Countering terrorism and violent extremism while promoting the right of peoples to peace and security in Africa

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Abstract

The United Nations Security Council (UNSC) increasingly emphasises the need for a comprehensive approach to countering the spread of terrorism and violent extremism. In its Resolution 2178 (2014), the UNSC encourages member states to engage with relevant local communities and non-governmental actors in developing strategies to counter the violent extremist narrative that can incite terrorist acts. The role played by the African Commission on Human and Peoples’ Rights in the struggle against terrorism is really important. The African approach to human rights has decisively contributed to understanding, preventing and countering this phenomenon. In this line, Article 23(1) of the African Charter on Human and Peoples’ Rights states that all peoples shall have the right to national and international peace and security, as well as the principles of friendly relations among states, which form the basic foundation of the African Union. The African Charter does not contain enough directives to aid the enforcement of the right. The African Charter limits the whole question of peace to ensuring that an asylum-seeker does not engage in subversive activities against the country of origin or any other State Party to the African Charter, and provides a prohibition to the use of the territory of a member state for subversive or terrorist activities. Finally, on 18 November 2016, the Third Committee of the General Assembly of the United Nations adopted the Declaration on the Right to Peace, whose preambular section not only deeply deplored all acts of terrorism, but also stressed that all measures taken in the fight against terrorism must be in compliance with the obligations of states under international law, including interna-
tional human rights, refugee and humanitarian law, as well as those enshrined in the United Nations Charter.

1. Introduction

The article analyses the African approach to the notion of peace and security in the context of the struggle against terrorism and violent extremism. In traditional African societies peace is not an abstract poetic concept, but rather a practical concept.\(^1\) Peace is conceived not only in relation to conflict and war, but also as a purpose or objective to be progressively realised in connection with freedom, justice, equality, dignity, security and stability.\(^2\)

The emerging right of peoples to peace and security is a unique African international law construction that has been inadvertently, and noticeably as a result of the terrorism phenomenon, exported into the international legal framework. The African unique understanding of the notion of ‘peace’ seems to require more than previous conceptions of it allowed.

It is very interesting to highlight that this difference in conceptions is visible in the different legal systems’ legal frameworks. This translates into mutations of the international legal framework on non-intervention, where Africa, once more, has exported the idea that non-intervention includes states refraining from supporting terrorist activities in other states and that asylum-seekers do not engage in terrorist activities against their countries of origin. The African conception of rights could be a basis for an international law response to the terrorist phenomenon.

The article focuses attention on the following three main points. Firstly, the article studies the efforts to enhance dialogue, peace and cooperation as a means of countering the forces that fuel polarisation and extremism in the fight against terrorism at the international level. Any measure undertaken to counter terrorism should comply with international law, in particular international human rights, refugee, and humanitarian law. In addition, the article studies the overall approach adopted in relation to combating terrorism taking into account the


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good practices, trends, patterns, and rules embodied in the system of the United Nations (UN). Secondly, this article analyses the phenomenon of terrorism and violent extremism in the context of the African regional experience. An analysis of this focuses on two matters: One, the notion of peoples’ rights under the African Charter on Human and Peoples’ Rights (African Charter) to understand the underlying principles, which are vital to prevent and counter terrorism in accordance with international law. The Plan of Action to Prevent Violent Extremism (Plan of Action) of 2015 elaborated by the Secretary-General of the UN identified those conditions conductive to the spread of terrorism. In particular, some of these conditions, such as the violation of the prohibition of domination of one people by another, the right to self-determination, the right of people to freely dispose of their wealth and natural resources and to exercise several related rights or the right to development, will be studied in the context of African practices. Two, the right of peoples to national and international peace and security will be analysed in the light of the development of the current African context. Having peace and security as a right within the legal state system would be linked to the obligation of the State to keep safe individuals under its jurisdiction from any type of threat, including the protection against terrorism. At the international level this right should be interpreted in the context of the relations between States in accordance with the main principles of international law, which would include the obligation of States to cooperate in the struggle against terrorism. The recent adoption by the UN General Assembly (UNGA) of the Declaration on the Right to Peace (DRP) will be duly taken into account.³

Thirdly, a study of how the notion of peace and security becomes a right at the national level within some legal systems will be undertaken. In light of some domestic laws, this right would be linked to the obligation of the State to protect their citizens. The notion of peace and security elaborated in the African constitutions will be studied. Generally, African Constitutions link the notion of peace and security to the principles contained in Article 2 of the Charter of the United Nations, such as the prohibition of the threat or use of force against the territorial integrity or political independence of any State.

2. **Approach to the fight against terrorism and violent extremism at the international level**

The New York, Bali, Madrid, Paris, Istanbul and London bombings illustrate that the terrorist phenomenon has increased alarmingly in the world since 11 September 2001.\(^4\) The civilian population is usually the principal target of attacks that provoke massacres in streets, markets and restaurants.

In view of the fact that suicide-bombing attacks have become the trademark of fundamentalist and secular terrorist organisations, governments claim special powers in order to prevent and investigate these criminal offences.\(^5\) Bearing in mind that one of the most important concerns of all governments is the security and public safety of its citizens, they have considered legitimate the use of all possible means to accomplish this.\(^6\)

The United Nations system, including the UNGA and the UN Security Council (UNSC), have been engaged in combating terrorism for many decades.\(^7\) The UN has worked to bring the international community together to prevent and to combat terrorism and has developed the international counter-terrorism legal framework to help States combat the threat collectively.

On 28 September 2001, acting under Chapter VII of the *Charter on the United Nations* (UN Charter), the UNSC adopted unanimously Resolution 1373, which created the Counter-Terrorism Committee (CTC).\(^8\) The Resolution calls upon member states to implement a number of measures intended to enhance their legal and institutional ability to counter terrorist activities.

Prior to the adoption of Resolution 1373, and the establishment of the CTC, the international community had already promulgated twelve of the current sixteen international counter-terrorism legal instruments.\(^9\) However, the rate

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\(^6\) *Duncan v Kahanamoku*, 327 US Supreme Court 304 (1946) and *Haig v Agee*, 453 US Supreme Court 280 (1981).

\(^7\) The first instrument on terrorism adopted by the United Nations was in 1963: *Convention on Offences and Certain Other Acts Committed on Board Aircraft*.


of adherence to these conventions and protocols by UN member states was low.\(^\text{10}\)

As a result of the attention focused on countering terrorism since the events of eleven September 2001 and the adoption of UNSC Resolution 1373, which calls on states to become parties to these international instruments, the rate of adherence has increased: some two-thirds of UN member states have either ratified or acceded to at least ten of the sixteen instruments, and there is no longer a country that has neither signed nor become a party to at least one of them.\(^\text{11}\)

In 2004, the UNSC created the Counter-Terrorism Committee Directorate (CTED) to strengthen and coordinate the monitoring process. CTED is headed by an Executive Director, at the level of Assistant Secretary-General. UNSC Resolution 2129, adopted in December 2013, extended CTED’s mandate until 31 December 2017.

The relationship between counter-terrorism and human rights has attracted considerable interest since the establishment of the CTC. In this regard, Resolution 1373 calls upon states to ‘take appropriate measures in conformity with the relevant provisions of national and international law, including international standards of human rights, before granting refugee status, for the purpose of ensuring that the asylum-seeker has not planned, facilitated or participated in the commission of terrorist acts’.\(^\text{12}\)


\(^{\text{11}}\) SC Counter Terrorism Committee.

In its Resolution 1456 and subsequent resolutions, the UNSC also affirms that states must ensure that any measure taken to combat terrorism complies with all their obligations under international law, and should adopt such measures in accordance with international law, in particular international human rights, refugee, and humanitarian law.\(^{13}\) Among all human rights, the UNSC emphasised in its Resolution 1624 that all states and the UN should take all necessary and appropriate measures in accordance with international law at the national and international level to protect the right to life.\(^{14}\)

However, the CTC began moving toward a proactive policy on human rights when the UNSC decided to establish the CTED in 2004. Pursuant to Resolution 1624, the Executive Directorate is mandated to take into account the relevant human rights obligations in the course of its activities. Consequently, the CTC and CTED always integrate the relevant human rights obligations in all their activities, including in the preparation of country assessment, country visits, the facilitation of technical assistance, and other interactions with member states. Thus, states should continue to ensure that any measures they take to implement resolutions 1373 and 1624 comply with all obligations under international law, and should adopt such measures in accordance with international law, in particular, international human rights law, refugee, and humanitarian law.\(^{15}\) Additionally, the UNSC recognised that development, peace and security, and human rights are interlinked and mutually reinforcing, and underlined the international effort to eradicate poverty and promote sustained economic growth, sustainable development and global prosperity for all.\(^{16}\)

Apart from embracing international law and upholding the rule of law in countering terrorism, the UNSC emphasised in Resolution 1624 that it:

\[\text{... calls upon all States to continue international efforts to enhance dialogue and broaden understanding among civilisations, in an effort to prevent the indiscriminate targeting of different religions and cultures, and to take all measures as may be necessary and appropriate and in accordance with their obligations under international law to counter incitement of terrorist acts motivated by extremism and intolerance and to prevent the subversion of educational, cultural, and religious institutions by terrorists and their supporters.}\]

In the context of terrorism, the President of the UNSC stated in 2010 that continuing international efforts to enhance dialogue and broaden understanding

\(^{13}\) UNSC S/RES/1456 (2003), para. 6.
\(^{14}\) UNSC S/RES/1624 (2005), Preamble para. 5.
\(^{15}\) UNSC S/RES/1963 (2010), Preamble para. 11.
\(^{16}\) UNSC S/RES/1373 (2001), para. 3.f; UNSC S/RES/1624 (2005), para. 4.
\(^{17}\) UNSC S/RES/1624 (2005), para. 3.
among civilisations can help counter the forces that fuel polarisation and extremism, and will contribute to strengthening the international fight against terrorism, and, in this respect, appreciates the positive role of the Alliance of Civilizations and other similar initiatives.\(^\text{18}\)

In the line of the reinforcement of the notion of dialogue, in 2014 the UNGA welcomed the efforts made by the Secretary-General and his High Representative for the Alliance of Civilizations to promote greater understanding and respect among civilisations, cultures and religions\(^\text{19}\) as well as underlining the vital importance of education, including human rights education, as the most effective means of promoting the practice of non-violence, moderation, dialogue and cooperation.\(^\text{20}\)

The UNGA emphasised in the UN Global Counter-Terrorism Strategy Review that tolerance and dialogue among civilisations and the enhancement of inter-faith and inter-cultural understanding and respect among peoples are among the most important elements in promoting cooperation, in combating terrorism and in countering violent extremism.\(^\text{21}\)

International practice has demonstrated that there is a close link between human rights law, rule of law, the promotion of tolerance and international peace and security. A demonstrated commitment to human rights, the promotion of dialogue among civilisations and the rule of law help to promote more effective cooperation at the political level.\(^\text{22}\) In several states, the CTED has strongly recommended that counter-terrorism legislation be reviewed in order to ensure its conformity with human rights standards. On several occasions, the CTED has suggested that strengthening the human rights framework could help alleviate certain conditions conductive to terrorism.\(^\text{23}\)

As indicated by Martin Scheinin, former Special Rapporteur on Human Rights and Counter Terrorism,\(^\text{24}\) any argument saying that a discussion on ‘root

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\(^{19}\) UNGA, *A world against violence and violent extremism* UN A/RES/68/127, 20 February 2014, Preamble para 10.

\(^{20}\) UNGA, *A world against violence and violent extremism*, para 8.


\(^{22}\) UNSC Res. 1624 (2005).


causes’ of or even ‘conditions conductive’ to terrorism would be counterproductive, or even amount to a justification of acts of terrorism, is a mistake because this undertaking is accompanied by a clear and uncompromised condemnation of all acts of terrorism.\textsuperscript{25}

On 24 December 2015, the Plan of Action came out, by which the Secretary-General made an appeal for concerted action in order to save succeeding generations from the scourge of war. According to him, the Plan of Action constitutes the inaugural basis for a comprehensive approach to this fast-evolving, multidimensional challenge.\textsuperscript{26}

The Plan of Action stresses that violent extremism undermines the collective efforts toward maintaining peace and security, fostering sustainable development, protecting human rights, promoting the rule of law and taking humanitarian action.\textsuperscript{27} The Plan of Action also elaborates the conditions conducive to and the structural context of violent extremism, such as the lack of socioeconomic opportunities; marginalisation and discrimination; poor governance, violations of human rights and the rule of law; prolonged and unresolved conflicts and radicalisation in prisons.\textsuperscript{28}

The Plan of Action further stresses that in developing plans of action and regional strategies, member states should consider addressing the following elements: dialogue and conflict prevention; strengthening good governance, human rights and rule of law; engaging communities; empowering youth; gender equality and empowering women; education, skills development and employment facilitation; strategic communications and the internet and social media.\textsuperscript{29} In particular, the Plan of Action recommended that member states engage religious leaders to provide a platform for intra and interfaith dialogue, introduce alternative dispute resolution mechanisms or preserve the heritage of cultural and religious diversity against attempts by violent extremists to destroy manuscripts, objects and sites that are symbols of pluralism and tolerance.\textsuperscript{30}

\textsuperscript{25} Scheinin, Special Rapporteur on human rights while countering terrorism, 65.
\textsuperscript{26} Report of the Secretary-General, Plan of action to prevent violent extremism, A/70/674, 24 December 2015, 60.
\textsuperscript{27} Secretary-General, Plan of action to prevent violent extremism, 12.
\textsuperscript{28} Secretary-General, Plan of action to prevent violent extremism, 25-31.
\textsuperscript{29} Secretary-General, Plan of action to prevent violent extremism, 48-55.
\textsuperscript{30} Secretary-General, Plan of action to prevent violent extremism, 49.
The Secretary-General stressed that specific initiatives for the prevention of violent extremism have been carried out through the Counter-Terrorism Implementation Task Force and the CTC, such as a Task Force Working Group on the prevention of violent extremism and the conditions conducive to the spread of terrorism. In order to apply the Plan of Action, the Secretary-General instructed UN entities to redouble their efforts in coordinating and developing activities and announced his attempt to ‘adopt an All-of-UN approach to supporting national, regional and global efforts to prevent violent extremism through the United Nations Chief Executives Board for Coordination, as well as through existing United Nations inter-agency bodies…’

This proposal made by the Secretary-General reads similarly to that of the United Nations Global Counter-Terrorism Strategy Review adopted by the UNGA in 2014, which underlined the importance of enhancing counter-terrorism efforts undertaken by all relevant UN institutions in accordance with the existing mandates. As indicated by the Secretary General in the Plan of Action, ‘the General Assembly is the only body that can speak with a global voice to all parts of the world where violent extremists seek to spread intolerance and division’.

3. Strengthening peace and security at the regional level

3.1. Peoples’ rights under the African Charter

On 14 July 1999, the Organisation of the African Unity (OAU) adopted the Convention on the Prevention and Combating of Terrorism, by which member states recalled in its Preamble the purposes and principles enshrined in the Charter of the Organisation of African Unity (OAU Charter), in particular its clauses relating to the security, stability, development of friendly relations and cooperation among its member states.

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31 Secretary-General, Plan of action to prevent violent extremism, 49.
32 Secretary-General, Plan of action to prevent violent extremism, 58.
34 Secretary-General, Plan of action to prevent violent extremism, A/70/674, 24 December 2015, 62.
36 The Preamble of the Convention on the Prevention and Combating of Terrorism says: ‘Considering the purposes and principles enshrined in the Charter of the Organisation of African Unity, in particular its clauses relating to the security, stability, development of friendly relations and cooperation among its Member States.’
According to the Protocol relating to the Establishment of the Peace and Security Council of the African Union, the objectives for which the Peace and Security Council (PSC) is established include to co-ordinate and harmonise continental efforts in preventing and combating international terrorism.

The PSC is mandated to seek close cooperation with the African Commission on Human and Peoples’ Rights (African Commission) in all matters relevant to its objectives and mandate. In this regard, the African Commission is required to bring to the attention of the PSC any information relevant to the latter institution’s objectives and mandate.

To contextualise the struggle against terrorism in the field of human rights and the African Commission, it should be recalled that the OAU 18th Assembly of Heads of State and Government made a historic step toward the protection of human rights, development and peace in Africa by adopting the African Charter in Nairobi, Kenya in 1981.

The Preamble of the African Charter indicates that the African Charter draws its inspiration from the OAU Charter which stipulates that ‘freedom, equality, justice and dignity are essential objectives for the achievement of the legitimate aspirations of the African peoples’. The Preamble reaffirms the pledge… made in Article 2 of the OAU Charter to eradicate all forms of colonialism from Africa, to coordinate and intensify… cooperation and efforts to achieve a better life for the peoples of Africa and to promote international cooperation having due regard to the Charter of the United Nations and the Universal Declaration of Human Rights.

The African Charter is divided into three parts. Firstly, the two chapters of Part I deal with rights and duties. While chapter I sets out the human and peoples’ rights to be protected under the African Charter, chapter II sets out the individual’s duties toward his family and society, the state and other legally recognised communities and the international community. Secondly, Part II of the African Charter elaborates those measures aimed at safeguarding the rights contained in Part I, such as the establishment of an African Commission. Finally, Part III establishes general provisions concerning the African Commission.

The African Charter imposes an obligation upon the individual not only toward other individuals but also toward the state of which s/he is a citizen in

37 Article 3 is devoted to the objectives for which the Peace and Security Council is established.


the following terms: ‘…the enjoyment of rights and freedoms also implies the performance of duties on the part of everyone’.\textsuperscript{40} The \textit{American Convention on Human Right}\textsuperscript{41} mentions such duties and responsibilities by the individual to the state. However, the notion of individual responsibility to the community is firmly ingrained in African tradition and is consistent with historical traditions and values of African civilisation upon which the African Charter relied.\textsuperscript{42}

Therefore, one aspect of the African Charter is its inclusion of group, collective or peoples’ rights as distinct rights in relation to civil and political rights and economic, social and cultural rights.\textsuperscript{43} According to some African scholars, in the African traditional way of living, the communal relationship is really important:

living in Africa means abandoning the right to be individual, particular, competitive, selfish, aggressive, conquering being … in order to be with others, in peace and harmony with the living and the dead, with the natural environment and the spirits that people it or give life to it.\textsuperscript{44}

Preambular paragraph 5 of the African Charter reinforces the relationship between peoples’ rights and human rights in the following terms:

Recognising, on the one hand, that fundamental human rights stem from the attributes of human beings which justifies their national and international protection and, on the other hand, that the reality and respect of peoples’ rights should necessarily guarantee human rights.

With regards to the relationship between individual and peoples’ rights, the African Commission has attempted to avoid a controversial area by treating an issue of peoples’ rights as one of individual rights. However, the ‘Commission has also held some individual rights have a collective element and become a right of people’.\textsuperscript{45}

There is no generally accepted definition of people; neither does the African Charter offer one. The drafters of the African Charter wanted to leave the notion of ‘peoples’ undefined. Keba M’Baye explained that the draft deliberately

\textsuperscript{40} \textit{African Charter on Human and Peoples’ Rights}, Preamble para. 6.
\textsuperscript{41} \textit{American Convention on Human Rights}, also known as the Pact of San José, was adopted in San José, Costa Rica, on 22 November 1969 and came into force on 18 July 1978.
refused to indulge in the definition of ‘peoples’ so as not to end up in difficult discussions. In fact, he concluded that it was difficult to agree on a definition of the notion of ‘peoples’. Consequently, the drafters deliberately omitted to define the ‘peoples’, to which rights are granted, in that treaty to avoid unresolved discussions.\footnote{Viljoen F, ‘The African Charter on Human and Peoples’ Rights: The travaux préparatoires in the light of subsequent practice’ 25 \textit{Human Rights Law Journal}, 2004, 317.}

However, jurists and scholars found some characteristics regarding the notion ‘peoples’ at the Meeting of Experts on International Law held on February 1990 in Paris under the auspices of United Nations Educational, Scientific and Cultural Organisation (UNESCO). These characteristics include:

1. An enjoyment by a group of individuals of all the following features:
   (i) Common historical tradition,
   (ii) Ethnic group identity,
   (iii) Cultural homogeneity,
   (iv) Linguistic unity,
   (v) Religious or ideological affinity,
   (vi) Territorial connection, and
   (vii) Common economic life.

2. The group on a whole must have the will to be identified as a people or the consciousness of being a people.

Although the African Commission has not defined the notion of people, it has given some indications on its meaning. It seems to consider that a people is a population of a state, for example, the people of Rwanda or even the people of the African continent as a whole. The African Commission has expressly stated that a people is not the state itself nor does it use the term to refer to minority or ethnic groups.\footnote{Murray R \textit{The African Commission on Human and Peoples’ Rights and International Law} 104-105. Please, see also para. 195-201 in case 232/99 \textit{John D. Ouko v Kenya}.}

While the African Commission recognised that ‘all peoples have a right to self-determination’, it admitted that ‘there may, however, be controversy as to the definition of peoples and the content of this right’.\footnote{Katangese Peoples’ Congress \textit{v Zaire}, ACmHPR Comm. 75/92 (1995), 8th Annual Activity Report.} Although the African Commission said that some groups were considered a people, it expressly denied the right to self-determination or the independence from the state itself.\footnote{Examination of State Reports: Gambia, Zimbabwe and Senegal, ACHPR (2012), 12th session.} The terri-
The territorial integrity of existing state was upheld, with an emphasis on national unity. The African Commission has concluded in several cases that the principle of self-determination under the African Charter should be applied in accordance with OAU Charter, which excludes the right to secession.

The African Commission did not completely rule out the possibility of self-determination in the form of secession, but only under certain conditions, such as ‘there are no allegations of specific breaches of other human rights apart from the claim of the denial of self-determination’. The African Commission suggests that the degree of self-determination is linked with that of the degree of representativeness of the government.

In addition, the African Commission has stated on a number of occasions that peoples have duties, such as to promote rights and to protect and ensure democracy through fair elections, to ensure peace and to respect the territorial integrity of the particular state.

Peoples’ rights under the African Charter span from Article 19 to 24. Article 19 guarantees the equality of all peoples and prohibits the domination of one people by another. Article 20 provides for the right of all peoples to self-determination. Article 21 guarantees the right of all peoples to freely dispose of their wealth and natural resources and to exercise several related rights. Article 22 deals with the right to development and Article 23 stipulates the right to national and international peace and security.

In accordance with the DRP, the principle of equal rights and self-determination of peoples is a vital requirement for the promotion and protection of the right to peace. However, the DRP also sets out that:

... any attempt aimed at the partial or total disruption of the national unity and territorial integrity of a State or country or at its political independence is incompatible with the purposes and principles of the Charter...
The role played by the African Commission in the struggle against terrorism is really important. The African approach to human rights has contributed decisively to understanding, preventing and countering this phenomenon. In this sense, the African Commission adopted the Resolution on Principles and Guidelines on Human and Peoples’ Rights while Countering Terrorism in Africa. Consequently, the legitimate right of peoples for self-determination and independence pursuant to the principles of international law and the provisions of the UN Charter, African Charter, and OAU Charter is fundamental in combating a plague that surpasses all borders of African states.

Article 11 of the Non-Aggression and Common Defence Pact set up the African Centre for the Study and Research on Terrorism (ACSRT) with the purpose of assisting the PSC in its mandate. As indicated by its Article 13, the functions of the ACSRT are to centralise, collect and disseminate information, studies and analysis on terrorism and terrorist groups and also assist member states develop the expertise and strategies for preventing and combating terrorism. The relevance and experience of the African Commission on this topic is of unquestioned significance.

3.2. The linkage between terrorism and the right of peoples to peace and security

On 18 November 2016, the Third Committee of UNGA adopted the DRP by majority of its member states, based on Resolution 32/28 of the Human Rights Council (UNHRC).

After almost twenty years, this longstanding human aspiration was finally realised within the framework of the UNGA after a first serious attempt carried out by UNESCO in 1997. The DRP is the first peace instrument adopted by the UNGA in this new millennium, after the adoption of the Declaration and Programme of Action on Culture of Peace in 1999 by the same body.

The preambular section of the DRP not only deeply deplores all acts of terrorism, but also stresses that all measures taken in the fight against terrorism must be in compliance with the obligations of states under international law, including international human rights, refugee and humanitarian law, as well as those...
enshrined in the UN Charter. Additionally, the DRP recalls that the Declaration on Measures to Eliminate International Terrorism stated that acts, methods and practices of terrorism constitute a grave violation of the purposes and principles of the UN and may pose a threat to international peace and security, jeopardise friendly relations among states, threaten the territorial integrity and security of states, hinder international cooperation and aim at the destruction of human rights, fundamental freedoms and the democratic bases of society.

The principles contained in the DRP were expressly included in different African legal instruments. In particular, the Protocol to the OAU Convention on the Prevention and Combating of Terrorism, adopted on 8 July 2004 in Addis Ababa (Ethiopia), re-states, in its Preamble, the conviction that terrorism constitutes a serious violation of human rights and a threat to peace, security, development, and democracy.

In accordance with article 1 of the Non-Aggression and Common Defense Pact, adopted by the African Union (AU) in Abuja on 31 January 2005, terrorist acts mean those acts or offences defined in the OAU Convention on the Prevention and Combating of Terrorism, such as:

- any act which is a violation of the criminal laws of a State Party and which may endanger the life, physical integrity or freedom of, or cause serious injury or death to, any person, any number or group of persons or causes or may cause damage to public or private property, natural resources, environmental or cultural heritage...

In this line, Article 23(1) of the African Charter states that the principles of the preservation of international peace and security, as well as the principles of friendly relations among states; form the basis of the OAU:

All peoples shall have the right to national and international peace and security. The principles of solidarity and friendly relations implicitly affirmed by the Charter of the United Nations and reaffirmed by that of the Organisation of African Unity shall govern relations between States.

The recognition of a right of the African peoples to peace should be seen as an aspiration common to all peoples of the world. The importance of this provision seems clear with respect to the direct or indirect repercussions of armed conflicts on the situation of the African peoples concerned.

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59 Article 1.

The African Charter refers to none of the legal instruments on disarmament; instead, it refers to the ‘principle of solidarity and friendly relations’, which can be found in the UN Charter and reaffirmed by the OAU Charter. In referring to international law, which traditionally governs the conduct of States, Article 23 does not condemn all use of force or violence, which in principle remains legitimate in situations of self-defence.\(^61\) As indicated by Fatsah Ouguergouz, ‘in the field of peace and security *stricto sensu*, the clearest expression of the principle of solidarity should be in the mutual defence treaties signed by certain African states’.\(^62\)

The notion of security, included in Article 23, should be interpreted in light of the governmental statement elaborated by the Heads of State and Government, who solemnly declared in the OAU Assembly held in Lome (Togo) in 2000 that:

> The security of all Africans and their States as a whole is indispensable for stability, development and cooperation in Africa. This should be a sacred responsibility of all African States – individually and collectively – which must be exercised within the basic framework of the African Charter on Human and Peoples’ Rights and other relevant international instruments.\(^63\)

For some years, African leaders have attained this objective by doing their utmost to prevent conflicts. In this connection, it is relevant to note that, in a 1999 resolution devoted to the human rights in Africa, the African Commission decided to ‘establish cooperation with the OAU Mechanism for Conflict Prevention, Management and Resolution’.\(^64\)

For practical purposes, it is difficult to see how Article 23(1) can be efficient in terms of enforcing the right to national and international peace and security. The African Charter does not contain enough directives to aid the enforcement of the right. The Treaty limits the whole question of peace to ensuring that an asylum-seeker does not engage in subversive activities against the country of origin or any other party to the African Charter\(^65\); and provides a prohibition of

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\(^63\) AHG/Decl. 4 (XXXVI), ‘Conference on Security, Stability, Development and Cooperation in Africa Solemn Declaration’, adopted by the OAU Assembly of Heads of State and Government at its Thirty-Sixth Ordinary Meeting held in Lomé (Togo) on 10-12 July 2000, para. 10 (c).

\(^64\) ‘Resolution on the Human Rights Situation in Africa’, adopted by the African Commission at its 26th Ordinary Session held in Kigali (Rwanda) from 1 to 15 November 1999.

\(^65\) Article 23(2)(a).
the use of the territory of a member state for subversive or terrorist activities. Consequently, these two circumstances serve as a means to preserve the notion of state sovereignty and non-intervention in the internal affairs of a member state of the OAU.

States have not expressly undertaken to disarm, reduce their arsenals or devote only a minimum of resources to defensive weapons. The implementation of the right of African peoples to peace would seem to be exhausted in the obligation for the state to prevent any subversive or terrorist-armed activities in the line of the UN practice. It follows that ‘this is a fresh codification of a rule of general international law prohibiting subversive or terrorist armed activities’...

Therefore, the definition of subversive activities included in Article 23(2) reaffirms a principle of African international law, which prohibits subversive armed activities and any private propaganda encouraging terrorism and murder in the following terms:

For the purpose of strengthening peace, solidarity and friendly relations, States parties to the present Charter shall ensure that: … (b) their territories shall not be used as bases for subversive or terrorist activities against the people of any other State party to the present Charter.

The prohibition of supporting terrorist activities in the territory of another member state should be interpreted in light of the Protocol on Non-Aggression and Mutual Defence in the Great Lakes Region of 2006, which states that the encouragement, support, harbouring or provision of any assistance for the commission of terrorist acts and other violent trans-national organised crimes against a member state constitute acts of aggression, regardless of a declaration of war by a state, group of states, organisation of states, or armed groups, or by any foreign entity whatsoever.

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66 Article 23(2)(b).
68 Paragraph 2, UNGA Declaration on the Inadmissibility of Intervention in the Domestic Affairs of States and the Protection of their Independence and Sovereignty, UN A/RES/20/2131 (XX), 21 December 1965, para 2; and UNGA Declaration on principles of international law concerning friendly relations and cooperation among states in accordance with the Charter of the United Nations, UN A/RES/25/2625 (XXV), 24 October 1970.
69 Ouguergouz, The African Charter on Human and Peoples’ Rights, 345
70 Vienna Convention on the Law of Treaties, 23 May 1969, 1155 UNTS 331, Article 31(3)(c). Most of the States parties to the African Charter were also parties to the 1969 OAU Convention on Refugees.
71 UNGA Declaration on the Inadmissibility of Intervention in the Domestic Affairs of States and the Protection of their Independence and Sovereignty, para 2, speaks of ‘subversive, terrorist or armed activities directed towards the violent overthrow of the regime of another State.’
72 Protocol on Non-Aggression and Mutual Defence in the Great Lakes, Article 3.
The holders of the right of peoples to peace and security would be the states. People of each state are subject to the prohibition laid down in Article 23(2). Therefore, ‘it might thus legitimately be concluded that the only subject and beneficiary of the right in question is the people forming a state’. The dual reference to the national and international contexts included in Article 23(1) permits the following interpretation: both the people of a state taken as a whole, and its different ethnic components taken individually have the right of peoples to peace. As regards the debtors of this right, they are primarily the states parties to the African Charter.

In the Black Mauritanian decision, a violation of Article 23 against a people by its own State was found and the African Commission determined that unprovoked attacks on villages constitute a denial of the right to live in peace and security. The African Commission also found a duty to respect the right to peace and security imposed on the State and a possible duty to protect peoples from infringement by third parties.

In the context of the national peace and security against a state by other states in the region, the Commission found in DR Congo v Burundi, Rwanda and Uganda that other states violated the right of the people of the Democratic Republic of Congo (DRC) to peace and security. The African Commission disapproved the occupation of the complainant’s territory by armed forces on the basis that it contravened Article 23 of the African Charter.

These decisions may indicate the direction the African Commission could adopt in future cases. The main subject of the right of peoples to peace and security could mean specific people within a territory or the entire people of a State. The African Commission has not had many opportunities to pronounce on Article 23. However, the case No. 002/2013 – The African Commission on Human and Peoples’ Rights v Libya and the 2017 Ogiek case of the African Court of Human and Peoples’ Rights have recently developed this provision of the African Charter.

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Therefore, it would appear that states are in a better position to enforce a violation of the right than individuals, through the inter-state communications procedure. It follows that if a state harbours citizens of other states who are engaged in subversive or terrorist activities against other member states, those member states, rather than individuals, will be in a better position to complain under the African Charter against the harbouring State. This principle is also embodied in the OAU Convention Governing the Specific Aspects of Refugee Problems in Africa of 1969 in its Article 3.2, which prohibits subversive activities in the following terms: ‘Signatory States undertake to prohibit refugees residing in their respective territories from attacking any State Member of the OAU, by any activity likely to cause tension between Member States, and in particular by use of arms, through the press, or by radio’.

4. Promoting peace and security at the domestic level

At the national level, making peace and security a right within the legal state system would be linked to the obligation of the state to keep safe the people under its jurisdiction. Conversely, at the international level, this right should be interpreted in the context of the relations between states in accordance with the main principles of international law. It follows that in the African Charter the preponderant position of the states is fundamental. Therefore, the right of peoples to peace shall be invoked before the regional human rights bodies as a grievance against the state or as a mechanism of defence.

The concept of the right of peoples to peace and security has been explicitly included in constitutions of African countries like Burundi, Cameroon, DRC and Guinea Bissau. However, these constitutional texts have elaborated

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78 Article 47 of the Charter: ‘If a State Party to the present Charter has good reasons to believe that another State Party to this Charter has violated the provisions of the Charter, it may draw, by written communication, the attention of that State to the matter. This Communication shall also be addressed to the Secretary General of the OAU and to the Chairman of the Commission. Within three months of the receipt of the Communication, the State to which the Communication is addressed shall give the enquiring State written explanation or statement elucidating the matter. This should include, as much as possible, relevant information relating to the laws and rules of procedure applied and applicable and the redress already given or course of action available’.


81 Burundi (2005) – ‘All Burundians have the right to live in Burundi within peace and within security. They must live together in harmony, while respecting the human dignity and tolerating their differ-
this concept by taking into account a conception based only on the relationships between states and without referring to human rights issues. In particular, these constitutions took into account some of the principles contained in Article 2 of the UN Charter, namely: the prohibition of the threat or use of force against the territorial integrity or political independence of any state, the settlement of international disputes by peaceful means, the prohibition to intervene in matters within the domestic jurisdiction of any state, the cooperation among states, the self-determination of peoples, and the sovereign equality of States. As developed below, in the section on the African-French and English-speaking States, most of the African national constitutions have only referred to the notion of peace in general terms.

4.1. African French-speaking states

The main purposes and principles recognised in international law, which currently inspire the whole legal system at the national level, were included in the African French-speaking constitutions. In particular, the aspiration to achieve a more peaceful society based on the concept of justice, freedom, equality, international cooperation, liberty, solidarity and friendship, has been elaborated in the preamble of some of these constitutions. In addition, the protection of human

ences’ (Article 14); Cameroon (1972) – ‘All peoples shall have the right to national and international peace and security. The principles of solidarity and friendly relations implicitly affirmed by the Charter of the United Nations and reaffirmed by that of the Organisation of African Unity shall govern relations between States’ (Article 23); Republic of Congo (2001) – ‘all Congolese have the right to peace and security on the national as well as on the international level’ (Article 52) and Guinea Bissau (1996) - ‘...proclaims her eternal gratitude to those fighters who, through their voluntary sacrifice, guaranteed the liberation of the Homeland from foreign domination, by re-winning national dignity and our people's right to freedom, progress, and peace’ (Article 5). Translation into English sourced from http://confinder.richmond.edu/ on 24 July 2017.

Benin (1990) – ‘...Affirm our will to co-operate in peace and friendship with all peoples who share our ideals of liberty, of justice, of human solidarity...’; Madagascar (2010) – ‘... convinced that the growth of their personality and identity is basic to their harmonious development, the essential conditions of which are recognised to be ...dedication to peace and fraternity” (Preamble); Mali (1992) – ‘reaffirm their attachment to the formation of the African Union, to the promotion of peace, to regional and international cooperation, to peaceful resolutions...’ (Preamble); Mauritania (1991) – ‘... towards the realisation of the unity of the Grand Maghreb, the nation Arab and African and consolidation of peace in the world’ (Preamble); Morocco (2011) – ‘...its attachment to the Rights of Man such as they are universally recognised, as well as its will to continue to work to preserve peace and security in the world...’ (Preamble); Niger (2010) – ‘... Express our willingness to cooperate in friendship, equality and mutual respect with all peace-loving peoples, justice and freedom...’ (Preamble); and Togo (1992) ‘affirm our commitment to work together in peace, friendship and solidarity with the peoples of the world in love with the democratic ideal, based on the principles of equality, mutual respect and sovereignty...’ (Preamble).
rights as a basis of peace, fraternity, unity and justice in the world has also been
recognised in other constitutions.\(^{83}\) Furthermore, some other domestic constitutions
have recognised that the preservation of peace, national cohesion, social
justice and democracy is a duty of everyone.\(^{84}\)

Moreover, the African French-speaking states have progressively elaborated
in their constitutional systems the content and scope of peace. As main legal
standards of peace, the African constitutions have recognised the education on
peace, rights of peoples to self-determination, prohibition of terrorism, right
to resistance, abolition of all forms of domination, disarmament, peaceful so-
lution of conflicts, prohibition of propaganda of war, respect for sovereignty,
the economic and social development of peoples, national independence, non-
interference in internal affairs, the realisation of mutual benefits and peaceful
coeexistence between states.\(^{85}\)

\(^{83}\) Central African Republic (2013) – ‘... recognises the existence of human rights as the basis of every community in peace and justice in the world’ - (Article 1); Senegal – ‘... recognise the existence of sacred and inalienable human rights as the basis of any human community, of peace and of justice in Senegal and the world...’ (Article 7) and Seychelles (1993) – ‘... inalienable rights of all members of the human family as the foundation for freedom, justice, welfare, fraternity, peace and unity...’ (Preamble). Translation into English sourced from http://confinder.richmond.edu/ on 24 July 2017.

\(^{84}\) Benin (1990) – ‘Each... has the duty to respect and to consider his own kin without any discrimination and to keep relations with others that shall permit the... dialogue and reciprocal tolerance with a view to peace and to national cohesion’ (Article 36); Burundi (2005) – ‘Everyone has a duty to contribute to the preservation of peace, democracy and social justice’ (Article 73); Equatorial Guinea (1991) – ‘all... shall have the obligation to live peacefully, respect the rights and obligations and contribute to the building of a just and fraternal society’ (Article 17) and Togo (1991) – ‘Citizen has the obligation to preserve the national interest, social order, peace and national cohesion’ (Article 48). Translation into English sourced from http://confinder.richmond.edu/ on 24 July 2017.

\(^{85}\) Cameroon (1972) – ‘education... shall promote understanding, tolerance and friendship among all nations, racial or religious groups, and shall further the activities of the United Nations for the maintenance of peace’ (Article 26.2) and ‘... their territories shall not be used as bases for subversive or terrorist activities against the people...’ (Article 23); Cape Verde (1992) – ‘... shall be guided... by the principles of national independence, the non-intervention in the internal affairs, the cooperation with all other peoples and peaceful coexistence’ (Article 10.1), ‘... shall uphold the rights of peoples to self-determination and independence and support the struggle of peoples against colonialism or any other form of domination or political or military oppression’ (Article 10.2), ‘... shall advocate the abolition of all forms of domination, oppression and aggression, disarmament and the peaceful solution of conflicts...’ (Article 10.3) and ‘...shall refuse the installation of military bases in its territory...’ (Article 10.4); Chad (1996) – ‘... solemnly proclaim our right and duty to resist and disobey...’ (Preamble) and ‘... the propaganda with ethnic, tribalist, regionalist or confessional character tending to undermine national unity or the secular state is prohibited’ (Article 5); Cote d’Ivoire (2000) – ‘... all propaganda aimed at or having the effect of making one social group superior to another or encouraging racial or religious hatred, is forbidden’ (Article 10); Djibouti (1992) – ‘... shall permit the participation of the Republic in regional and international organisations, in respect for sovereignty, with a view to the building of peace and international justice and the economic, cultural and social development of peoples’ (Article 9); Guinea Bissau (1984) – ‘... shall establish
In addition, some African constitutions have strongly condemned autocratic political regimes and groups whose aim is to overthrow, through violent means, an established regime, support the national, racial or religious hatred and encourage discrimination, hostility or violence against individuals and peoples. Other African constitutions have also recognised the need to promote the value of peace, reconciliation, dignity, unity, prosperity and human rights after an armed conflict and the prohibition of war through an anti-war clause.

4.2. African English-speaking states

Like the African French-speaking states, the states of English tradition have also included the principle of peace based on freedom, stability, solidarity, dignity, justice, good government and human rights in the preambles of their constitutions. Moreover, they recognised that the concept of peace as a supreme value and develop relations with other nations on the basis of international right and on the principles of national independence, equality among states, non-interference in internal affairs, and the realisation of mutual benefits, peaceful coexistence, and non-alignment (Article 18.1) and ‘... shall defend the right of the people to self-determination and independence and support the fight of the people against colonialism, imperialism, racism, and all other forms of oppression and exploitation; recognise peaceful solutions to international conflicts; and participate in efforts to assure peace and justice in relationships among states and the establishment of a new international economic order’ (Article 18.2); Niger (2010) – ‘Audiovisual, written, electronic and printing communication and its distribution is free, subjected to respect for public order, freedom and dignity of citizens’ (Article 158) and Algeria (1989) – ‘... It puts forth its efforts to settle international disputes through peaceful means’ (Article 26), ‘... for the right of self-determination and against any racial discrimination’ (Article 27) and ‘... reinforcement of international cooperation and to the development of friendly relations among States, on equal basis, mutual interest and non-interference in the internal affairs...’ (Article 28). Translation into English sourced from http://confinder.richmond.edu/ on 24 July 2017.

Benin (1990) – ‘... opposition to any political regime founded on arbitrariness, dictatorship, injustice, corruption, misappropriation of public funds, regionalism, nepotism, confiscation of power, and personal power’ (Preamble); Central African Republic (2013) – ‘strongly opposed to the seizure of power by force and all forms of dictatorship and oppression, as well as any act of division and maintenance of hatred’ (Preamble); and Niger (2010) – ‘absolute opposition to any political regime based on dictatorship, arbitrariness, impunity, injustice, corruption, extortion, regionalism, ethnocentrism, nepotism, personal power and the cult of personality’ (Preamble). Translation into English sourced from http://confinder.richmond.edu/ on 24 July 2017.

Burundi (2005) – ‘reaffirming our faith in the ideals of peace, reconciliation and national unity in accordance with the Arusha Agreement for Peace and Reconciliation...’ (Preamble) and Chad (1996) ‘the institutional and political crisis in Chad, for over three decades has not provided the determination of the Chadian people to achieve the building of a nation, dignity, peace and prosperity...’ (Preamble). Translation into English sourced from http://confinder.richmond.edu/ on 24 July 2017.

The (1989) Constitution of Algeria included the clause anti-war in its Article 26, which states that ‘... does not resort to war in order to undermine the legitimate sovereignty and the freedom of other peoples...’.

Eritrea (1997) – ‘Aware that it is the sacred duty ... to build a strong and developed Eritrea on the
of constitutional law should be implemented at the international level through the promotion of peaceful co-existence among nations, international co-operation, enhancement of independence and sovereignty, the strengthening of settlement of disputes by peaceful means and the full respect of international law.\textsuperscript{90}

\textsuperscript{90} Eritrea (1997) – ‘... is based on respect for the independence and sovereignty of countries and on promoting the interest of regional and international peace, cooperation, harmony and development...’ (Article 13); Gambia (1996)- ‘... shall be a democratic state dedicated to freedom, peace, progress, prosperity and justice’ (Article 214.1); Ghana (1996) – ‘...shall ... seek the establishment of a just and equitable international economic and social order and promote respect for international law, treaty obligations and the settlement of international disputes by peaceful means’ (Article 40); Namibia (1990) – ‘... shall endeavour to ensure that in its international relations it adopts and maintains a policy of non-alignment; promotes international co-operation, peace and security; creates and maintains just and mutually beneficial relations among nations;... encourages the settlement of international disputes by peaceful means...’ (Article 96); Nigeria (1999) – ‘... objectives shall be... the promotion of international co-operation for the consolidation of universal peace and mutual respect among all nations and elimination of discrimination in all its manifestations...’ (Article 19); Sierra Leone (1991) – ‘...the security, peace and welfare of the people... shall be the primary purpose and responsibility of Government’ (Article 5.2) and ‘... objectives ... shall be ... the promotion of international co-operation for the consolidation of international peace and security and mutual respect among all nations;... and respect for international law and treaty obligations, as well as the seeking of settlement of international disputes by negotiation, conciliation, arbitration or adjudication’ (Article 10); Somaliland (2000) – ‘the political system... shall be based on peace, co-operation, democracy and plurality of political parties’ (Article 9.1); South Sudan (2011) - ‘...all levels of government shall promote and consolidate peace and create a secure and stable political environment for socio-economic development; initiate a comprehensive process of national reconciliation and healing that shall promote national harmony, unity and peaceful co-existence among the people of South Sudan; inculcate in the people a culture of peace, unity, cooperation, understanding, tolerance and respect for customs, traditions and beliefs of each other...’ (Article 36) and ‘...foreign policy... shall serve ... to achieving ... the promotion of international cooperation... for the purposes of consolidating universal peace and security, respect for international law, treaty obligations and fostering a just world economic order... the promotion of dialogue among civilisations and establishment of international order based on justice and common human destiny; the respect for international law and treaty obligations, as well as the seeking of the peaceful settlement of international disputes by negotiation, mediation, conciliation, arbitration and
In addition, some constitutions of the African English-speaking states have also progressively elaborated in their constitutional systems the content and scope of peace. As to the main legal components, the African constitutions have recognised the rights of peoples to self-determination, the traditional settlement of disputes, right to development, prohibition of terrorism, multiculturalism, abolition of all forms of domination, peaceful solution of conflicts, prohibition of propaganda of war, respect for sovereignty, non-interference into internal affairs, and the peaceful co-existence between states.\textsuperscript{91} Finally, other African constitutions have strongly condemned oppressive regimes and claimed the enhancement of reconciliation among people.\textsuperscript{92}

5. Conclusions

This article has analysed the African approach to the notion of peace and security in the context of the struggle against terrorism and violent extremism. In the African societies, peace is conceived not only in relation to conflict and war, but also as a purpose or objective to be progressively realised in connection with freedom, justice, equality, dignity, security and stability. Additionally, this contribution has highlighted the following key points. First, any measure

\textsuperscript{91}Eritrea (1997) – ‘the State shall encourage out-of-court settlement of disputes through conciliation, mediation or arbitration’ (Article 8); Kenya (2010) - ‘the right to freedom of expression does not extend to propaganda for war; incitement to violence; hate speech; or advocacy of hatred’ (Article 33.2); Malawi (1994) – ‘all persons and peoples have a right to development and therefore to the enjoyment of economic, social, cultural and political development...’ (Article 30.1); Somaliland (2000) – ‘...accepts the principles of the self-determination of the nations of the world;... political disputes which arise shall be settled through dialogue and peaceful means...’; ... shall oppose terrorism (and similar acts), regardless of the motives for such acts’ (Article 10); South Sudan (2011) – ‘...it is a multi-ethnic, multi-cultural, multi-lingual, multi-religious and multi-racial entity where such diversities peacefully co-exist’ (Article 1.4); and Swaziland (2000) – ‘...promote respect for international law, treaty obligations and the settlement of international disputes by peaceful means...’ (Article 61) and ‘observe and promote the policy of non-interference in the internal affairs of other nations’ (Article 236). Translation into English sourced from http://confinder.richmond.edu/ on 24 July 2017.

\textsuperscript{92}Namibia (1990) – ‘the practice of racial discrimination and the practice and ideology of apartheid... shall be prohibited and by Act of Parliament such practices, and the propagation of such practices, may be rendered criminally punishable...’ (Article 23); Uganda (1995) – ‘recognising our struggles against the forces of tyranny, oppression and exploitation...’ (Preamble) and South Africa (1996) – ‘...The pursuit of national unity, the well-being of all South African citizens and peace require reconciliation between the people of South Africa and the reconstruction of society...’ (Article 251). Translation into English sourced from http://confinder.richmond.edu/ on 24 July 2017.
undertaken by states to counter terrorism should comply with international law, in particular international human rights, refugee, and humanitarian law. However, the adoption of international rules aimed at enhancing dialogue, peace and cooperation should become an integral part of the counter-terrorism measures as set out by the UN system.

Second, the PSC closely cooperates with the African Commission in all matters relevant to its objectives and mandate. The OAU Convention on the Prevention and Combating of Terrorism recalls the purposes and principles enshrined in the OAU Charter and takes into account the notion of peoples’ rights in the line of the African Charter.

Third, the Plan of Action elaborates by the Secretary-General of the UN identified those conditions conducive to the spread of terrorism. In particular, some of the African notions, such as the prohibition of the domination of one people by another, the right to self-determination, the right to freely dispose of their wealth and natural resources and to exercise several related rights or the right to development, are vital to prevent and counter terrorism.

Fourth, the Protocol to the OAU Convention on the Prevention and Combating of Terrorism re-states in its Preamble the conviction that terrorism constitutes a serious violation of human rights and a threat to peace, security, development, and democracy. In this vein, Article 23 (1) of the African Charter states that the principles of the preservation of international peace and security, as well as the principles of friendly relations among states, form the basic foundation of the OAU by recognising that all peoples have the right to national and international peace and security.

Fifth, on 18 November 2016, the Third Committee of the UNGA of the UN adopted the DRP by majority of its member states, based on the Resolution 32/28 of the UNHRC.

Sixth, Article 23(2) provides a prohibition on the use of the territory of a member state for subversive or terrorist activities. Consequently, these two circumstances serve as a means to preserve the notion of state sovereignty and non-intervention in the internal affairs of a member state of the OAU. Therefore, the definition of subversive activities reaffirms a principle of African international law, which prohibits subversive armed activities and any private propaganda encouraging terrorism and murder.

Seventh, the concept of the right of peoples to peace and security has been explicitly included in some African constitutions. However, these constitutional
texts have elaborated this concept by taking into account a conception based only on the relationships between states by referring to the principles contained in Article 2 of the UN Charter, such as the prohibition of the threat or use of force against the territorial integrity or political independence of any state, the prohibition to intervene in matters within the domestic jurisdiction of any state and cooperation among states.