
The Islamic Forum

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Re ISLAMIC FORUM SUBMISSION - ANTI TERRORISM BILL - B12-2003

It is certainly understandable that South Africa desires to secure and safeguard its national and continental interests, make progress with its transformation process and fulfil the requirements and obligations of international conventions to further these ends. Furthermore it is understandable that South Africa needs to safeguard itself from any form of domestic terrorism whatsoever. Whilst the ATB attempts to address a segment of these issues, we hereby express our concerns and recommendations that we consider to be fundamental to the ATB: -

CLARIFICATION AND EXPANSION OF THE DEFINITION OF TERRORISM

The ATB in its definition of terrorism needs to crystallize the distinction between a terrorist, terrorist organization from legitimate freedom fighters and freedom fighting organizations. The ATB in its current format would have deemed every person or organization that participated in the liberation struggle in South Africa to be "terrorist". The adoption of a bill that purports such a position is certainly against the spirit and founding values upon which our South African nation achieved its liberation. We recommend that the definition of terrorism be expanded to specifically exclude legitimate freedom fighters and freedom fighting organizations or institutions.

VALUE BASED COMPLIANCE

South Africa's need for compliance with international conventions and instruments to pursue and achieve its transformation objectives must not diminish or compromise our nations principles or values. International demands or requirements in this regard should be rejected or amended to complement and reflect our underlying principles and values. Failure to boldly do so will render South Africa to become a "Bantustan" in the global community. Furthermore in our quest as a nation to be steadfast in upholding our founding principle values we must proactively safeguard South Africa being relegated to 'Rogue Nations' status.

IMBALANCE OF POWERS

The ATB in its current format confers unjust balance of powers between the State or its organs and the accused terrorist or terrorist organization. The ATB fails to balance the burden of proof of innocence by the accused with corresponding obligations and burdens of proof of guilt by the State or its organs. In the absence of a just



balance, the ATB permits the introduction of State Injustice. In this regard we should recall how Apartheid legislation was manipulated to permit gross injustices “legally”. The ATB must ensure that it does not become an entry point for unjust practices in the future.

INTERNATIONAL STATE TERRORISM BE INCORPORATED WITHIN ATB

South African quest for just legislation should reflect uniformity and be applicable to all forms of terrorism. A policy on State Terrorism and a separate ATB for other forms of terrorism reflect dual standards of justice. Palla Jordan expresses this concern by stating “South Africa, as a country is, and I am personally deeply committed to the struggle to rid the world of international terrorism. But in pursuance of that war there should be no double or triple standards that permit certain countries to set up, train, equip and finance international terrorist groups for use against countries and governments that they disapprove of.” (A Global Regime Built on Force, New Agenda, SA Journal of Social and Economic Policy, Issue 9, 1st Quarter 2003).

DOMESTIC TERRORISM BE ADDRESSED UNIQUELY

If current South Africa legislation is inadequate to address domestic terrorism, it would be appropriate to adopt or amend a bill specific to domestic terrorism. The need for the ATB with an international focus to address domestic terrorism requires further justification.

Dr Ashraf Moosa & Mahmood Amra

President & Past President: ISLAMIC FORUM, Durban.