schedule 1 or property associated with terrorist and related activities.”</p> <p>8. The substitution in section 54 for subsection (8A) of the following subsection:</p> <p>“(8A) The High Court may make an order under subsection (i), in relation to the forfeiture of an instrumentality of an offence referred to in Schedule 1 or property associated with terrorist and related activities, if it finds on a balance of probabilities that the applicant for the order had acquired the interest concerned legally, and—</p> <p>(a) neither knew nor had reasonable grounds to suspect that the property in which the interest is held is an instrumentality of an offence referred to in Schedule 1 or property associated with terrorist and related activities; or</p> <p>(b) where the offence concerned had occurred before the commencement of this Act, the applicant has since the commencement of this Act taken all reasonable steps to prevent the use of the property concerned as an instrumentality of an offence referred to in Schedule 1 or property associated with terrorist and related activities.”.</p> <p>9. The substitution in section 68 for paragraph (b) of the following paragraph:</p> <p>“(b) to advise Cabinet in connection with the rendering of financial assistance to law enforcement agencies in order to combat organised crime, money laundering, criminal gang activities, the financing of terrorist and related activities and crime in general; and”.</p> <p>10. The insertion in Schedule 1 after item 32 of the following item:</p> <p>“32A Any specified offence as defined in the Protection of Constitutional Democracy against Terrorist and Related Activities Act, 2004;”</p>
46	1999	Nuclear Energy Act	<p>1. The insertion of the following new section 34A.:</p> <p>Offences relating to nuclear material</p> <p>34.A.(1) For purposes of this section, “international organisation”, has the meaning ascribed to it in section 1 of the Protection of Constitutional Democracy against Terrorist and Related Activities Act, 2004.</p> <p>(2) No person may-</p> <p>(a) intentionally and without lawful authority, receive, possess, use, transfer, alter, dispose of or disperse, nuclear material which causes or is likely to cause death or serious bodily injury to any person or substantial damage to property;</p> <p>(b) intentionally obtain nuclear material by means of theft or robbery;</p> <p>(c) intentionally obtain nuclear material by means of embezzlement or fraud;</p> <p>(d) intentionally demand nuclear material by threat or use of force, or by any other form of intimidation;</p> <p>(e) intentionally threaten to-</p> <p>(i) use nuclear material to cause death or serious injury to any person or substantial damage to property;</p> <p>(ii) commit an act described in paragraph (b) in order to compel a natural or legal person, international organisation or State to do or to refrain from doing any act;</p> <p>(f) use any nuclear material or device or use or damage a nuclear installation or nuclear plant in a manner which release or risk the release of radio-active material, with the intent to-</p> <p>(i) cause death or serious bodily injury;</p> <p>(ii) cause substantial damage to property or the environment; or</p> <p>(ii) to compel a natural or juristic person, an international organisation or a State to do, to abstain or refrain from doing an act; or</p> <p>(g) attempt, conspire with any other person, or aid, abet, induce, incite, instigate, instruct or command, counsel or procure another person, to commit an offence referred to in paragraphs (a) to (f).”</p> <p>2. The insertion in section 56(1) of the following new paragraph:</p> <p>“(h) performing any act prohibited under section 34A.”.</p> <p>3. The insertion of the following new paragraph in subsection 56(2):</p> <p>“(d) section 56(1)(h), to a fine or to imprisonment for a period up to imprisonment for life.”</p>

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ACT NO.	YEAR	TITLE	EXTENT OF AMENDMENT OR REPEAL
46	1999	Nuclear Energy Act	<p>4. The insertion of the following new section 56A: “Consent of National Director to institute proceedings and reporting obligations 56A (1) No prosecution under section 56(1)(h) may be instituted without the written authority of the National Director of Public Prosecutions. (2) The National Director must communicate the final outcome of the proceedings promptly to the Director General of the International Atomic Energy Agency if a person is prosecuted for an offence referred to in subsection (1), except where – (a) the offence was committed in the Republic; (b) the offence involved nuclear material used for peaceful purposes in domestic use, storage or transport; and (c) both the alleged offender and the nuclear material remained in the territory of the Republic.”</p>
38	2001	Financial Intelligence Centre Act	<p>1. The substitution for the long title of the following long title: “To establish a Financial Intelligence Centre and a Money Laundering Advisory Council in order to combat money laundering activities and the financing of terrorist and related activities; to impose certain duties on institutions and other persons who might be used for money laundering purposes and the financing of terrorist and related activities; to amend the Prevention of Organised Crime Act, 1998, and the Promotion of Access to Information Act, 2000; and to provide for matters connected therewith.”</p> <p>2. The insertion in section 1— (a) after the definition of “Director” of the following definition: “entity’ has a corresponding meaning with the expression in section 1 of the Protection of Constitutional Democracy against Terrorist and Related Activities Act, 2004; and (b) after the definition of “supervisory body” of the following definition: “‘offence relating to the financing of terrorist and related activities’ means an offence under section 4 of the Protection of Constitutional Democracy against Terrorist and Related Activities Act, 2004;”</p> <p>3. The substitution for section 3(1) of the following subsection: “(1) The principal objective of the Centre is to assist in the identification of the proceeds of unlawful activities and the combating of money laundering activities and the financing of terrorist and related activities.”</p> <p>4. The substitution for the heading to Chapter 3 of the following heading: “ CONTROL MEASURES FOR MONEY LAUNDERING AND FINANCING OF TERRORIST AND RELATED ACTIVITIES [CONTROL MEASURES]”.</p> <p>5. The insertion after section 28 of the following section: “Property associated with terrorist and related activities 28A.(1) An accountable institution which has in its possession or under its control property owned or controlled by or on behalf of, or at the direction of — (a) any entity which has committed, or attempted to commit, or facilitated the commission of a specified offence as defined in the Protection of Constitutional Democracy against Terrorist and Related Activities Act, 2004; or (b) a specific entity identified in a notice issued by the President, under section 25 of the Protection of Constitutional Democracy against Terrorist and Related Activities Act, 2004, must within the prescribed period report that fact and the prescribed particulars to the Centre. (2) The Director may direct an accountable institution which has made a report under subsection (1) to report— (a) at such intervals as may be determined in the direction, that it is still in possession or control of the property in respect of which the report under subsection (1) had been made, and (b) any change in the circumstances concerning the accountable institution’s possession or control of that property.”</p> <p>6. The substitution in section 29 for subsection (1) of the following subsection: “(1) A person who carries on a business or is in charge of or manages a business or who is employed by a business and who knows or ought reasonably to have known or suspected that— (a) the business has received or is about to receive the proceeds of unlawful activities or property which is connected to an offence relating to the financing of terrorist and related activities; (b) a transaction or series of transactions to which the business is a party— (i) facilitated or is likely to facilitate the transfer of the proceeds of unlawful activities or property which is connected to an offence relating to the financing of terrorist and related activities;</p>

ACT NO.	YEAR	TITLE	EXTENT OF AMENDMENT OR REPEAL
38	2001	Financial Intelligence Centre Act	<p>(ii) is unnecessarily complex, or forms part of an unusual pattern of transactions or has no apparent business or lawful purpose;</p> <p>(iii) is conducted for the purpose of avoiding giving rise to a reporting duty under this Act; [or]</p> <p>(iv) may be relevant to the investigation of an evasion or attempted evasion of a duty to pay any tax, duty or levy imposed by legislation administered by the Commissioner for the South African Revenue Service; or</p> <p>(v) relates to an offence relating to the financing of terrorist and related activities; or</p> <p>(c) the business has been used or is about to be used in any way for money laundering purposes or to facilitate the commission of an offence relating to the financing of terrorist and related activities,</p> <p>must, within the prescribed period after the knowledge was acquired or the suspicion arose, report to the Centre the grounds for the knowledge or suspicion and the prescribed particulars concerning the transaction or series of transactions.”</p> <p>7. The substitution in section 34 for subsection (1) of the following subsection:</p> <p>“(1) If the Centre, after consulting an accountable institution, a reporting institution or a person required to make a report in terms of section 28, 28A or 29, has reasonable grounds to suspect that a transaction or a proposed transaction may involve the proceeds of unlawful activities or property which is connected to an offence relating to the financing of terrorist and related activities or may constitute money laundering or [may constitute] a transaction contemplated in section 29(1)(b) it may direct the accountable institution, reporting institution or person in writing not to proceed with the carrying out of that transaction or proposed transaction or any other transaction in respect of the funds affected by that transaction or proposed transaction for a period as may be determined by the Centre, which may not be more than five days, in order to allow the Centre—</p> <p>(a) to make the necessary inquiries concerning the transaction; and</p> <p>(b) if the Centre deems it appropriate, to inform and advise an investigating authority or the National Director of Public Prosecutions.”</p> <p>8. The substitution in section 35(1) for paragraphs (a) and (b) of the following paragraphs, respectively:</p> <p>“(a) that person has transferred or may transfer the proceeds of unlawful activities or property which is connected to an offence relating to the financing of terrorist and related activities to the accountable institution or is using or may use the accountable institution for money laundering purposes or for the financing of terrorist acts or for the purpose of any transaction contemplated in section 29(1)(b); or</p> <p>(b) that account or other facility has received or may receive the proceeds of unlawful activities or property which is connected to an offence relating to the financing of terrorist and related activities or is being or may be used for money laundering purposes or for the financing of terrorist acts or for the purpose of any transaction contemplated in section 29(1)(b).”</p>
70	2002	Regulation of Interception of Communications and Provision of Communication-related Information Act	<p>1. In the Schedule to -</p> <p>(a) substitute for item 2, the following item:</p> <p>“2. any offence [relating to terrorism] referred to in paragraph (a) of the definition of ‘specified offence’ of the Protection of Constitutional Democracy against Terrorist and Related Activities Act, 2004.”</p> <p>(b) delete item 3.</p>

MEMORANDUM ON THE OBJECTS OF THE ANTI-TERRORISM BILL, 2004

BACKGROUND

1. The South African Law Reform Commission, on request of the Minister for Safety and Security reviewed the Republic's law in respect of terrorism. The report from the Commission indicated the need for new legislation to effectively deal with the prevention, investigation and combating of terrorist and related activities, both of a national and international character. International and regional obligations arising from international instruments relating to terrorist and related activities, and especially resolutions of the Security Council of the United Nations necessitate specific legislation to combat terrorist and related activities, by providing for measures in respect of jurisdiction, combating the financing of terrorism and the enactment of specific offences with penalties which reflect the seriousness of the offences. The Republic has ratified or acceded to all, but three of the 13 international instruments relating to terrorist and related activities, and desires to become party to the other instruments as soon as possible.

There is no universally accepted definition of terrorism. The Convention on the Prevention and Combating of Terrorism, adopted by the Organisation of African Unity has a definition of "terrorist act", and also excludes struggles waged by peoples, including any action during an armed struggle, in the exercise or furtherance of their legitimate right to national liberation, self-determination and independence against colonialism, or occupation or aggression or domination by alien or foreign forces, in accordance with the principles of international law, especially the international humanitarian law, including the purposes and principles of the Charter of the United Nations and the Declaration on Principles of International Law concerning Friendly Relations and Cooperation among States, from the definition of "terrorist". The Bill does not define terrorism, but defines "terrorist activity", and creates an offence of terrorism. The said struggles are also excluded in the Bill from the definition of "terrorist activity".

The offence of "terrorism" requires proof of a specific motive, as well as a specific intent. The acts which are criminalised in the offence of "terrorism", were identified through comparative research.

OBJECTS

- 2.1 The Bill seeks to address the above needs by the enactment of an offence of terrorism, Convention offences, offences associated and connected with terrorist activities, offences relating to the harbouring or concealment of those involved in specified offences, an offence for failure to report the presence of persons suspected of intending to commit or having committed an offence, offences relating to hoaxes. A threat, attempt, conspiracy and inducing another person to commit an offence are also criminalised. The Bill provides for an extended extraterritorial jurisdiction, in respect of terrorist and related activities. The Bill removes the political exception in certain cases (terrorist bombings and the financing of terrorist and related activities, of extradition in respect of terrorist and related offences, by amending the Extradition Act, 1962.
- 2.2 The Bill seeks to introduce measures to enable the Republic to combat the financing of terrorism, by appropriately amending the Prevention of Organised Crime Act, 1998, and the Financial Intelligence Centre Act, 2001, to make those Acts applicable to the combating of terrorist and related activities. Provision is made for civil and criminal asset forfeiture,

in respect of terrorist and related activities, the freezing of property related to terrorist and related activities, as well as property of entities in respect of which action must be taken pursuant to Resolutions of the United Nations Security Council under Chapter VII of the Charter of the United Nations. Notice must be given by the President, in the Gazette, of the names of such entities.

- 2.3 The Bill also seeks to facilitate the investigation of terrorist acts by providing for investigating powers, as well as powers in respect of the cordoning off and search and seizure.
- 2.4 No prosecution may be instituted in respect of offences committed under this Act, without the written authority of the National Director of Public Prosecutions.
- 2.5 Parliamentary supervision is provided for in respect of any notice issued by the President, pursuant to resolutions of the Security Council of the United Nations.
- 2.6 The Bill recognises struggles waged by peoples, in accordance with the international law, including any action during an armed struggle, in the exercise or furtherance of their legitimate right to national liberation, self-determination and independence against colonialism, or occupation or aggression or domination by alien or foreign forces.
- 2.7 Reporting obligations to the United Nations and other international institutions ensures that interaction between States take place in deciding whether to prosecute or extradite.

CONSULTATION

3. Extensive consultation and public participation took place as part of the review of the South African Law Reform Commission. Extensive public hearings were conducted, before the redraft of the Bill with the participation of the following Parliamentary Committees:

Joint Standing Committee on Intelligence, Portfolio Committee for Safety and Security, Portfolio Committee for Finance, Portfolio Committee for Foreign Affairs, and the Portfolio Committee of Justice and Constitutional Development. Extensive interdepartmental consultations took place throughout the drafting process.

FINANCIAL IMPLICATIONS FOR STATE

4. Since use is made of existing structures such as those contained in the Prevention of Organised Crime Act, 1998 (Act No. 121 of 1998), and the Financial Intelligence Centre Act, 2001 (Act No. 38 of 2001), no significant financial implications for the State are foreseen.

PARLIAMENTARY PROCEDURE

5. The South African Police Service and the State Law Advisers are of the opinion that this Bill must be dealt with in accordance with the procedure established by section 75 of the Constitution since it contains no provision to which the procedures set out in section 74 or 76 of the Constitution apply.

Hussein Solomon has provided a detailed, original, and useful study of global jihad activities in South Africa. Almost all of this information will be totally new to scholars and researchers on a subject which, as Professor Solomon shows, is a very important one for international security.

- *Professor Barry Rubin, Director*
Global Research in International Affairs (GLORIA) Center

The world has often expressed Africa as the Dark Continent which in academic circles intonates as the neglected continent; but not so for either the global jihad or Hussein Solomon. Whereas the former has had a negative impact on South Africa, the latter in this superbly researched and written volume offers an affirmative outlook of the South African government's stance against such terror. There is no alternative to such a stance nor is there an alternative to not reading this volume from cover to cover; it is the only such volume on this topic and will stand the test of time as a seminal study.

- *Dr Glen Segell*
FRGS, Institute for National Security Studies, Tel-Aviv

There are thousands of books on terrorism. However from the provocative Table of Content to the horrific details of terrorism in South Africa, Professor Solomon tests your ability to see complex topics from the simplicity of antidotes and the person. 'I am South African, please don't arrest me!' resonates all too well throughout the continent and in the post-Arab Spring muslim world. He brings the discussion beyond the usual mundane academic treatise to the sharp reality of the global dangers of politicised Islam. A muslim talking candidly about Islam. The bonus for the uninformed – an easy to comprehend Islam primer. The book is a must read for any serious student of terrorism!

- *Professor Anne Moisan*
US National Defense University



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