

(South) Africa and the Control of Non-State Nuclear Proliferation: Extra-Territorial Jurisdiction with Reference to UNSC Resolutions 1540 and 1373

Recommended Citation

"(South) Africa and the Control of Non-State Nuclear Proliferation: Extra-Territorial Jurisdiction with Reference to UNSC Resolutions 1540 and 1373", NAPSNet Special Reports, May 12, 2011, <https://nautilus.org/napsnet/napsnet-special-reports/stott-south-africa/>

(South) Africa and the Control of Non-State Nuclear Proliferation: Extra-Territorial Jurisdiction with Reference to UNSC Resolutions 1540 and 1373

Noël Stott

May 12, 2011

This is a paper from the Nautilus Institute workshop "Cooperation to Control Non-State Nuclear Proliferation: Extra-Territorial Jurisdiction and UN Resolutions 1540 and 1373" held on April 4th and 5th in Washington DC with the Stanley Foundation and the Carnegie Endowment for International Peace. This workshop explored the theoretical options and practical pathways to extend states' control over non-state actor nuclear proliferation through the use of extra-territorial jurisdiction and international legal cooperation.

Other papers and presentations from the workshop are available [here](#).

Nautilus invites your contributions to this forum, including any responses to this report.

CONTENTS

[I. Introduction](#)

[II. Article by Noël Stott](#)

[III. References](#)

[IV. Nautilus invites your responses](#)

I. Introduction

Noël Stott, Senior Research Fellow at the Institute for Security Studies, offers an overview of UN Security Council Resolutions 1540 and 1373 in the African and South African contexts with specific recommendations for implementation, including "streamlining the various counter-terrorism committees, including those established pursuant to Resolutions 1267 (1999), 1373 (2001) and 1540 (2004), so that together they could form a coordinated UN Security Council body for the prevention and combating of terrorism."

The views expressed in this article are those of the author and do not necessarily reflect the official policy or position of the Nautilus Institute. Readers should note that Nautilus seeks a diversity of views and opinions on significant topics in order to identify common ground.

II. Article by Noël Stott

-"(South) Africa and the Control of Non-State Nuclear Proliferation: Extra-Territorial Jurisdiction with Reference to UNSC Resolutions 1540 and 1373"

By Noël Stott

South Africa: Disarmament, Non-proliferation and Arms Control

South Africa, in the African context is somewhat unique. It is a country that has, since 1994, committed itself to a policy of disarmament, non-proliferation and arms control as an integral part of its constitutional provisions relating to democracy, human rights, sustainable development, social justice and environmental protection. Democratic South Africa has therefore acceded to a range of international agreements. [1] The country also actively and constructively participates in a number of fora designed to promote multilateral approaches to arms control and disarmament.

South Africa, having the most advanced arms, chemical, biological and nuclear industries in Sub-Saharan Africa, also has comprehensive legislation aimed at preventing the misuse of such materials and to reinforce and promote its vision of being a responsible producer, possessor and trader of advanced technologies in the nuclear, biological, chemical and conventional arms fields. [2] Examples include: the Non-proliferation of Weapons of Mass Destruction Act (Act No. 87 of 1983); National Conventional Arms Control Act [No. 41 of 2002]; Armaments Development and Production Amendment Act (No. 31 of 1993) and the Regulation of Foreign Military Assistance Act, 1998 (Act No 15 of 1998), and, where relevant, their associated amendments and regulations. [3]

South Africa has established a number of inter-departmental structures, in order to concretize these policies, laws and commitments. Examples include, the National Conventional Arms Control

Committee (NCACC) - a committee of Ministers appointed by Cabinet to ensure political oversight over all arms transfers; the South African Non-Proliferation Council for Weapons of Mass Destruction (NPC) - which administers the Non-proliferation of Weapons of Mass Destruction Act (Act No. 87 of 1983) and controls the transfer (export/import/transit/re-export) of dual-use technology, materials and goods.

South Africa: Counter-Terrorism

South Africa has also made major advances in complying with its international obligations relating to terrorism including the ratification of various United Nations conventions on terrorism and the African Union/Organization of African Unity's Convention on the Prevention and Combating of Terrorism. [4] Legislation to effectively counter terrorism has also been adopted by the National Parliament, namely the Protection of Constitutional Democracy against Terrorist and Related Activities Act, 2004 (Act No 33 of 2004). The Act, which provides for a general offence in respect of terrorist activities, also creates the offences prescribed in the respective international instruments, provides for the freezing of assets, civil and criminal forfeiture as well as extra-territorial jurisdiction.

An interdepartmental working group has been established to co-ordinate and monitor compliance with United Nations Security Council Resolutions on Terrorism and to report to the Counter Terrorism Committee of the Security Council, through the South African Cabinet.

The South African Police Service (SAPS), through the regional office of Interpol - the Southern African Regional Police Chiefs Cooperation Organization (SARPPCO), in addition to exchanging information on crime, has developed a counter terrorism course aimed at better equipping regional police officials for the challenges terrorism poses. South Africa has concluded bi-lateral police co-operation agreements with countries in Africa, Europe and Asia, the provisions of which are wide enough to act jointly to combat terrorism.

In addition, South Africa has an Extradition Act (No 67 of 1962) [5] and an International Co-operation in Criminal Matters Act (Act 75 of 1996).

South Africa's Nuanced Approaches to Terrorism and Nuclear Non-proliferation

It should, however, be noted that South Africa, given that the current ruling party's own struggle against Apartheid was characterized by most of the West as 'terrorism', subscribes to the view that the 'struggle waged by peoples in accordance with the principles of international law, the provisions of the Charters of the AU and the UN as well as the African Charter on Human and Peoples' Rights, for their liberation or self-determination, including armed struggle against colonialism, occupation, aggression and domination by foreign forces shall not [emphasis added] be considered as terrorist acts.'

South Africa, is also firm in its belief that terrorism cannot be defeated militarily and that it is also important to focus on the root causes of terrorism, including poverty, under-development and the lack of respect for human rights and to develop appropriate strategies to address them. Thus: being committed to prohibiting the manufacture, acquisition, transport, possession or use of weapons of mass destruction and their means of delivery, including by non-State actors, this does not mean that civil liberties, human rights and the rule of law should be compromised in the furtherance of the so-called 'war on terror'.

In addition, and importantly, in South Africa's opinion (and indeed this view could be generalized as

an African outlook) nuclear non-proliferation is inextricably linked and intertwined with nuclear disarmament – they are essentially two sides of the same coin. Equal attention needs to be given to disarmament and non-proliferation particularly in light of the Treaty on the Non-Proliferation of Nuclear Weapons' (NPT) requirement under Article VI that Nuclear Weapon States fulfill their obligations to eliminate their nuclear arsenals. The very possession of nuclear weapons by some encourages nuclear proliferation by others (one only has to cite the examples of Israel, India, Pakistan and the DPRK).

As pointed out by the former Minister of Foreign Affairs, Dr. Nkosazana Dlamini-Zuma, at the opening of the Nuclear Suppliers Group (NSG) Plenary meeting, Cape Town on 19 April 2007:

Whilst South Africa is committed to the continuous review and strengthening of measures aimed at preventing the proliferation of weapons of mass destruction, we believe that real progress in securing our world from the threat of nuclear weapons can only be achieved through concomitant progress in the area of nuclear disarmament. [6]

Crucially as well, is South Africa and Africa's position that there needs to be a balance between security and development – that while being totally committed to ensuring the security of nuclear (and other radioactive), biological and chemical materials, this must be done without impeding the continued delivery of the developmental benefits that such materials and related applications provide or that may undermine international co-operation for the peaceful purposes of such material and thus Africa's (as a continent without nuclear weapons) inalienable right to pursue these peaceful uses.

South Africa's Constitutional Provisions

The foundation of all law in South Africa is its Constitution. [7] The Constitution of the Republic of South Africa [No. 108 of 1996] took effect on 4 February 1997 and is one of the most progressive in the world enjoying wide acclaim internationally. It is the supreme law of the land and no other law or government action can supersede the provisions of the Constitution. Co-operative action and assistance in preventing the illicit trafficking of WMD and in the investigation and prosecution of terrorist acts, is thus subject to constitutional control. In fulfilling these obligations, South African officials have a duty to protect and promote the fundamental human rights of its constitutional order and to comply with the rules of customary international law. This means that the State is precluded from co-operating with any foreign government unless assured that this will not result in an egregious violation of a person's human rights. The government may thus not, for example, extradite or deport a person to a country where there are substantial grounds for believing that he (or she) may be tortured, subjected to treatment that is 'cruel, inhuman or degrading,' denied a fair trial or sentenced to death. [8] If a South African national finds himself or herself in the custody of a foreign State he or she is entitled to request, and the government is duty-bound to consider, granting diplomatic protection under international law against the wrongful acts of that State. [9]

It seems that unless specifically provided for in particular legislation, South Africa's laws do not generally have extra-judicial application. Examples where such provision is made in law include: the Anti-Personnel Mines Prohibition Act (Act No 36 of 2003), which domesticated the Convention on the Prohibition of the Use, Stockpiling, Production and Transfer of Anti-Personnel Mines and on their Destruction and the Regulation of Foreign Military Assistance Act, 1998 (Act No 15 of 1998).

The Notion of Extra-Territorial Jurisdiction and South Africa's Constitutional Provisions

While the exercise of jurisdiction by a state is generally limited to persons, property and acts within its territory the issue of the extra-territorial application of national laws is assuming greater importance. The exercise of extraterritorial jurisdiction is, however, controversial and South African courts have in many senses been contradictory when pronouncing on it. In a case involving a businessman, Frans Rootman, in a bid to compel then President Thabo Mbeki and Justice Minister Brigitte Mabandla to force the Democratic Republic of Congo to pay him for services rendered, the Supreme Court of Appeal ruled that South African law did not, as a general rule, bind persons outside South Africa's borders. It agreed with the State's argument that the Constitution, including the Bill of Rights, did not have extraterritorial effect.

However, the cases of Mohamed and Kaunda, suggests it is rather more complicated. Khalfan Khamis Mohamed played an active part in the bombing of the United States embassy in Tanzania and entered South Africa shortly thereafter. When the FBI discovered that he was hiding in Cape Town they together with South African immigration officials arranged that he be arrested and immediately removed to the United States. After signing the statement confessing his participation in the bombing a plane was sent from the US to collect Mohamed and he was flown out of South Africa on 6 October 1999 in the custody of a number of FBI agents, a US attorney for the Southern District of New York, and a medical doctor.

He applied to the Courts in South Africa for a declaratory order that he had been unlawfully removed from South Africa to the United States inter alia because the South African authorities had not obtained an assurance from the US authorities that he would not be subject to the death penalty and that his removal (deportation) constituted an unlawful "disguised extradition" contrary to international law and the Constitution.

The Constitutional Court upheld Mohamed's application. The Court ruled in Mohamed's favor on the basis that it is contrary to the underlying values of the Constitution for the South African government to co-operate with a foreign government to secure the removal of a fugitive from South Africa to a country of which the fugitive is not a national and with which he has no connection other than that he is to be put on trial for his life there. It was held that: "It is inconsistent with the government's obligation to protect the right to life of everyone in South Africa, and it ignores the commitment implicit in the Constitution that South Africa will not be party to the imposition of cruel, inhuman or degrading punishment."

In the Kaunda case sixty-nine South African citizens detained in Zimbabwe for their alleged role in a failed coup attempt in Equatorial Guinea launched an application in South Africa asserting that the South African government had failed in its constitutional duty to provide them with diplomatic protection. A majority of the Constitutional Court rejected their application principally on procedural grounds. As part of its conclusion the following was stated: South Africa had an obligation to co-operate with Zimbabwe and Equatorial Guinea in the prevention and combating of crime, including, in particular, the duty to share information on suspected coup attempts or mercenary activity.

The Courts in South Africa have also made it clear that the implementation of the 1996 International Co-operation in Criminal Matters Act (No 75 of 1996), which was enacted to give effect to South Africa's desire to co-operate internationally, stipulates that South Africa, when it either makes requests to foreign states for assistance, or responds to foreign requests, must do so lawfully.

United Nations Security Council Resolution 1540

Under resolution 1540, UN member states are obliged to report to the Committee. The African continent does not have a good reporting record on Resolution 1540 and many of the submitted

reports have been incomplete. As of 1 March 2011, only 28 African states have submitted required reports to the 1540 Committee. Many of the African States that have submitted a report state that they do not possess any type of WMD and therefore could not provide any form of assistance to non-state actors in acquiring them. Countries that have reported list existing national legislation that broadly pertains to 1540 requirements. However, much of the legislation listed is outdated and insufficient to effectively deal with more recent WMD threats including the threat from radiological dispersal devices (RDD). This can be attributed to several factors, including insufficient knowledge of WMD-related issues, a lack of urgency in addressing WMD-related concerns in the face of other more pressing priorities, and the lack of financial and human resources needed.

Notwithstanding the initial negative reaction on the part of the developing world to 1540, many African countries have expressed support for 1540 and lack of reporting may indicate that there is simply “reporting fatigue”.

There are some concerns about 1540:

- Resolution 1540 does not address radioactive materials. This omission could be seen as a major flaw.
- Resolution 1540 is drafted in broad terms and is at times vague and open to interpretation. Clear guidelines and standards are needed as to what are “effective laws which prohibit any non-State actor to manufacture, acquire, possess, develop, transport, transfer or use nuclear, chemical or biological weapons and their means of delivery, in particular for terrorist purposes, as well as attempts to engage in any of the foregoing activities, participate in them as an accomplice, assist or finance them”.
- But: what will the basis for such standards be, given that States develop and enforce legislation based on their internal requirements and capabilities.
- 1540 does not accommodate, for example, the situations created by naturally occurring pathogens or other sources of pathogens such as hospitals, medical waste and diagnostic laboratories. As an example, *Bacillus anthracis* will automatically be included on any list developed for any control purposes, however, anthrax is an endemic animal disease in many countries in the world and sufficient spores to grow for any illegal purposes can easily be obtained from nature and therefore not able to be covered by legislation. The development of lists of items is essential for the implementation of Resolution 1540. However, the more comprehensive the list of, for example, biological agents, the more difficult it is to effectively implement the measures that have been identified. Conversely, the more targeted the list, the easier to implement the same measures. [\[10\]](#)

The pending expiry, in April 2011, of the mandate of the Security Council’s 1540 Committee, which South Africa, as a non-permanent member of the Security Council for the period 2011-2012 now chairs, presents a quandary. South Africa is sensitive to both Africa’s constraints and to the initial backlash against 1540. In addition, as mentioned above, South Africa is one of many UN members that promotes the belief that equal attention be given to disarmament and non-proliferation, particularly in light of the NPT’s requirement under Article VI. Added to this, South Africa’s renewed interest in developing its own full nuclear fuel cycle may in the future put it at the center stage of non-proliferation debates.

South Africa also views 1540 as a non-proliferation measure and not an anti-terrorism one. It also views 1540 as a temporary measure designed to close gaps in the international WMD regime. It should not be used to usurp international conventions or interfere in the work of the IAEA, for example.

Africa's Response to the Threat of Terrorist Acts

The threat of terrorist acts is not new to the African continent. However, incidents like the 1998 bombing of US Embassies in Kenya and Tanzania, the 2002 Mombasa attacks and the July 2010 bomb attacks in Uganda, have made African states more aware of the dangers of transnational terrorism. Regional bodies, such as the African Union, have taken steps to establish more effective counter-terrorism measures on the continent including, the above mentioned, OAU (AU) Convention on the Prevention and Combating of Terrorism (Algiers Convention) [11]; the development of a Plan of Action on the Prevention and Combating of Terrorism in Africa; a counter-terrorism policy role for the AU's Peace and Security Council (PSC); the Declaration of the second High Level Intergovernmental Meeting on the Prevention and Combating of Terrorism in Addis Ababa in October 2004; and, the establishment of the African Centre for the Study and Research of Terrorism (ACSRT or CAERT), conceived as an independent research centre for co-operation, capacity building and consensus on counter-terrorism issues in the AU.

With respect to the Algiers Convention 40 African states have deposited their instrument of ratification and a further nine countries are signatories to the Convention. A Protocol to the Algiers Convention opened for signature at the AU (successor to the OAU) in Addis Ababa on 2 July 2004. The main aim of the Protocol is to enhance the effective implementation of the Algiers Convention. It also outlines the "need to coordinate and harmonize continental efforts in the prevention and combating of terrorism in all its aspects, as well as the implementation of other relevant international instruments." As of 1 March 2011, only nine Africa states have ratified the Protocol to the Convention.

Unfortunately, the Algiers Convention and protocol suffer from the same low levels of ratification and implementation as the global counter-terrorism instruments in Africa and the African Union lacks a system for monitoring implementation of measures by states even if they do ratify.

With respect to Southern Africa, the rate of ratification of the universal counter-terrorism instruments varies widely within this sub-region. For example, one state has ratified thirteen of the instruments, while three others have ratified at least ten, and three have ratified four or fewer. Zimbabwe has not ratified any instruments. [12]

Besides capacity problems, there are political factors limiting ratification and often these relate to the priorities and perceived level of importance of counter-terrorism efforts against other pressing demands; resist the manner in which the agenda is presented; face internal political struggles to bring legal measures forward; and, (for mainly historical reasons) entertain reservations about the discourse of counter-terrorism. Thus it can be argued that while ratification matters - especially in that global counter-terrorism instruments are an important means of formalizing and regularizing a lawful, legitimate, functional procedure for international co-operation by a state - "ritualistic reaffirmation of its importance is unhelpful". [13]

What may be more important then is whether a country has the required capacity and can act lawfully to prevent and suppress terrorist activity in co-ordination with other states, within the rule of law and consistent with international standards on human rights taking into account the regional and national security context and needs. [14]

With respect to the International Convention for the Suppression of Acts of Nuclear Terrorism [15] only thirteen African states have ratified and twenty have signed - a key reason could be that African states do not perceive nuclear terrorism to be a pressing threat to the continent.

Interestingly, the Algiers Convention only briefly makes mention of the 1979 Convention on the Physical Protection of Nuclear Material, and the document does not mention nuclear terrorism at all. The predicted increase in the peaceful use of nuclear energy and technology in Africa may compel the AU to take note of the possible threat from the unauthorized use of nuclear materials and other radioactive sources.

Confirmed incidents of natural uranium smuggling have been comparatively low in Africa, with only twelve such incidents occurring between 1994 and 2005. These took place in Tanzania (four incidents), and the Democratic Republic of Congo (DRC), Kenya, Namibia and South Africa (with two incidents each). Most of the incidents involved stolen uranium ore, usually stored in containers, from unidentified sources. The deterioration of security around mining sites in the DRC due to political instability probably represents the most pressing nuclear security challenge in Africa today. To date, there has only been one incident of lower enriched uranium (LEU) trafficking and one known theft of nuclear fuel from a research reactor in Africa. In 1997, eight fuel rods of uranium were stolen from a Kinshasa research reactor. Only one of the rods was recovered, the whereabouts of the remaining rods is still unknown. [\[16\]](#)

United Nations Security Council Resolutions 1373

An important component of the global legal regime to counter terrorism is Resolution 1373. All African countries have filed at least one report with the CTC on Resolution 1373. In 2007 Kegoro grouped African countries into four clusters in terms of their counter-terrorism ratification and legislative implementation progress:

- Group 1: countries that have enacted counter-terrorism legislation substantially implementing the 1373 requirements (Uganda, Tanzania, Mauritius, South Africa, The Gambia)
- Group 2: countries that assert that their legislative scheme before 2001 already substantially provided for 1373 requirements (north African countries: Egypt, Libya, Tunisia, Algeria, Morocco)
- Group 3: countries that have attempted to implement formal measures to comply with 1373, but by 2007 had been unable to do so (Namibia and Kenya)
- Group 4: countries that have not ratified instruments nor implemented these or 1373, nor enacted formal counter-terrorism laws, either because (in Kegoro's view) these countries see their generic criminal code as sufficient, do not believe counter-terrorism is relevant or of sufficient priority, or lack technical expertise or capacity. [\[17\]](#)

Conclusions

1. Countering the possible acquisition by non-state actors of material for the production of weapons of mass destruction is but one element of the African continent's overall security architecture.
2. While the threat of international terrorism, and particularly the threat of terrorism linked to weapons of mass destruction, must be accorded the necessary attention, this should not conversely translate into a relaxation on the need to reinforce State disarmament.
3. There is a need to both strengthen the capacity of African countries to fulfill their obligations under international law but also, where possible, to make these easier to implement. Some, if not many, developing countries simply do not have the capacity, for example, to fill in complicated forms for each and every UN Security Council resolution and there is a degree of 'reporting

fatigue' when these are added to the existing plethora of requirements under conventions such as the Biological and Toxin Weapons Convention (BTWC) and the Chemical Weapons Convention (CWC).

4. The legislative and other administrative obligations of these and future UNSC Resolutions need creative national mechanisms for their effective implementation. It should, for example, be possible to create an 'omnibus' statute that not only covers the various obligations under the NPT, CWC and BTWC but which could, through appended regulations, make provision for new technological developments and risks in the field and new UNSC resolutions covering non-proliferation and terrorism.
5. UNSC Resolutions should ONLY be seen in relation to UNGA Conventions and not as separate entities to be implemented external to the broader context of these Conventions. Thus 1540 should be seen more as a complementary provision and less as a supplement.
6. What could South Africa do during its non-permanent tenureship of the UN Security Council in 2011/2012: [\[18\]](#)

- South Africa should work with other members of the Council (and the General Assembly) to promote the implementation of the Global Counter-Terrorism Strategy, with a view to enhancing a multilateral framework for the prevention and combating of terrorism from the perspective of the developing world and Africa.
- South Africa should support the work of the Counter-Terrorism Implementation Task Force (CTITF) to continue to strengthen the co-ordination and coherence of the entire UN system on matters relating to terrorism and the implementation of the Strategy with a view to eliminate wasteful duplication of efforts and resources. In this regard, South Africa could support the CTITF in becoming the leading UN mechanism for counter-terrorism co-ordination.
- South Africa should work with other members of the Council to support the idea of streamlining the various counter-terrorism committees, including those established pursuant to Resolutions 1267 (1999), 1373 (2001) and 1540 (2004), so that together they could form a coordinated UN Security Council body for the prevention and combating of terrorism. This will ensure synergy and the cost-effective use of resources.
- South Africa could work with its developing partners from the South to shape the role of the UN in relation to the proposed US/CTAG Global Counter-Terrorism Forum (GCTF) so that it does not undermine the counter-terrorism policy, assessment and facilitation role of the UN entities, especially those under the auspices of the Strategy.
- South Africa should lobby for the inclusion of more developing countries at the next Nuclear Security Summit in the Republic of Korea in 2012.

III. References

[1] Including amongst others: Convention on the Prohibition of the Development, Production, Stockpiling and Use of Chemical Weapons and on Their Destruction (CWC); Convention on the Prohibition of the Development, Production and Stockpiling of Bacteriological and Toxin Weapons and their Destruction (BTWC); Treaty on the Non-Proliferation of Nuclear Weapons (NPT); African Nuclear-Weapons-Free Zone Treaty (Treaty of Pelindaba); Convention on Physical Protection of Nuclear Material; and, the Comprehensive Nuclear Test Ban Treaty (CTBT).

[2] Maria Muller, 'Current Developments In South African Diplomacy', n.d., http://www.diplomacy.edu/books/mdiplomacy_book/muller/regular/default.html

- [3] The Regulation of Foreign Military Assistance Act, 1998 (Act No 15 of 1998) prohibits the rendering of any unauthorized military assistance (including financial assistance) by any South African resident in South Africa or elsewhere to any state or organ of state, group of persons, without authorization from the National Conventional Arms Control Committee, in consultation with the Minister of Defence.
- [4] These include: Montreal Convention for the Suppression of Unlawful Acts Against the Safety of Civil Aviation; Tokyo Convention on Offences and certain other Acts committed on Board Aircraft; Convention for the Suppression of the Unlawful Seizure of Aircraft; Convention on the Marking of Plastic Explosives for the Purposes of Detection; Protocol for the Suppression of Unlawful Acts of Violence at airports serving International Civil Aviation, supplementary to the Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation; International Convention for the Suppression of Terrorist Bombings; International Convention for the Suppression of Terrorist Financing; International Convention Against the Taking of Hostages; Convention on the Prevention and Punishment of Crimes Against Internationally Protected Persons, including Diplomatic Agents.
- [5] In 1996, this Act was amended as the 'Extradition Amendment Act (No. 77 of 1996)'.
- [6] Address by the Minister of Foreign Affairs, Dr Nkosazana Dlamini Zuma at the opening of the Nuclear Suppliers Group (NSG) Plenary meeting, Cape Town, 19 April 2007.
- [7] Constitution of the Republic of South Africa Act 108 of 1996.
- [8] Mohamed v President of the Republic of South Africa 2001 (7) BCLR 685 (CC); Kaunda v The President of the Republic of South Africa 2004 (10) BCLR 1009 (CC).
- [9] See Kaunda supra (n67) para 60; Von Abo v President of the Republic of South Africa.(CCT 67/08) [2009] ZACC 15 (15 June 2009).
- [10] Interview with South African government official, April 2011.
- [11] www.africa-union.org/...-Conventions.../Algiers_convention-on-Terrorism.pdf
- [12] Jolyon Ford, 'African counter-terrorism legal frameworks a decade after 2001', Institute for Security Studies, Monograph 177, March 2011.
- [13] Jolyon Ford, 'African counter-terrorism legal frameworks a decade after 2001', Institute for Security Studies, Monograph 177, March 2011.
- [14] Jolyon Ford, 'African counter-terrorism legal frameworks a decade after 2001', Institute for Security Studies, Monograph 177, March 2011.
- [15] "The International Convention for the Suppression of Acts of Nuclear Terrorism", <http://untreaty.un.org/cod/avl/ha/icsant/icsant.html>
- [16] International Institute for Security Studies, Nuclear Black Markets: Pakistan, A.Q. Khan and the rise of proliferation networks. A net assessment. May 2007.
- [17] G. Kegoro, The effects of counter-terrorism measures on human rights: the experience of east African countries, in Okumu and Botha (eds), Understanding terrorism in Africa: in search for an African voice, Pretoria: Institute for Security Studies, 2007.
- [18] See: Jakkie Cilliers, Francis Ikome, Anton du Plessis, Noel Stott, Guy Lamb and Cheryl Hendriks, 'Situation Report: South Africa's Second Term at the UN Security Council: Managing Expectations', Institute for Security Studies, December 2010.

IV. Nautilus invites your responses

The Northeast Asia Peace and Security Network invites your responses to this essay. Please send responses to: bscott@nautilus.org. Responses will be considered for redistribution to the network only if they include the author's name, affiliation, and explicit consent.

Nautilus Institute

2342 Shattuck Ave. #300, Berkeley, CA 94704 | Phone: (510) 423-0372 | Email:

nautilus@nautilus.org