

Const. law

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Kenya has developed a raft of anti-terrorism measures which in the past were encapsulated in different legislation such as the penal code (cap. 63). The measures range from legislative and institutional measures which span the domestic, regional and international levels. Despite the presence of these measures, the threat of terrorism persists. Key to all civil liberties is to point out our human rights which are not just for law-abiding citizens and the best among the Hawaiian but also for the worst among us, including those convicted of heinous crimes or those on trial for horrendous acts of terrorism.

The paper seeks to enlighten on that there is delicate balance that is depicted when enacting and enforcing a legislation which may have a great impact on the civil liberties of a people and how this delicate balance may be achieved. My view is that the law will often tend to overlap with the civil liberties of the individual in the society whether the perpetrator or not, the strategy that should be employed is to what extent to these civil liberties have to be limited and which of these civil liberties that can be limited.

These acts of terrorism thrive in the freedom of democracies: the freedoms of association, expression and movement enjoyed in a liberal democracy are conducive to the planning and execution of acts of violence, designed to destabilize or destroy State structures, and to advance particular ideological ends. A delicate balance may be less in evidence than fervor for erosion of civil liberties in response to perceived crises. In the past years, unlawful detention was rampant mostly affecting Somali refugees who were detained in Kenya without any charge.

The recent piece of legislations has wrought up complains mostly from the Muslims ND the human rights activist who have given arguments depicting deprivation of fundamental freedoms and violation of the constitution. Some of these civil liberties that are affected are privacy, expression, media, security, conscience, religion, belief, opinion, ownership and access to property. The Act seeks to give reasons why these liberties are restricted but the question arises as to the actual implementation: that the law enforcers will not in any way be biased.