

## Closing remarks

*Jiří Šedivý\**

Closing remarks by Ambassador Jiří Šedivý, NATO Assistant Secretary General for Defence Policy and Planning, at the Seminar 'Civil Society Civil Society Facing the Consequences of Terrorism: Victims of Terrorism, Civil Liberties and Human Rights' organised by the Spanish Ministry of Foreign Affairs and Cooperation, the Embassy of Switzerland and and the Elcano Royal Institute and held in Madrid from 15 to 16 June 2009.

Excellencies, Professors, Ladies and Gentlemen,  
Dear Colleagues,

In closing this event, I would like, first of all, to extend, on behalf of all of us I think, my gratitude to the Governments of Switzerland and Spain for their tremendous effort in organising this high-level EAPC/PfP workshop on 'Civil Society Facing the Consequences of Terrorism: Victims of Terrorism, Civil Liberties and Human Rights'. We have had the privilege of being able to engage in stimulating and in-depth discussions on a topic of crucial importance to our security, in a wonderful setting so graciously provided by our Spanish hosts.

You will agree that drawing conclusions from such a rich event is no easy task. But unfortunately that honour has fallen to me.

Having attended all four Panels of this workshop, I have become even more aware of the complexity of the topic, and indeed of the very phenomenon of terrorism. In my introductory remarks yesterday I argued that the international community should strive for a **common vision** of the terrorist threat we face. This vision should be a comprehensive one, encompassing its **socio-economic roots, its enabling factors, its manifestations and, indeed, its consequences**. That argument, it seems to me, has been supported by the main themes of discussion and conclusions of the four panels.

**Panel 1 on the 'Victims of Terrorism'** provided us with examples of victimisation in various national contexts. The scale of victimisation caused by ETA and PKK terrorism, is particularly harrowing, with victims numbering in the thousands. There are various approaches to recognising, protecting and supporting the victims of terrorism – and we heard about the Turkish, Swiss, and Spanish 'models', which are all laudable and have their advantages. The Spanish approach in particular has expanded victims' empowerment and recognised their rights to proper support and compensation. The Spanish Ombudsman underlined the need to put victims first in addressing terrorism. The Swiss approach equates terrorism with crime, and extends equal support to both Swiss

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citizens and foreign residents, whereas the Turkish approach emphasised the preventive dimension by reaching out to communities. All speakers pointed out, however, that their States can do better still in acknowledging and supporting victims of terrorism, be they citizens or simply residents of the country in questions.

**Panel 2 on the ‘Social and Economic Costs of Terrorism’** presented national perspectives from Spain, the United Kingdom, and France in fighting Basque, Irish, and Jihadist terrorism, as well as the view from the UN’s Counter-Terrorism Implementation Task Force. It was pointed out that terrorists seek to divide societies, and hold them hostage. In addition, terrorists seek to maximise the space between civil society and State authorities, and try to occupy that space. Several speakers underlined that experience shows that our fight against terrorism should not be militarised, and that terrorists are criminals who should be dealt with as such. There is no longer a clear delineation between organised crime and terrorism. We should not equate radical political views with their violent expression through terrorism. The formal recognition by the judiciaries is essential for victims of terrorism, as ‘impunity does not work’.

**Panel 3 on ‘Human Rights and Civil Liberties in a Time of Terror’** underlined the need to protect and promote our fundamental freedoms, civil liberties and human rights while fighting terrorism. These rights must apply to both the suspected terrorists and their victims. In case of the former, principles such as the presumption of innocence, the right to a fair trial, and due process of law (including with regard to pre-trial detention) must be respected. States must also resist the temptation to declare a state of emergency (creating legal ‘black holes’), or to wrongly categorise the fight against terrorism as a “war on terror”. Several speakers emphasised the extent to which the ‘Spanish model’ effectively uses democratic legal instruments available in fighting terrorism, and particularly promotes the rights of victims, including in the international arena. International organisations, such as the OSCE, can help uphold human rights standards in the fight against terrorism, including through assisting states in ensuring that their counter-terrorist legislation is compliant with international human rights standards.

**Panel 4 on ‘Terrorist Designations and the International System’** explored the legal challenges related to the international designation, or listing, of terrorists. In particular, the experience of the UN al-Qaeda/Taliban Sanctions Committee (based on UNSCR 1267) was discussed. A Swiss representative argued for the improvement of the AQTG regime by adopting an independent review mechanism which could address human rights issues posed by listing and de-listing. The EU Counter-Terrorism Co-ordinator highlighted the challenges related to the EU’s autonomous listing mechanism (based on UNSCR 1373). He further argued that the EU’s involvement in the issue of the resettlement of former Guantanamo detainees can be explained by several reasons, including humanitarian, consistency with regard to rejecting the Bush Administration’s ‘War on Terror’, Schengen, a desire to deepen the Transatlantic agenda and radicalisation.

So, four very comprehensive panels which have left all of us with much food for thought to digest in the coming months.

In these closing remarks, allow me to also spend a little more time on the need to protect and promote civil liberties and human rights while fighting terrorism. We have heard several eloquent speakers make the compelling case that, rather than –as some critics would argue– hampering the effectiveness of counterterrorism efforts, respect for human

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rights and the rule of law while fighting terrorism actually **improves** our prospects for sustainable success.

I could not agree more. Clearly, **security and human rights are not mutually exclusive**. In fact, in order to ensure their effectiveness over the longer term, efforts to combat terrorism should be structured and carried out within the human rights framework.

Combating terrorism is not a short-term, one-off effort, **it is a long-term endeavour** that requires patience and resilience. In that context, only through the consistent respect of our fundamental values can we effectively tackle the challenge of terrorism. Without this respect, how can we be credible in condemning the ruthless methods used by terrorist groups, and how can we contribute to the elimination of the 'root causes' of terrorism, which, as Judge Owada told us yesterday, run deep?

As then **UN Secretary-General Kofi Annan** stated at a special meeting of the Security Council's Counter-Terrorism Committee with International, Regional, and Sub-Regional Organisations, back in March 2003:

'Our responses to terrorism, as well as our efforts to thwart it and prevent it, should uphold the human rights that terrorists aim to destroy. Respect for human rights, fundamental freedoms and the rule of law are essential tools in the effort to combat terrorism - not privileges to be sacrificed at a time of tension'.

This notion is further reflected in the **UN Global Counter-Terrorism Strategy**, to which several speakers at this Workshop referred. The Strategy was adopted by the General Assembly in September 2006, which underlines the mutually reinforcing relationship between the promotion and protection of human rights and counterterrorism measures.

Through the Strategy, all UN member states have committed to adopting measures to ensure respect for human rights and the rule of law as the fundamental basis for the fight against terrorism. They further resolve to take measures aimed at addressing **conditions** conducive to the spread of terrorism, including lack of the rule of law and violations of human rights, and to ensure that any **measures** taken to counter terrorism comply with their obligations under international law – in particular human rights law, refugee law and international humanitarian law.

The Strategy provides a blueprint for a co-ordinated, consistent and comprehensive response to terrorism, which highlights the need to address political, economic and social conditions conducive to the spread of terrorism. All members of the international community –states and international organisations alike– should contribute to this Strategy's implementation. As I pointed out in my introductory remarks yesterday, my organisation (NATO), for one, is **doing just that**.

Excellencies, Professors, Ladies and Gentlemen,  
Dear Colleagues,

Louise Arbour, the former **UN High Commissioner for Human Rights**, argued that 'It is vital that at all times Governments anchor in law their response to terrorism. To suggest otherwise... would lead to a steady erosion of fundamental rights and, ultimately, undermine the legitimacy of Government action itself'.

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**International organisations and states** of the international community cannot afford to act in accordance with **anything less** than this principle – for the sake of the victims of terrorism and indeed of the very survival of our democratic societies.

With this, I would like to express my gratitude to the organisers once again for a wonderful event and thank all the speakers and participants for their contributions.

Many thanks for your attention, and I wish all of you a safe trip home.

*Jiří Šedivý*

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