International Journal of Humanities and Social Sciences (IJHSS)
ISSN(P): 2319-393X; ISSN(E): 2319-3948
Vol. 4, Issue 1, Jan 2015, 7-16

International Academy of Science, Engineering and Technology
Connecting Researchers; Nurturing Innovations

TERRORISM, THE RULE OF LAW AND THE NIGERIAN NATION

O.W IGWE

Acting Head of Department, Jurisprudence and International Law, Faculty of Law, Rivers State University of Science and Technology, Port Harcourt, Rivers State, Nigeria

ABSTRACT

This paper will attempt an appraisal of the major challenges facing the Nigerian state from the perspective of the rule of law, namely, the challenges to security and the rule of law in the fight against terrorism. We consider that the discussion will not be complete without a referral to the issue of state of emergency. Nigeria is not alone in this challenge and reference will be made to other jurisdictions and particularly how the judiciary is expected to discharge its obligation in this very demanding situations. The rule of law is really on trial.

KEYWORDS: Terrorism, Rule of Law, Nigerian Nation, Literature on Human Rights and Terrorism

INTRODUCTION

Much of the literature on human rights and terrorism in recent years has tended to concentrate on the rights of terrorist suspects[1].The human rights implications of terrorism are clearly not so limited. But terrorist attacks are capable of seriously impacting upon some of the most fundamental human rights, particularly the rights to life and to physical integrity. The terrorist organization, *Boko Haram*, is virtually all over the nation leaving in its trail desolation, despair, misery and massive, systematic and consistent destruction of lives and property, putting the citizenry in state of great fear.

One of the primary obligations of the state is undoubtedly that of securing human rights and providing the conditions for their effective enjoyment[2]. Indeed failure to take adequate steps to protect all persons within its jurisdiction against terrorist threats may itself engage the state's international responsibility. Nonetheless, and in any event, the fact that the adoption of some counter-terrorism measures may be required as a matter of law, does not imply that states have *carte blanche* as regards measures they are able to take[3]. It is conceded, the survival of a state is not a matter of law, but it is a central tenet of international human rights that all persons are entitled to the protection of certain fundamental rights, irrespective of their nationality, status or even the crimes they have committed, and no matter how grave the threat posed to the wider community[4]. States are not permitted to fulfill their obligations to protect the rights of the wider population merely by disregarding the human rights of terrorists or terrorist suspects.

[1] See O.W Igwe, G.O Akolokwu (Mrs), 'The Monster that has Become our Neighbor; Applying the Rule of Law in the Ffight Against Terrorism in Nigeria', Available at www.ssrn.com.
[2] See, e.g., European Court of Human Rights, *Eigi* v. *Turkey* (App. no. 23818/94), Reports 1998-IV, para. 79; *Osman* v. *United Kingdom* (App. no. 23452/93) Reports 1998-VIII, para 115-116.
[3] See, e.g., Committee of Ministers of the Council of Europe, Guidelines on Human Rights and the Fight Against Terrorism (11 July 2002); Inter-American Commission on Human Rights, *Report on Terrorism and Human Rights*, OEA/Ser.L/V/116 Doc 5 rev. 1 Corr., (2002).
[4] See, *Saadi* v.*Italy (*App. no. 37201/06), Judgment of 28 February 2008 (GC).

In practice, counter-terrorism measures are often formerly justified by reference to consideration of national security, i.e., that law should not destroy the state creating it. Notwithstanding this, some rights, such as the right to freedom from torture, in relation to which international domestic law allows no 'balancing' against any other interest may be subjected to some limitations in order to accommodate the imperatives of national security. Seen in this context, some measures justified on the basis of the exigencies of national security (for example, the refusal to disclose evidence in order to protect intelligence operatives or sources) may ideally be seen as directly enhancing the ability of the state to effectively fulfill its duty to protect those within its territory. But where such a link is not so obvious, reliance on the somewhat nebulous notion of 'national security' may lend itself to abuses: in particular, the invocation of general considerations of national security is potentially dangerous if no scrutiny is given to the specific threat that the measures at issue are in fact aimed at preventing or countering.

In these situations, the rule oflaw with particular reference to the role of courts is seriously important in order to ensure that national security is not invoked as a catch-all or blanket justification. What is of needful here is that reliance on considerations of national security should be accompanied by independent judicial scrutiny, which should take into account the nature of the rights infringed, the particular threat relied upon and the relationship of necessity and proportionality of the measures taken to that threat.

In engaging in this discussion, a five dimensional approach will be adopted, as spread out into five broad categories. The first category grasp together cases relating to the definition of terrorism (and ancillary offences and conduct) and the application of the label of "terrorist" to individuals or groups, for instance for the purpose of prescription of organizations. The issues have come to the front burner not only in the context of criminal law, but also in relation to immigration matters. This is obvious where the designation of an individual as a terrorist is invoked in order to justify expulsion or refusal of asylum.

The second category is inclusive of those cases concerning measures restrictive of liberty, adopted against individuals as a result of the threat which they are perceived to pose. The paradigm cases include imprisonment, internment or other forms of preventive detention based on an assessment that the individual in question poses a threat to society because they are likely to attempt to carry out terrorist attacks. Others are cases that concern the permissibility of detention of non-national terrorist suspects with a view to deportation. In the same category are wider issues which are not necessarily confined to terrorism cases, such as the length of permissible detention prior to charge and the adequacy of grounds for suspicion justifying detention.

The third category of cases concerns restrictions on the disclosure of information to an accused and/or other interested parties in the context of judicial proceedings and other, wider issues of fair (hearing) trial. Regarding this, aside of the issue of whether trials of terrorist offences are required to be held in public, issues arise as to whether the state can rely before the courts upon information which the individual affected has not seen or had the opportunity to deny. Additional to the obvious impact they might have on the right to fair trial, the restrictions in question give rise to issues as to other rights, such as freedom of expression, particularly, freedom of the press and the right of the public to be informed.

In the fourth category is the recurring themes of a more general nature, i.e., the issue of judicial control over the use of emergency power. This is central to our presentation bearing in mind its application in the three North-eastern states of Borno, Adamawa and Yobe. Of interest is the role of the courts in relation to matters of national security and the degree of deference which the judiciary should accord to decisions of the executive and legislature upon such questions.

The fifth and final category groups together the situations dealing with the power of the courts to review the positions adopted by governments in the face of human rights violations committed by other states and required the executive to take particular concrete steps in that direction.

DEFINING TERRORISM

The issue of terrorism in its present desperate form can be said to be relatively new in Nigeria. The *Boko Haram* onslaught has brought what was relatively unknown to us shockingly real. It has equally brought to our sensibilities that it is a challenge we must live with, a challenge that cannot be wished away notwithstanding the level of political connotation that adorn it. That dreaded monster is here with us.

Since the terrorist attacks of 9/11, a number of countries have amended their existing anti-terrorism legislation or adopted new laws with the ostensible aim of better dealing with the threat caused by its international status. Notwithstanding the continuing lack of *consensus* at the international level as to the definition of terrorism in several cases these laws have introduced new definitions of terrorism and new terrorism-related offences.

Reacting on the desirability of a legal notion of terrorism, Richard Baxter said:

> *We have cause to regret that a legal concept of terrorism was ever inflicted upon us. The term is imprecise; it is ambiguous; and above all, it serves no operative legal purpose*[5].

The challenge here is that more than 35 years thereafter and 12 years of the so-called 'war on terror'[6], the lack of international *consensus* as to the definition of terrorism continue to underscore the controversial nature of the subject. Notwithstanding how the controversy sounds, so long as legal effects are triggered by reference to notions of 'terrorism', e.g. the criminalization of conduct, the power (and obligation) to freeze assets of companies and individuals, or the outlawing of organizations, a definition of the notion of terrorism becomes inevitable despite the doubts which may be expressed as to its utility and the very real difficulties in finding a universally acceptable formulation.

The Secretary-General of the United Nations in his report of 2008 on 'Measures to Eliminate International Terrorism' noted that, as of January 2008, there were thirty international legal instruments relating to the prevention and suppression of international terrorism. Of these, 16 instruments are universal in scope, whilst, 14 are regional. And the number of states which have ratified each instrument varied from none for some of the most recent instrument, to 185 in relation to the 1971 Montreal Convection on the Suppression of Unlawful Acts against the Safety of Civil Aviation.[7] Nigeria ratified this instrument on 6 August 1973.

The real challenge is not the absence of international legal instruments relating to terrorism, but rather the piece-meal fashion that the problem is addressed, moreso, the failure of efforts to agree upon a single unitary definition.

---

[5]Richard R. Baxter, "A Skeptical Look at the Concept of Terrorism", 7 *Akron Law Review*, Vol. 7, 1974, p. 380.

[6] See G. W. Bush, Address to a Joint Session of Congress and the American People, 20 September 2001; "Our war on terror begins with *al Qaeda*, but it does not end there. It will not end until every terrorist group of global reach has been found, stopped and defeated" (the text of the speech is available at; <http://www.whitehouse.gov/news/releases/2001/09/20010920-8. html> last accessed on 25/5/2014).

[7] See Silvia Borelli, "Challenges to Security and the Rule of Law in the Fight Against Terrorism: Judicial Responses from the Commonwealth", *Commonwealth Human Rights Law Digest*, Interights, London, 2008, p.3

The treaties of universal scope[8] address specific categories of terrorist acts, such as hostage taking or aircraft hijacking. With respect to regional instruments, most address terrorism generally.[9]

The treaties which address terrorism in a broad sense, in contrast to prohibiting specific forms or manifestations of terrorism, tend to refer to the acts prohibited by the treaties criminalizing particular acts of terrorism,[10] and/or provide a further unique definition of terrorism. One treaty of note that has provided its own general definition of terrorism is the International Convention for the Suppression of Financing of Terrorism. In addition to making reference to the offences contained in the other treaties of global scope,[11] defines the relevant offences of financing with regard to any act:

> *Intended to cause death or serious bodily injury to a civilian, or to any other person not taking an active part in hostilities in a situation of armed conflict, when the purpose of such act, by its nature or context, is to intimidate a population, or to compel a government or an international organization to do or to abstain from doing an act.*[12]

The scope of the applicability of most anti-terrorism treaties is limited to acts which cause or are intended to cause death, serious injury, and/or serious property or environmental damage.[13] This is mostly carried out with the intention of instilling fear in the public, destabilizing the state or its services, or forcing or staying the hand of a public body. Art. 1(3)(a) of the Organization of Africa Unity Convention on the Prevention and Combating of Terrorism 1999 states that 'terrorist act' means:

> *Any act which is a violation of the criminal laws of a state party which may endanger the life, physical integrity or freedom of, or cause serious injury or death to, any person, any member or group of persons or causes or may cause damage to public or private property, natural resources, environmental or cultural heritage and is calculated or intended to:*
>
> *(a) intimidate, put in fear, force, coerce or induce any government, body, institution, the general public or any segment thereof…*[14]

[8] For example, see:The International Convention for the Suppression of the Financing of Terrorism, 9 December 1999, entry into force 10 April, 2002. Nigeria signed this instrument on 1 June 2000 and ratified same on 16 June 2003.
[9] Exception being the OAS Convention to Prevent and Punish Acts of Terrorism Taking the Form of Crimes Against Persons and Related Extortion that are of International Significance.
[10] See Art. 2(1) of the International Convention for the Suppression of Financing Terrorism
[11] *Ibid*, Art. 2(1)(b).
[12] *Ibid*, Art 2(1)(b)
[13] See, e.g., SAARC Regional Convention on Suppression of Terrorism, Art. 1(e) (covering murder, manslaughter, assault causing bodily harm, kidnapping, hostage taking and offences relating to firearms, weapons, explosives and dangerous substances when used as a means to perpetrate indiscriminate violence involving death or serious bodily harm etc.)
[14] See, also Art. 2 of the Protocol to the OAU Convention on the Prevention and Combating of Terrorism, 2004.

The Arab Convention on the Suppression of Terrorism, 1998 in Articles 1 and 2 defines terrorism in both broader and narrower dimensions than that found in other international instruments – broader in the sense that there is no explicit minimum level of harm required and in that it includes "any offence punishable by domestic law which is committed in furtherance of a terrorist objective"[15] and narrower in that it excludes "cases of struggle by whatever means, including armed struggle, against foreign occupation and aggression for liberation and self-determination[…]"[16]

Whichever dimension these definitions go, it justifies the recent classification of *Boko Haram* as a terrorist group by the United Nation. The USA had previously undertaken such classification of the sect. The immediate implication of this classification is to elevate this sect to the status of objects of international law and to subject its activities variously as crimes against humanity for which the processes of international engagement shall be directed against it.

RESTRICTING INDIVIDUAL LIBERTY

The bulk of the human rights litigation relating to counter-terrorism has been concerned with deprivation of liberty of terrorists and terrorist suspects. Freedom from arbitrary deprivation of liberty is a well-established human right, protected by both Customary International law and regional and universal human rights instruments, as well as Constitutions of many states. For instance Section 35 of the 1999 Constitution of Nigeria guarantees in sub (1), that "Every person shall be entitled to his personal liberty and no person shall be deprived of such liberty" under certain classified exceptions. Under the Universal Declaration of Human Rights, the right to liberty and security of the person enshrined in Article 3 is complemented by the prohibition of arbitrary arrest, detention or exile set forth in Article 9. All of the international human rights instruments of a general scope contain provisions aimed at strictly circumscribing the circumstances in which the state may deprive individuals of their liberty. At the international level, the prohibition of arbitrary detention is consecrated by Article 9 of the ICCPR; and as for the regional human rights instruments, the right to liberty and security is protected by Article 5 of the ECHR, Article 7 of the ACHR, Articles 1 and XXV of the ADHR and Article 6 of the ACHPR.

Further, justification for limitations of the right to liberty have also been elaborated upon in a number of soft-law instruments. The UN Body of Principles for the Protection of all Persons under Any Form of Detention or Imprisonment,[17] for instance, specifies that detention of individuals pending investigation and trial should be carried out 'only for the purposes of the administration of justice on grounds and under certain conditions and procedures specified by law', and moreso, that restrictions on liberty not strictly required to 'prevent hindrance to the process of investigation or administration of justice, or for the maintenance of security and good order in the place of detention shall be forbidden'.[18]

Our interest here is primarily with situations in which the right to liberty is fully applicable. Of note though is the recognition that the right to liberty and security under most human rights instruments is not an absolute right and limited derogations in times of emergencies are permitted. But the core guarantees of the right to liberty cannot be subject of derogation in any circumstances. These guarantees include the right to petition for a writ of *habeas corpus,*[19] the

[15] Art. 1(3) of the Arab Convention on the Suppression of Terrorism.
[16] *Ibid*, Art. 2, Art. 3(1) of the OAU Convention on the Prevention and Combating of Terrorism similarly excludes struggle for self-determination or liberation.
[17] Body of Principles for the Protection of All Persons under Any Form of Detention, General Assembly Res. 43/173, Annex (9 December 1988). UN Doc
[18] *Ibid.*, Art. 5(1)(c)
[19] Reliance may be had on Enforcement Proceedings under Section 46(3) of 1999 Constitution of Nigeria.

prohibition of *incommunicado* detention and the related right of access to counsel, and the prohibition of secret or unacknowledged detention.

It must be emphasized that some aspects of the right to liberty under international human rights law are of particular relevance in the context of counter-terrorism. Firstly, the requirement that any deprivation of liberty must be promptly subjected to judicial oversight constitutes a crucial guarantee against arbitrary detention and abuse in the context of investigations. The second relevant aspect concerns the extent to which states are permitted to subject individuals to detention, or place other restrictions on their liberty, where the authorities either lack the intent or the evidence to prosecute them. Finally, issues arise as to the duration for which states may detain foreign nationals with a view to the eventual deportation.

In any case, the continued legitimacy of immigration detention – including any invocation by government of national security – must be subject to periodic review and must not continue past the "period for which the state can provide appropriate justification".[20]

RESTRICTING ACCESS TO INFORMATION IN THE NAME OF NATIONAL SECURITY

The perceived terrorist threat and related considerations of national security have also had an impact on the conduct of judicial proceedings and on the right to freedom of expression and access to information. Arguably, the most serious issue in this regard is the use of information which is not disclosed to the individual against whom it is used or their legal representative on the basis that disclosure would undermine national security, although the information is placed before the court or other judicial body. In some jurisdictions (notably Canada and the UK) schemes have been adopted under which independent counsels with appropriate security clearance are given access to the restricted information and represent the interests of the individual (albeit without being able to communicate the content of the information to the individual or his lawyers). In the UK, this approach has been subjected to some qualifications, being upheld as consistent with the right to fair trial.[21]

In the case of *Charkaoui* v. *Canada (Citizen and Immigration),*[22] the Canadian Supreme Court set aside a statutory provision authorizing the withholding of information from the affected individuals in immigration proceedings on national security grounds. In the said case, the court held that the provision authorizing the withholding of the information was inconsistent with S. 2 of the Canadian Charter on Rights (protecting the right to life, liberty and security of the person), as the limitation of the rights of the individuals involved was not justifiable in a free *and democratic* society, precisely given the absence of provision for a special advocate procedure in immigration proceedings. In response to the decision of the Supreme Court, the Government introduced a bill to amend the relevant legislation by providing for a special advocate procedure,[23] which became law in early 2008.[24]

[20]*Shafiq*v. *Australia*, Decision of the Human Rights Committee of 31 October 2006: UN doc. CCPR/C/88/D/1324/2004. Para. 7.2.
[21] Qualified support for the use of an analogous special advocate procedure in a different context was given by the House of Lords in *R* v. *Parole Board* (2005) UKHL 45.
[22]*Charkaoui* v. *Canada (Citizenship and Immigration)*, 2007 SCC 9
[23]*Charkaou*i v. *Canada (Citizenship and Immigration)*, 2007 SCC 9
[24]Sec: <http://www.publicsafety.gc.ca/media/nr/2007/nr 20071022-1-eng.aspx> (last accessed: 25/5/2014).

Issues concerning how to reconcile national security concerns with the right to fair trial have also arisen in relation to public hearings of terrorism trials. In *Vancouver Sun* v. *Attorney General*,[25] the Canadian Supreme Court ruled that there was no presumption that the public had to be excluded from hearings in criminal proceedings relating to terrorism charges and that, in exercising their discretion in that regard, trial judges should start from the presumption that hearings should be open to the public. A similar issue arose in the British case of *R (on the application of A)* v. *Central Criminal Court*,[26] where the Court of Appeal ruled that, on the particular facts of the case, it was appropriate for certain evidence put forward by the prosecution to be heard in *camera* with the defendant and his legal team present but the public and the media being excluded. Although the Court of Appeal upheld the order to hold part of the hearing in *camera* on the grounds of national security, it emphasized that "[t]he starting point is that every infringement of the principle of open justice is significant".[27]

JUDICIAL CONTROL OVER THE INVOCATION AND USE OF EMERGENCY POWERS

The extent to which courts have been prepared to scrutinize and, where necessary, to censure the use of emergency powers by the executive varies from jurisdiction to jurisdiction. It must be pointed out that even in periods of emergency, the rule of law is not silenced rather it is regulated by the rule of law since it is law that sanctions its imposition.[28]

In the *Belmash* case, the House of Lords proceeded to actually assess the legality of the UK derogation from Article 5 of the European Convention on Human Rights in relation to the indefinite interment of foreign terrorist suspects, finding that is was unlawful.[29] Notwithstanding that the majority deferred to the Government's judgment that an emergency "threatening the life of the nation" existed,[30] their Lordships went on to conclude that the derogation was unlawful on the ground that it was disproportionate and discriminatory since it was only applicable to foreign nationals, while similar threats might equally be posed to British nationals.

Cases pre-dating the events of 9/11 offer precedents: the Supreme Court of Pakistan ruled that the creation of military courts which had been justified by reference to terrorist attacks, could not be founded upon the powers of the military applicable during a state of emergency and was unconstitutional. Again, the Supreme Court in *Farooq Ahmed Khan Reghari* v. *Federation of Pakistan* affirmed its jurisdiction to examine whether, following a series of nuclear tests in India and hostile statements by its political leaders, a state of emergency in fact existed within the meaning of the constitution.[31] Having found that the Government's proclamation of a state of emergency was *prima facie* justified, the court went on to find that the extent of the suspension of constitutional rights was excessive.

Similarly, an assertive approach in assessing the Government's reliance on national security concerns was adopted by the Supreme Court of Sri Lanka in *Thavaneethan* v. *Commissioner of Elections*, where the court rejected the argument that general national security considerations in the absence of any proven specific threat were sufficient to justify

[25]*R (on the application of A)* v. *Central Criminal Court* (2006) ECWA Crim. 4
[26]*Ibid*., at para. 22: (2006) 1 WLR 1368.
[27]See, generally S. 305 of the 1999 Constitution of Nigeria.
[28]*A and others* v. *Secretary of State for the Home Department* (2004) UKHL 56; (2005) 2 AC 68
[29]Although cf. Lord Hoffman who was of the view that no such emergency 'threatening the life of the nation' existed, and the derogation should have been held to be unlawful on that basis (*Ibid*, at paras 88-97; (2005) 2 AC 130-132)
[30]*Mehram Ali* v. *Federation of Pakistan* and *Sheikh Liaqat Hussain* v. *Federation of Pakistan*, PLD 1998 SC 1445; PLD 1999 SC 504.
[31]*Farooq Ahmed Khan Leghari* v. *Federation of Pakistan*, PLD 1999 SC 57

restrictions on the right to vote.[32]

STATE ACTION IN THE FACE OF VIOLATIONS BY OTHER STATES

The notorious instances of violation of internationally recognized human rights standards which have taken place since the events of 9/11 have resulted in efforts aimed at clarifying through litigation whether and in what circumstances states may be required to or to refrain from particular action in reaction to violations of human rights by a third state.

Under international human rights, it is well-established that an individual may not, under any circumstances and irrespective of his or her actions, be extradited or deported to a state where there is a real risk that he or she will be subject to torture or other cruel, inhuman or degrading treatment. This principle is expressly provided for by Article 3 of the UN Convention against torture and has been recognized in the leading cases of *Soering* v. *United Kingdom*,[33] and *Kindler* v. *Canada*.[34]

But there have been attempts by some states to qualify the operation of the principle so as to permit balancing of the risk that the rights of the individual may be violated in the receiving country against the risk to the rights of others as a result of the threat posed by the individual in question. A middle course may be taken where assurances are extracted from the receiving state that the individual will not be subjected to treatment in violation of his or her fundamental rights upon return. This is very needful since the threat of *Boko Haram* has been assessed to have involvement of foreign elements. The treatment of these foreign elements must be in accordance with the rule of law.

CONCLUSIONS

The threat facing Nigeria now should not mislead some into thinking that *coup d' et at* is an option. The question of *coup d' et at* in any manifestation is a clear breach of the rule of law. It has not only become old fashioned, irresponsible and *totally condemnable*, for Nigeria, it now attracts dire consequences.

The African Charter on Democracy, Elections and Governance which entered into force recently on February 15, 2012 and which Nigeria has ratified, not only prohibits *coup d' et at* in all its entirety, Articles 23-25 prescribes severe sanctions.

It is no more business as usual. The status of its legality can no more be hinged merely on the fact of its success. The fact that a *coup d' et at* is successful is no more material. Its rejection and illegality cannot be compromised or re-packaged. Africa has rejected it completely.

Whether at peace, war or in emergency, the rule of law speaks the same simple language; that actions of individuals, groups, institutions and government at all levels must be in accord with the laws of the land and this includes international human rights law.

[32]*Thavaneethan* v. *Commissioner of Elections* (Supreme Court of Sri Lanka), 23 March 2004.
[33]*Soering* v. *United Kingdom*, Series A. No 161 (1989)
[34]*Kindler* v. *Canada* (Comm. No. 470/1999), views of the Human Rights Committee of 30 July 1993: UN doc. CCPR/C/48/D/470/1991.

REFERENCES

1. See O.W Igwe, G.O Akolokwu (Mrs), 'The Monster that has Become our Neighbor; Applying the Rule of Law in the Ffight Against Terrorism in Nigeria', Available at www.ssrn.com.
2. See, e.g., European Court of Human Rights, *Eigi* v. *Turkey* (App. no. 23818/94), Reports 1998-IV, para. 79; *Osman* v. *United Kingdom* (App. no. 23452/93) Reports 1998-VIII, para 115-116.
3. See, e.g., Committee of Ministers of the Council of Europe, Guidelines on Human Rights and the Fight Against Terrorism (11 July 2002); Inter-American Commission on Human Rights, *Report on Terrorism and Human Rights*, OEA/Ser.L/V/116 Doc 5 rev. 1 Corr., (2002).
4. See, *Saadi* v.*Italy (*App. no. 37201/06), Judgment of 28 February 2008 (GC).
5. Richard R. Baxter, "A Skeptical Look at the Concept of Terrorism", 7 *Akron Law Review*, Vol. 7, 1974, p. 380.
6. See G. W. Bush, Address to a Joint Session of Congress and the American People, 20 September 2001; "Our war on terror begins with *al Qaeda*, but it does not end there. It will not end until every terrorist group of global reach has been found, stopped and defeated" (the text of the speech is available at; <http://www.whitehouse.gov/news/releases/2001/09/20010920-8. html> last accessed on 25/5/2014).
7. See Silvia Borelli, "Challenges to Security and the Rule of Law in the Fight Against Terrorism: Judicial Responses from the Commonwealth", *Commonwealth Human Rights Law Digest*, Interights, London, 2008, p.3
8. For example, see:The International Convention for the Suppression of the Financing of Terrorism, 9 December 1999, entry into force 10 April, 2002. Nigeria signed this instrument on 1 June 2000 and ratified same on 16 June 2003.
9. Exception being the OAS Convention to Prevent and Punish Acts of Terrorism Taking the Form of Crimes Against Persons and Related Extortion that are of International Significance.
10. See Art. 2(1) of the International Convention for the Suppression of Financing Terrorism
11. *Ibid*, Art. 2(1)(b).
12. *Ibid*, Art 2(1)(b)
13. See, e.g., SAARC Regional Convention on Suppression of Terrorism, Art. 1(e) (covering murder, manslaughter, assault causing bodily harm, kidnapping, hostage taking and offences relating to firearms, weapons, explosives and dangerous substances when used as a means to perpetrate indiscriminate violence involving death or serious bodily harm etc.)
14. See, also Art. 2 of the Protocol to the OAU Convention on the Prevention and Combating of Terrorism, 2004.
15. Art. 1(3) of the Arab Convention on the Suppression of Terrorism.
16. *Ibid*, Art. 2, Art. 3(1) of the OAU Convention on the Prevention and Combating of Terrorism similarly excludes struggle for self-determination or liberation.

17. Body of Principles for the Protection of All Persons under Any Form of Detention, General Assembly Res. 43/173, Annex (9 December 1988). UN Doc
18. *Ibid.,* Art. 5(1)(c)
19. Reliance may be had on Enforcement Proceedings under Section 46(3) of 1999 Constitution of Nigeria.
20. *Shafiq*v. *Australia,* Decision of the Human Rights Committee of 31 October 2006: UN doc. CCPR/C/88/D/1324/2004. Para. 7.2.
21. Qualified support for the use of an analogous special advocate procedure in a different context was given by the House of Lords in *R* v. *Parole Board* (2005) UKHL 45.
22. *Charkaoui* v. *Canada (Citizenship and Immigration),* 2007 SCC 9
23. *Charkaou*i v. *Canada (Citizenship and Immigration),* 2007 SCC 9
24. Sec: <http://www.publicsafety.gc.ca/media/nr/2007/nr 20071022-1-eng.aspx> (last accessed: 25/5/2014).
25. *R (on the application of A)* v. *Central Criminal Court* (2006) ECWA Crim. 4
26. *Ibid*., at para. 22: (2006) 1 WLR 1368.
27. See, generally S. 305 of the 1999 Constitution of Nigeria.
28. *A and others* v. *Secretary of State for the Home Department* (2004) UKHL 56; (2005) 2 AC 68
29. Although cf. Lord Hoffman who was of the view that no such emergency 'threatening the life of the nation' existed, and the derogation should have been held to be unlawful on that basis (*Ibid*, at paras 88-97; (2005) 2 AC 130-132)
30. *Mehram Ali* v. *Federation of Pakistan* and *Sheikh Liaqat Hussain* v. *Federation of Pakistan*, PLD 1998 SC 1445; PLD 1999 SC 504.
31. *Farooq Ahmed Khan Leghari* v. *Federation of Pakistan,* PLD 1999 SC 57
32. *Thavaneethan* v. *Commissioner of Elections* (Supreme Court of Sri Lanka), 23 March 2004.
33. *Soering* v. *United Kingdom*, Series A. No 161 (1989)
34. *Kindler* v. *Canada* (Comm. No. 470/1999), views of the Human Rights Committee of 30 July 1993: UN doc. CCPR/C/48/D/470/1991.