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Eight steps to improve counter-terrorism measures in South Africa

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In recent years, South Africa has come to be used by international terrorists as a safe house, for paramilitary training purposes, as a base from which to plan attacks on other countries and as a conduit for financial transactions. South Africa's own counter-terrorism initiatives have been labelled 'reactive' by analysts. Indeed, the existing counter-terrorism regime suffers from a lack of political will to issues of corruption and ineptitude bedevilling the security apparatus of the state. However, using lessons learned from other countries, Pretoria can yet turn the tide against international terrorism by adopting more pro-active measures and by undertaking steps aimed at the depoliticisation and decriminalisation of the security forces.

Keywords Counter-terrorism, al-Qaeda, al-Shabaab, radicalisation, 2010 FIFA World Cup intelligence

Introduction

Global terrorism 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 Germany and the United Kingdom, as terrorists use South Africa as a base and operational hub for their activities elsewhere.² The South African government has belatedly recognised that there is a problem,³ specifically after the September 2009 al Shabaab threat. Following the killing of senior al Shabaab commander Saleh Ali Nabhan, the group decided to target United States (US) interests in South Africa in revenge. This campaign of terror was to widen in scope and escalate in intensity when the 2010 FIFA World Cup took place in the country.⁴ This recognition of the saliency of the terrorist threat seems to have receded now

that the World Cup is over. Radical reforms within the political establishment and security community are urgently needed 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 Holt 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.'⁵ 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 that has been posed; rather, they must be strategic decisions with corresponding technical objectives.⁶

What this paper attempts to do is to propose some solutions to deal with these counter-terror challenges. Eight proposals are offered, which are informed by international best practice. The first three proposals focus on honing law enforcement, the next two on prevention, and the last three stress the need to build strategic partnerships. It is only by adopting a holistic approach that covers all three areas that the terrorist scourge can be minimised.

Finding the requisite political will

Before turning to more practical measures, an important truism needs to be stated: 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 support for and harbouring of proscribed organisations, the government has not acted on its own Protection of Constitutional Democracy Against Terrorist and Related Activities Act, 2004 (Act 33 of 2004).⁷ While 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'.⁸ Although we have witnessed in recent years that South Africa is becoming a staging area for such terror attacks in other countries, the authorities have failed to act. In resisting efforts by the US to list the Dockrat cousins – Farhad and Junaid, who Washington accuses of supporting the Taliban and al-Qaeda – as terrorists, 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 means⁹ – precisely of what the Dockrat duo were accused. Why Pretoria would choose inaction over implementing the provisions of its own Act goes to the heart of political will.

One of the reasons put forward by analysts to account for this inaction is that the government does not wish to alienate the local Muslim population. Other reasons include that important segments within the African National Congress (ANC) still subscribe to the outdated notion that one man's terrorist is another's freedom fighter. Closely linked to this is the ANC's own struggle against the apartheid state, during which its members were viewed as terrorists by the likes of Ronald Reagan and Margaret Thatcher. As a result, terrorism is seen

as a 'Western' phenomenon by some senior policymakers and their threat perception is practically zero. In other words, terrorism is something that will not affect South Africa. Despite such sentiments, South Africa did indeed experience terrorism, as evidenced in the August 1998 Planet Hollywood bombings and the subsequent wave of urban terror in the Western Cape. Until South Africa finds the will to take decisive action against terrorism, no amount of policy documents or training of security personnel will fix the problem or grant South Africa's counter-terror efforts a modicum of credibility.

Depoliticisation and decriminalisation of the state security apparatus

It is a sad fact that the security services in South Africa have increasingly become politicised and criminalised. The criminalisation of the police is seen in the staggering levels of corruption within the organisation as well as the recent imprisonment of this country's former National Police Commissioner, Jackie Selebi. Selebi's trial also raised the issue of the extent of penetration of the security apparatus by organised crime syndicates. The criminalisation of the state security apparatus is neither a new nor a distinctly South African phenomenon. Other countries have experienced this and have reversed such criminalisation. While difficult, the examples of Colombia 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 penetrated to the same extent. In the Mexican case, it was the military that was seen to be least corrupt whilst the police was seen to be penetrated by the cartels.¹⁰ In South Africa, too, we could apply this lesson by utilising those institutions seen to be more effective and least corrupt to regain control of the apparatus of state. The South African situation is, however, complicated by the fact that one of the most efficient institutions of state, the Directorate of Special Operations or Scorpions, was disbanded.

In Colombia, 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 structures aggressively pursued those members who acted outside the law.¹¹ So, to stem the tide of the criminalisation of the state, the South African government could start by ensuring that the police implements its own Corruption and Fraud Prevention Strategy.¹²

Moreover, by coming to understand 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, 1999, and the Anti-Terrorism, Crime and Security Act, 2001.¹³

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 in its best interests, is a moot point. Should the ANC, however, find the requisite political will to depoliticise the intelligence community, it would find the way clearly

outlined in the report of the Ministerial Intelligence Review Commission of 2008. The findings of the commission, among others, pointed out the incredibly wide mandate given to the National Intelligence Agency (NIA) to gather political intelligence and urged that the 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'.¹⁴

The need to create a depoliticised and decriminalised and more effective intelligence apparatus is crucial if the war against the jihadists 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.'¹⁵

Ensuring a greater level of restraint

The South African security apparatus has moved too quickly to stop terrorists – often with disastrous consequences. The Khayelitsha al-Shabaab cell planning attacks on US interests, as discussed above, went underground following a premature announcement by National Police Commissioner Bheki Cele.¹⁶ Thus South African security agencies and their political masters need to learn restraint. As Smith reminds us, premature action can undermine the development of in-depth intelligence to neutralise an entire terrorist group.¹⁷ 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.¹⁸ Algeria, during its 'Dirty War' with Islamists, perhaps provides the quintessential example of this over-reaction, which resulted in the alienation of citizens. Thus restraint is needed to ensure that counter-terror responses are both effective and legitimate and therefore have the broad support of the population.

Moving from reactive to proactive measures

Analyst Anneli Botha has stated that South Africa is much too reactive in its approach to counter-terrorism.¹⁹ For example, it was of little use to apprehend and incarcerate terrorists after the 25 August 1998 Planet Hollywood bombing in Cape Town, when civilians had already been killed and maimed. As a result of technological strides, a single individual or a tiny cell can cause great damage. For this reason former US Secretary of State Colin Powell noted in 2002 that such terrorist mayhem needs to be pre-empted.²⁰ Put differently, the question is how to respond in a more proactive 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 French counter-terrorism practice. France learned hard lessons during the 1980s and 1990s when Islamist terrorism in the form of Hezbollah's network as well as the Algerian Armed Islamic Group staged attacks on French soil.²¹ Key elements of the French strategy included a special relationship between the intelligence services and dedicated magistrates. In this way, cases did not come to a dead stop when

suspected terrorists were brought before the court. Second, acts of terrorism were seen as an autonomous offence attracting higher penalties. In this way, too, the law itself served as a powerful deterrent. Third, the proactive 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'.²² Fourth, the proactive 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, because they realised that the nature of the threat was constantly mutating, that these changes had to be monitored and that all government institutions had to be involved in this process, the French elevated the fight against terror to a national priority. As Ludo Block noted, '[all] government institutions actively searched for indications and information pointing to processes of radicalism in society'.²³

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 that receives all this information and develops a strategy for the country as a whole.

While South Africa could do well to learn from the French experience, it should be noted that proactive measures need to be seen as a continuum. Although attempting to identify and disrupt processes of radicalism may be one of the first types of proactive measures, what happens if one faces an already radicalised jihadi? Other pro-active measures then need to be taken. These include disrupting terrorists' finances, destroying weapons caches and gathering information on terrorist training or destroying training camps. Failing this, in other words where one is dealing with a trained, armed terrorist with the financial resources to initiate the attack, other proactive measures still further down the continuum need be initiated. According to Boshoff and Schonteich²⁴ these would include isolating the target from the terrorist or the terrorist from the target or sabotaging the terror plan. This, of course, assumes that through good intelligence one would know what the targets are, who the terrorists are and what the plan is. For this reason, the South African state needs to consider long-term plans 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. In the case of the planned al-Shabaab attacks in the run-up to the 2010 FIFA World Cup, it was US and not South African intelligence that intercepted the mobile call from the al-Shabaab cell in Khayalitsha, outside Cape Town.²⁵ 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 Federal Bureau of Investigation and other federal security bodies to put wiretaps on suspects' telephones and permit unspecified and undefined interception of website browsing and e-mail activities of suspects.²⁶

Countering Islamist ideologies and their attendant radicalism

It is radical Islamist ideology that drives much of contemporary terrorism.²⁷ As such, the issues of radicalisation²⁸ and deradicalisation have to be dealt with by both the South African government and the South African Muslim community. The aim of such deradicalisation is the disruption of a few key elements in the critical pathways leading to radicalisation.²⁹ This deradicalisation lies at the core of what the Obama administration calls 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 radicalization from becoming terrorists. Its tools are noncoercive and include social programs, counter-ideology initiatives, and working with civil society to delegitimize the al Qaeda narrative and, where possible, provide possible alternative narratives.³⁰ 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 that 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. However, following the Riyadh compound bombing in May 2003, Riyadh realised that these strategies were insufficient.³¹ In addition to their counter-terror campaign, Saudi authorities therefore also developed a strategy aimed at discrediting the radical ideology of motivating and justifying terror.

The primary aim of the Saudi strategy was to confront ideas with ideas by emphasising that Islam is 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.³² More importantly, 3 200 Islamist prisoners have gone through a counselling process with *ulema* (religious leaders) well schooled in the jihadi discourse. Of these 3 200 prisoners, 1 500 have renounced their former radical beliefs.³³ Small wonder, then, that General David Petraeus has stated: ‘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.’³⁴

Might a similar programme not also be 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 offence.³⁵ At the same time platforms should be given to the moderate voices so they could be the dominant discourse – a discourse of reason. Another part of the strategy would be to ensure that moderate voices are not silenced as occurred in the 1990s when People Against Gangsterism and Drugs targeted moderate Muslim scholars and clerics.

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 communities³⁶ by essentially promoting 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.³⁷

Walid Phares³⁸ also proposes various other measures to curb extremism, including the following:

- Enact laws that would ban ideologies that discriminate within societies, divide humanity into war and peace zones and legitimise violence.
- Reform the education system to increase public awareness of the threat faced and to counter radicalism by promoting tolerance and pluralism.
- 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 they make a clear distinction between Islam and Islamism and between Muslims and Islamists. This would ensure that Islam and Muslims are not targeted by a populist backlash.

In this war of ideas, which is an integral part of any successful counter-terror strategy, issues of curbing the flow and assimilation of extremist ideas and its attendant deradicalisation are as important as acquiring human intelligence assets within terrorist organisations or disrupting their logistic supplies and command and control capabilities.

The need to develop smarter partnerships

The need to develop smarter partnerships to defeat terror networks is an imperative that stems from a number of motivations. First, problems like the politicisation and criminalisation of the state security apparatus will not be fixed overnight. In the short to medium term, therefore, the government may well have to rely on 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 while 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 an inclusive approach that specifically involved civil society and the media.³⁹ Such an inclusive approach would include citizens, especially the Muslim community, the business sector and the international community.

However, there are challenges in securing this cooperation – specifically partnerships with the international community. Such cooperation is contingent upon South Africa fixing its own internal security problems. After all, which foreign intelligence agency would want to fully share information with its South African counterparts when such information may be leaked to the suspect, as we witnessed in the Selebi trial with the National Police Commissioner passing sensitive information to Glenn Agliotti?⁴⁰ Should South Africa become a credible partner in the fight against global terrorism, it would not lack 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.’⁴¹

Regional dimensions

The terror threat is becoming increasingly regionalised. Frans Cronjé 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 at the southernmost tip of Africa.⁴² In addition to beefing up the national security apparatus, therefore, the sub-regional and regional architecture of African security also needs to be strengthened. At the regional level, the level of the African Union (AU), the Peace and Security Council 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 need 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 plans laid out on paper and measures actually being taken to implement this counter-terrorism regime. In

this regard the US State Department euphemistically refers to the AU's 'counter-terrorism capability gaps'.⁴³

One of the AU structures for instance – its African Centre for the Study and Research on Terrorism (ACSRT)⁴⁴ in Algiers – needs far greater resources and a much stronger mandate. Whilst states have traditionally been very protective when it comes to terrorism and resultant intelligence sharing, it is hoped that in view of the transnational nature of the threat posed, states will respond in a more collaborative fashion. After all, the likes of al-Shabaab and al-Qaeda in the Arab Maghreb constitute a threat to the sovereignty of all states. Whilst ACSRT sub-regional structures do coexist with sub-regional structures like the Southern African Development Community (SADC) and the Inter-Governmental Authority on Development, these have on the whole not been operationalised and integrated into other sub-regional structures like the Southern African Regional Police Chiefs Organisation. This must be rectified. 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. In its Tripoli Declaration of December 2008, the latter stressed the importance of educating 'religious leaders to address heresies and misinterpretation of the Holy Scriptures to ensure peaceful co-existence and tolerance'.⁴⁵ Partnering with civil society elements might not only strengthen the effectiveness of AU initiatives but also serve to legitimise them in the eyes of African citizens.

Such sub-regional co-operation should not preclude bilateral or even trilateral cooperation within Southern Africa. France and Spain for instance formed joint anti-terrorism investigation teams⁴⁶ in their efforts to neutralise the Basque separatist movement's violence directed against the Madrid government. Similarly, given the growing nexus between jihadis in South Africa and Mozambique,⁴⁷ these countries could form similar joint task teams. It should be noted that the SADC Protocol on Politics, Defence and Security Cooperation already provides for such bilateral and even trilateral measures.

Connecting the global and regional dimensions

The need to ensure that all efforts at national, bilateral, sub-regional, regional and international levels are synchronised is to prevent overlapping mandates, and foster greater cooperation and more efficient utilisation of existing resources 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 countered. 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, the Democratic Republic of Congo and elsewhere.

My earlier discussions focused on regional dimensions, but in order to ensure that all international efforts are synchronised, there also needs to be a connection between the region and global efforts. To a certain extent this is already starting to happen, especially in the areas of money laundering and anti-terrorism finance. The Financial Action Task Force (FATF), as the international standard-setting body for addressing threats of money laundering and terrorist financing, has spawned a number of regional bodies, or in official parlance, FATF-style regional bodies. Two such bodies in Sub-Saharan Africa are the Eastern and Southern Africa Anti-money Laundering Group and the Inter-Governmental Action Group against Money Laundering and Terrorist Financing.⁴⁸ This is an important development since it connects

the regional and the global, thereby squeezing terrorist organisations' access to finance on all levels. However, what is needed is for these connections between global and regional to be extended to other areas, including broader intelligence sharing and issues of radicalisation. After all, this is truly a global jihad with entities such as al-Shabaab operating not only in Mogadishu, but also in Cape Town, Copenhagen, Minnesota, Sana'a and Waziristan. Therefore 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, the war against the jihadis should not be dictated by Washington or London. Rather, it is crucial that it should remain a global initiative, and that leadership should therefore 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, which has the largest Muslim population in the world, and Saudi Arabia, which is the birthplace of Islam, are indeed taking the lead. Given the influence that the Islamic discourse is having on local South African Muslims, the moderation of the discourse internationally might well serve to positively impact on efforts at deradicalisation locally. At its summit in 2005 the Organisation of the Islamic Conference 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.'⁴⁹ In this regard, it is crucial that Pretoria works with progressive local and regional Muslim organisations to prevent their faith from being hijacked.

Conclusion

As al-Qaeda and its various regional offshoots feel the squeeze from Afghanistan and Pakistan to Sana'a and Somalia and further west and south, there is increasing evidence that some of these have decamped and have made their way to South Africa. Here they constitute a danger not only to South Africans but also countries further afield. Robust counter-terrorism measures are needed on the part of Pretoria. These should range from measures aimed at countering radical Islamist ideologies to the creation of better networks of human intelligence assets within radical organisations. All these measures should be aimed at moving counter-terror responses along the continuum from reactive to more proactive measures. To be effective, measures undertaken at the national level need to be complemented by measures at sub-regional, regional and global levels. However, none of these will work if the government lacks the political will or if the security apparatus is compromised by corruption or politicisation.

Notes

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