ICCT International Centre for Counter-Terrorism - The Hague

Ten Years after 9/11: Evaluating a Decade of Intensified Counter-Terrorism

On 12 - 13 December 2010, ICCT – The Hague held its International Launch Conference entitled 'Ten Years after 9/11: Evaluating a Decade of Intensified Counter-Terrorism'. Over 200 high-level international experts from various governments, counter-terrorism agencies, academic institutions and NGOs gathered to discuss the status of counter-terrorism as the year 2011 draws near, in which it will be 10 years since those devastating attacks on the United States.

Opening by Prof. Mr. Jaap de Hoop Scheffer and Introductory remarks by Mr. Peter Knoope

In the field of counter-terrorism, the year 2011 will be regarded as a memorable landmark, surely featuring a number of 'ten-years-after'-events that will look back at a decade of fighting terrorism. In preparation of that year of commemoration and review, ICCT – The Hague assembled over 200 distinguished international actors in the domain of counter-terrorism at its official International Launch Conference in December 2010. The aim: to prepare for the year to come by examining the relevant issues and questions that will certainly arise and to contemplate the effects and results of implemented policy measures, looking back at ten years of intensified counter-terrorism efforts.

Distinguished member of the ICCT – The Hague Board of Advisors and former NATO Secretary General **Prof. Mr. Jaap de Hoop Scheffer** formally opened the conference, welcoming the guest to The Hague, City of Peace, Justice and Security. "Today, here in the Hague at the international launch of the ICCT, we will look back at ten years of intensified counter-terrorism measures since nine-eleven 2001, hoping to learn some important lessons for the development and implementation of effective and just counter-terrorism policies in the coming years." De Hoop Scheffer emphasised the importance of taking human rights into account when developing and implementing counter-terrorism measures. "The way we shape

the interaction between human rights and counter-terrorism is pivotal for our success in countering political violence."

> "The way we shape the interaction between human rights and counter-terrorism is pivotal for our success in countering political violence"
>
> **Jaap de Hoop Scheffer**

In his introductory remarks, ICCT – The Hague Director **Mr. Peter Knoope** underlined the relationship between terrorism and fear, stating that "fear as an emotional response to violence has had an underestimated effect on our political and social landscape in the last decade." In order to develop and implement an effective counter-terrorism strategy, Knoope argued, the right balance must be established between repression and prevention; between public communication and silence; between protecting our political and social freedoms and providing security; between visible measures and behind the scene actions. "A free and open society is a vulnerable society; reduction of vulnerabilities requires an innovative and strategic approach in order to protect and maintain the freedoms. Studying that balance between repression and prevention, between security and human rights, is the mission of ICCT – The Hague," Knoope concluded.

Keynote Mr. Michael Rolince

Prior to September 11, 2001, FBI counter-terrorism investigations focused on a variety of groups, pre-eminent among them Al Qaeda, whose previous devastating attacks had not been effectively countered, stated **Mr. Michael Rolince** (Senior Associate at Booz Allen Hamilton and former Special Agent in Charge of the FBI Washington Field Office Counterterrorism Division). While prevention remained a priority, the law enforcement approach post attack proved successful in identifying, arresting, convicting and incarcerating identified subjects, and assisting allied efforts in implementing similar strategies. A combination of intelligence operations, diplomacy, economic sanctions and potential military actions all served to round out the pre-9/11 strategy targeting members, supporters and sympathisers of designated terrorist organisations. Thus, investigations targeting past attacks, combined with efforts to identify actors intent on future operations, consumed the limited resources and finances of those responsible for an effective and efficient counter-terrorism response. A comprehensive, long term counter-terrorism strategy did not exist, argued Rolince.

The attacks of 9/11 demonstrated Al Qaeda's capabilities and global reach exceeded the efforts of US and Western services to contain and neutralise this adversary. In the immediate aftermath of the attacks, significant resources were dedicated to the largest counter-terrorism investigation ever undertaken, while the threat of follow-on attacks persisted. Policies and strategies not been previously tested – on the ground, or in the courts – were hastily drafted, disseminated and implemented, often with mixed results. NSEARS, the Patriot Act, the debacle at Abu Ghraib and the decision to confine enemy combatants at Guantanamo Bay all proved highly controversial and in some instances, counterproductive. The wisdom and the merits of "enhanced interrogation techniques" vilified by most law enforcement professionals, but supported by a limited number of practitioners, will be debated for years to come. The Instinctual, "just do something" approach prevailed, Rolince stated. The demands of leadership at the highest level to ensure such an attack never happen again largely defined US-reaction.

Going forward, successful programs will require identifying, maintaining and sustaining long term commitments across law enforcement, intelligence, academe, and the private sector. International cooperation, meaningful collaboration and timely information sharing will not be optional if we are to prevent future attacks. Failed attempts by our adversaries over the past eighteen months prove the value of this strategy. During economically challenging times, the ability to staff, fund and equip counter-terrorism programs across continents will be key. Simultaneously, events in the Middle East to include the ongoing conflicts in Afghanistan and Iraq will continue to influence and radicalise the young, the disenfranchised and the angry. Countering violent extremism, 'homegrown' or imported, while articulating a persuasive counter-narrative to that which has proven persuasive to a growing number of impressionable youth, will be essential if we are to have a realistic chance of success, argued Rolince. The need to identify and engage the right community leaders, at the right time, right now, has never been greater. They in turn must step up; they cannot stand on the sidelines any longer. Furthermore, governments should refrain from inflating the threat: "what the world has collectively done to enhance Al-Qaeda is to put them on a pedestal, turning them into some sort of semi-gods who are different and more difficult [then common criminals], and for some reason what we used in the past does not work." They should be depicted and approached as regular criminals, but Western governments and media have made them more than that, hence fortifying their position.

> **"What the world has collectively done to enhance Al Qaeda is to put them on a pedestal, turning them into some sort of demi-gods […]; they are common, criminal violent murderers who are willing to die, that is all they are, and we made them more than that"**
>
> **Michael Rolince**

Today, Rolince argued, "we are […] facing some critical choices; how we respond and with whom we choose to respond, with whom we choose to partner, the extent to which we are willing to commit wholeheartedly and without reservation to our choices." Governments need to move away from quick fixes that seem attractive in times of crisis; focus on long term strategies based on sound analysis.

Keynote Imtiaz Gul

Mr. Imtiaz Gul (Journalist and Director of the Center for Research and Security Studies in Islamabad) started his presentation by describing the grim political situation in Pakistan prior to 9/11. Compliance of the Inter-Services Intelligence (ISI) with the Taliban and Pakistani militants fighting in Kashmir largely defined Pakistani's security policy. This dangerous nexus between a state institution and violent non-state actors led to a "pretty grim situation where the Taliban leadership thought that since Pakistan needs us, they will not touch us." In this climate, there was virtually no space for civil society to function as it should, due to the complicity between the ISI and actors such as the Taliban.

Gul argued that the main dilemma General Pervez Musharraf faced was the division within the Pakistani security apparatus, the military and ISI. It was a division between those who tolerated or even supported the Jihadi militants in Kashmir and Afghanistan and those who thought that Pakistan should stop perceiving them as its first line of defence against India.

Pakistan's response to 9/11 encompassed intensified cooperation with the CIA and FBI – intelligence sharing and training - and opening up its military bases for US-attacks on Afghan territory. As the operation Enduring Freedom started in October 2001, Pakistan began deploying troops in the mountain areas where Bin Laden was reported to have slipped. Despite this vast army presence, thousands of Al Qaeda fighters retreated into the Bajaur and Waziristan region, facilitated by the sympathy of local population and commanders. Moreover, Musharraf's policy to ban several militant outfits proved fruitless as thousands of religious seminaries and Madrassa's that were under the influences of these groups continued to function, leaving a huge space for religious-political-militancy.

Hence, political violence in Pakistan has increased immensely since the start of the millennium. Despite the intensified investments in counter-terrorism measures, Pakistan has suffered more than 32,000 casualties and witnessed over 250 suicide attacks since 9/11 in its struggle against Taliban militants. Sufi shrines and marketplaces are frequent targets of terrorist attacks.

The tipping point at which Pakistan became an integral, deeply entrenched part of the conflict between the US-led coalition and Taliban and Al Qaeda forces, which up until then was largely confined within the borders of Afghanistan, was the siege of the Red Mosque in Islamabad by Pakistani military forces in 2007. This attack gave birth to the Ghazi Force and legitimised the rise of Tehrik-i-Taliban Pakistan later that year. Since that incident, Pakistan has witnessed a drastic surge in suicide attacks: the numbers of suicide bombings rose from 25 between 9/11 and 2007, to 225 between 2007 and today.

It became clear that the Pakistani and American strategy to counter extremist groups with military force had backfired severely. "The fallout from an overemphasis on force in the counter-terrorism strategy has facilitated the radicalisation of certain elements of the Pakistani society. A society that had only been reeling under the incompetence and indifference of a self-serving civilian and military elite", argued Gul. This has created many enemies for Pakistan and the entire world and heavily affected the development of the country. Moreover, the poorer segments of society suffer from a lack of education, food and medicine, as the government choose to heavily increase investments in the security apparatus, instead of using those funds to address the basic needs that many Pakistani's were lacking.

> "Hundreds of millions of Dollars have gone into reinforcing the security apparatus [...] depriving the common man of education, food and medicine"
>
> Imtiaz Gul

One of the challenges ahead that needs to be tackled is improving India-Pakistani relations, which have worsened since the Mumbai terrorist attacks and allegations of complicity of ISI in this tragic event. This dispute hampers the creation of a comprehensive regional security strategy. Gul argued that such a regional strategy is essential and should encompass "a shift in the use of force to political engagement, with respect for Islam as an essential part of Afghan and Pakistani society." Furthermore, checks must be performed on individuals and groups who misuse religion for their violent agenda's and counter-narratives need to be developed and implemented that counter the perception that the militant groups provide for governance and justice in the absence of the state. Gul concluded by stating that "militarism is neither a match nor an answer" to violent ideologies.

Commentary Martha Crenshaw

Dr. Martha Crenshaw (Professor at Stanford University and Senior Fellow at CISAC and FSI) assessed counter-terrorism policy as being largely crisis driven and influenced by other foreign policy and security issues. For example, US rivalry with the Soviet Union and Pakistan's tension with India have distorted effective long-term policy for both the US and Pakistan. The use of force by the US in the Iraq war and by Pakistan in the operation on the Red Mosque had unintended, negative consequences for their respective counter-terrorism policies. Crenshaw described these series of unintended consequences as a result of a lack of planning. She put forward the question to the audience: "why do governments not understand the consequences of their actions? Are governments doomed to a certain lack of foresight or is there some way in which this process could be improved, so that governments look a bit further ahead in time?"

> ## "The lack of planning in counter-terrorism is a pattern that goes well before 9/11"
> ### Martha Crenshaw

This focus on short-term fixes existed already for several decades, argued Crenshaw, as the US response to the occupation of Afghanistan by the Soviet forces exemplified. American support for the Mujahedeen and reliance on the Pakistani ISI to channel assistance might have satisfied US objectives to counter the influence of its cold war rival, but proved to be problematic in the long term. There was, however, no realisation at the time that this policy could contribute to the rise of Islamist militancy or affect Pakistan's fragile democracy: "The lack of planning in counter-terrorism is a pattern that goes well before 9/11."

The relationship between media and government is also an issue of concern in this matter, stated Crenshaw. As media shape and frame the public response to terrorism, they constrain governments in many ways. For example, pressure generated by an intensified public debate can encourage the state to act swiftly and decisively. As a result, short-term measures are likely to dominate and long-term strategy will be neglected.

Crenshaw concluded on a positive note: not all aspects of counter-terrorism policy have had (unintended) negative effects. The intensified cooperation between states in the fight against terrorism has strengthened international relations, despite the differences in type of government and their respective responses to the threat.

Commentary Richard Barrett

Mr. Richard Barrett (Coordinator UN Al Qaeda / Taliban Monitoring Team) argued that the response to 9/11 was largely shaped by domestic policy and the huge increase in available resources has not always made the job of counter-terrorism easier. The traditional tensions between agencies and between countries have remained, and the massive influx of resources and new counter-terrorism bodies did not necessarily result in a better coordinated response.

In reaction to the contemporary Pakistani environment, Barrett argued that the country is in deep flux with heaps of challenges ahead, of which the resistance in the tribal areas to the intrusion of government forces remains the biggest test. Groups like Lashkar-e-Taiba are deeply imbedded in society; breaking that connection is a huge challenge for the Pakistani government.

Barrett argued that a far better understanding is required of the factors that are conducive to the choice of individuals and groups to support or employ terrorism. Additionally, the true reasons for the objection to American presence in segments of society in Afghanistan, for instance, should be examined. If we know what motives drive people to engage in political violence, we can think of ways to channel those motivations into non-violent action, Barrett argued.

> ## "We have got to empower people to get the message out that violence does not work"
> ### Richard Barrett

In the end, most people oppose violence and it is up to the policymakers and academics to construct an effective counter-narrative, emphasising that violence does not generate justice or has any other positive effects. This narrative should get the message right, resonate with the target audience and be delivered by credible messengers: "We have got to empower people to get the message out that violence does not work," concluded Barrett.

Panel Workshop I - Countering Violent Extremist Narratives

Chair:
Mr. Kamel Rezag Bara
Counter-terrorism Advisor to the President of Algeria

Panellists:
Prof. Dr. Rogelio Alonso
Professor at Universidad Rey Juan Carlos
Dr. Omar Ashour
Lecturer at Exeter University
Prof. Dr. Rohan Gunaratna
Professor at Nanyang Technological University and Head of ICPVTR
Prof. Dr. Max Taylor
Professor at University of St Andrews and Director CSTPV

Over the last decade, governments have deployed various public diplomacy, counter-narrative and strategic messaging campaigns to undermine the appeal of and support for violent extremist ideology, said **Mr. Kamel Rezag Bara.** These efforts have unfortunately not always been consistent, well-funded and properly coordinated. What should an effective counter-narrative look like, both in the domestic and international arena? What can we learn from past failures and successes?

Prof. Dr. Rogelio Alonso presented the Spanish experience in building counter-narratives targeting Euskadi Ta Askatasuna (ETA)'s members and its public support base. He argued that the transition from dictatorship to democracy has been the core of the process that increased the legitimacy of the state whilst at the same time de-legitimising ETA. Following this transition, a vast amount of former terrorists disbanded from the organisation. The state and its security forces improved their practices, leaving behind the misconducts that some members were involved in. Moreover, when the activities of Grupos Antiterroristas de Liberación (GAL), a death squad that had murdered sympathisers of ETA during the so-called "dirty war" in the mid-80s, stopped, this further increased the legitimacy of the state. The democratisation process and related changes in Spain's practices against ETA and the Basque region proved to be essential in mobilising the Spanish population against the terrorist movement. Additionally, ETA's attacks killed more citizens during the democratic period than during dictatorship, which further eroded the legitimacy of the organisation.

Another positive consequence of Spain's democratisation was that the Basque region was given more autonomy and freedom. Local authorities were now allowed to display signs of Basque identity, such as flying the flag. This made it more difficult for ETA to argue that the entire region was being marginalised by the authorities in Madrid.

Finally, Alonso argued that negotiations with terrorists can have a negative effect. In the case of ETA, negotiations strengthened the belief among its leadership that it could continue carrying out violent activities, since they knew that the Spanish authorities would return to the negotiations table.

A major factor leading to the disengagement of former terrorists is the deception in the lack of results that their violent activities have generated, argued **Dr. Omar Ashour** in his presentation on the de-radicalisation and disengagement of violent Islamists. Jihadist terrorist actions have largely been unsuccessful in achieving their goals, as violence has often proved to be counter-productive.

Furthermore, as Jihadists started targeting Muslim communities as well, this tactic has heavily eroded their ideology and public support. As these groups often champion the defence of the global Muslim population, targeting Muslim civilians – such as perpetrated by Al Qaeda in Iraq – has heavily affected their narrative. These groups were no longer perceived as fighting against the US and foreign invaders, but as being a threat to ordinary Muslims as well. These actions have de-glorified Al Qaeda and the ideology it espouses among Muslim communities, resulting in the disengagement of terrorists.

Community outreach efforts on counter-radicalisation are important, Ashour concluded. The state should take a distant role in this strategy, however, as the credibility of the messengers could be affected when they are directly or indirectly linked to the state. Currently, the messengers are a lot more credible then in the years after 9/11 and it is affecting Al Qaeda to the extent that one of Al Qaeda's main ideologists was claimed to have said in the Guardian that the growing appeal of these messengers coupled with the disengagement of former Jihadi militants "is worse than 100,000 Jewish or American soldiers."

Prof. Dr. Rohan Gunaratna centred his presentation on the importance of terrorist rehabilitation and community engagement. Religious and spiritual rehabilitation in this process is by far the best 'weapon' that

governments have in countering violent extremist narratives. This is far from easy: clerics need extensive training on how to win the hearts and minds and, moreover, to listen to detainees and make them talk about why they joined the Jihad.

Community engagement is vital, especially given the receptiveness of migrant and diaspora groups to radicalise, as the cases of the 9/11 and 7/7 attacks made apparent. Western countries have the resources and knowledge Muslim countries and institutes often lack, so they should invest more in these areas, but concealed from the public as it could affect their credibility. Although (repressive) counter-terrorism operations remain important to counter the direct threat in the short term, the long term is what matters most, and in this respect community engagement and rehabilitation are key.

> ### "It is imperative for Western governments to develop community engagement programmes in migrant and diaspora communities"
> #### Rohan Gunaratna

In the subsequent presentation, **Prof. Dr. Max Taylor** assessed the PREVENT programme in the United Kingdom (UK) from a criminological perspective. He emphasised that it is important to note that there are very few terrorists but there is a large number of people who feel disaffected to a certain extent. The issue at stake as far as terrorism is concerned is not disaffected citizens or counter-radicalisation *per se*, but stopping that small group of people from committing violent crimes.

We should stop treating terrorism as a "special form of crime," stop using its political context to treat it as something not subject to the ways we think about other forms of criminal and problematic behaviour, argued Taylor. Terrorists may commit violent crimes in the name of a political ideology, but the keys to its control and management generally lie not in ideology but in other more familiar criminological concepts. We (the observer, the media) attribute and give meaning to terrorist behaviour after the event, giving it status.

Taylor argued that lessons should be drawn from social psychology, criminology and general health practices about why people carry out violent behaviour. "We should apply existing knowledge to

the issue of terrorism instead of trying to reinvent the wheel ourselves," he stated.

There is a broadly held view that the UK PREVENT strategy has failed: in part, this is due to the assumption that the problem is based in community marginalisation which paradoxically affirms a "clash of civilisation" discourse. Large parts of the UK PREVENT programme targeted issues such as unemployment and community cohesion, for instance, instead of directly targeting the factors that lead individuals to engage in violence and criminal behaviour. It seems that the programme also funded people whom the government "felt comfortable with." This did not necessarily mean they had any influence or credibility in their communities, concluded Taylor.

Following the four presentations, the workshop discussed the importance of making the distinction between terrorists and their constituency in both discourse and policy. Furthermore, it was deemed important to define what is specifically meant by the term *moderate voices*. The participants called for a better understanding of the circumstances under which people engage in violence as well as how the media and internet can play a positive or negative role in this process.

Recommendations

The participants of the workshop on *Countering Violent Extremist Narratives* debated whether state authorities or politics should have a primary role in countering the narratives of violent extremism. Some argued that the messenger is essential and that state actors should not be too visible in formulating and executing counter-narratives. Instead, there seems to be a pivotal role for civil society actors, including affected community groups, former extremists, and the so-called theological-political intellectual literature. Others, for instance referencing to the Spanish case, argued that governments should play a primary, visible role in this process, although in cooperation with other actors. For example, counter-narratives communicated by Basque nationalists with the support of the central state can be very effective in reaching certain audiences that counter-narratives developed and communicated solely by state actors may not reach.

Counter-narrative programmes should focus on de-legitimising the use of violence and illustrate the ineffectiveness of violence in relation to the stated social or political goals of violent extremist groups. Such narratives should also indicate the various

alternative paths to changing societies, using the positive values of religion, democracy, the rule of law, tolerance and dialogue.

Furthermore, it was remarked that a successful counter-narrative strategy should not solely focus on the radicalising or already radicalised other, but also force the counter-terrorism community to review itself. Violent radicalisation – in terms of justifying and engaging in repressive, military-centred actions – exists on both sides. Only when governments actually practice what they preach, will their narratives become fully credible.

The workshop concluded that there is a need to conduct further research on the role of the media – including the Internet – and educational policies in promoting counter-narratives to violent extremism. Additionally, much expertise and experience exists in the fields of social psychology, criminology, other sciences and general health practices that can be applied to the understanding of radicalisation processes and inform effective de-radicalisation programmes and counter-narratives.

Panel Workshop II - International Legal Framework for Countering Terrorism

Chair:
Dr. Liesbeth Lijnzaad
Legal Advisor, The Netherlands Ministry for Foreign Affairs

Panellists:
Prof. Dr. William Banks
Professor at Syracuse University
Prof. Dr. Terry Gill
Professor at University of Amsterdam and Utrecht University
Dr. David Scharia
Legal Officer, UN Counter-Terrorism Committee Executive Directorate

The workshop was opened by **Dr. Liesbeth Lijnzaad**, who introduced the central question of this workshop: is the current international legal framework sufficiently equipped to effectively deal with the threat of terrorism and counter-terrorism practices? Lijnzaad highlighted the legal consequences the asymmetric character of conflicts involving states on one side and non-state actors on the other has for the application of international law, including International Humanitarian Law and Human rights Law, specifically in cases of terrorism-related cases.

Prof. Dr. Terry Gill stated that the use of force (UoF) in relation to counter-terrorism will always be an exceptional measure. The rationale behind this exceptionalism rests on a number of considerations, amongst others the principle of necessity and the various policy implications the UoF will have. It should be noted that the UoF in relation to counter-terrorism must be considered in light of the sovereign obligation of states to prevent attacks originating within their territory. The execution of the duty to prevent attacks should naturally start with law enforcement.

In any discussion on the UoF, the role of the United Nations Security Council (UNSC) and its powers under the Charter is crucial. Chapter VII provides the UNSC with a variety of possible operational avenues (outside of the self-defence argument); Article 39 is an excellent example in this respect. Its broad mandate allows for a variety of measures with a counter-terrorism element, the ISAF mission being a case in point.

Gill argued that pre-9/11, in certain quarters the Charter was interpreted in such a way as to conclude that only state-based attacks give rise to the right of self-defence. Such a position ignores long established customary international law, which allows states to act in self-defence in response to the actions of non-state actors. The Caroline Incident is an obvious example here. In pursuing any course of action, states must be cognisant of usual caveats to the use of force, i.e. necessity, proportionality and immediacy. Naturally, all actions with respect to the UoF must be in full conformity with the principles of the Charter and the usual considerations of *jus ad bellum*.

The applicable law with respect to targeted killings is yet to be categorically settled, argued **Prof. Dr. William Banks**, as he focussed on this highly contested issue as a case study of the application of the different legal regimes in countering terrorism. International Humanitarian Law, Human Rights Law, Customary International Law and Domestic Law can all be applied in this respect. There are a host of contested definitions of targeted killings and the essential point here is that we are some distance from arriving at a definitional consensus, stated Banks.

It is to be noted that Obama already ordered more drone attacks – currently the most prominent form of targeted killings – than Bush. This policy was recently robustly defended by Harold Koh, Legal Advisor to the US Department of State. With respect to the deployment of drone attacks,

governments are operating within what Banks described as the "twilight zone of threat." "The law of armed conflict is not yet evolved to account adequately for this twilight zone between conventional war and conventional peace when nations are subject to the continuing threat of terrorist attack," explained Banks.

> **"The law of armed conflict is not yet evolved to account adequately for this twilight zone between conventional war and conventional peace when nations are subject to the continuing threat of terrorist attack"**
>
> **William Banks**

The underlying argument in Banks' presentation is that the contemporary laws of war have not kept up with the changing face of conflict; there continues to be confusion with respect to the applicable law. In essence, the contemporary legal architecture appears to not be able to address fully the modern battlefield and the advent of asymmetric warfare.

Dr. David Scharia in his presentation discussed the role of the United Nations (UN) Counter Terrorism Committee (CTC) in bringing terrorists to justice. He added to the points mentioned by the earlier speakers that despite the potential use of Chapter VII, the UN perceives the issue of terrorism mainly as a law enforcement matter. This is reflected in resolution 1373 (2001) and most importantly in the practice of its implementation by the UN CTC and Counter-Terrorism Committee Executive Directorate (CTED) and in the international counter-terrorism instruments available. Even in the current discussions over the comprehensive counter-terrorism convention – which is unlikely to be adopted soon –, law enforcement is seen as the dominant paradigm. Additionally, new UNSC Resolutions that are about to be adopted are likely to have an increased emphasis on soft measures such as engagement with civil society, education and dialogue.

One of the principal counter-terrorism related UNSC Resolutions is Resolution 1267 (1999), which implemented the sanctions regime listing *inter alia* Al Qaeda, the Taliban and Osama bin Laden and called for the development of domestic mechanisms for its implementation. It gave rise to a host of jurisprudence: the Kadi case being the most significant to date. On this point there is

definite scope for future research by ICCT - The Hague, argued Scharia, for instance focussing on the domestic implementation of measures under chapter VII in conformity with national legal structures.

Scharia argued it is important to consider how far the law enforcement paradigm in counter-terrorism can be pushed without distorting it? How adequate are the existing legal and law enforcement tools in the fight against terrorism? How can new tools be developed without paying a heavy price by neglecting our Human rights obligations or by providing ammunition for terrorist recruiters?

Recommendations

The workshop on the *International Legal Framework for Countering Terrorism* reported back a number of suggestions for further reflection pertaining both to the international legal framework in situations of armed conflict and during times of peace.

A starting point of the discussion was that law enforcement should be the conventional paradigm for addressing terrorism; only in exceptional circumstances, UoF is justified. There is a threshold issue here, which could benefit from further study. How should the international community deal with terrorism that takes place in distant boundary areas where the nominal state that has sovereignty over that particular land does not have the ability to exercise such control and contain the terrorist threat? Another issue relating to that threshold is the temporal nature of self-defence: if a state conducts military counter-terrorism operations under the notion of self-defence, how long can a state rely on this basis? These questions require further exploration.

Furthermore, there also exists concern that the field of law governing law enforcement and the one regulating the use of force are not properly connected. Some are concerned that traditional frameworks do not completely cover the responses to the contemporary threat of terrorism and do not fully organise the connection between the two abovementioned fields. Is there a need to investigate further the creation of a unique counter-insurgency legal framework, or does operational law already fills the gap? In this regard, the concept of asymmetric warfare raised further questions as to whether this is only a political, doctrinal notion or a legal concept.

When turning to the domestic law of peace framework, one of the issues raised pertained to the question how to deal with intelligence in a

transnational context. How may intelligence be used in court cases that have a distinct international setting? What are the consequences of this for legal assistance and cooperation between states? International legal cooperation, exchange of intelligence and related issues concerning e.g. differing standards in privacy protection and the overall patchwork nature of domestic legal procedures are issues that deserve further research.

Lastly, whilst there is amongst many states a desire to (legally) combat terrorism within the framework of Human rights, the focus is almost solely on the terrorists and their supportive environment. There is also a need to take into account the interests, needs and Human rights of victims.

Panel Workshop III - Role of Civil Society in Countering Violent Extremism

Chair: **Ms. Joanne Mariner**
Director Human Rights Watch Terrorism & Counterterrorism Program

Panellists:
Dr. David Cortright
Director of Policy Studies, Kroc Institute for International Peace Studies
Dr. Bibi van Ginkel
Research Fellow, ICCT – The Hague
Mr. Fulco van Deventer
Policy Advisor, Cordaid
Mr. Colin Mellis
Policy Officer, Netherlands National Coordinator for Counter-Terrorism
Mr. Toaha Qureshi MBE
CEO, Stockwell Green Community Services

The workshop's chair, **Ms. Joanne Mariner**, opened the session by explaining that there is a need and increasing desire to examine the ways in which non-governmental organisations and other civil society groups can play a constructive role in the prevention of violent extremism. They could do so by attempting to resolve conflicts, remedy underdevelopment, calm religious tensions, or address other conditions conducive to the spread of terrorism, or, even more directly, by working with at-risk youth to prevent radicalisation.

Dr. David Cortright in his presentation focused on the role of civil society organisations that work in conflict-prone areas dealing with conditions conducive to the spread of terrorism. These

organisations experience that the political space in which they operate has eroded since 9/11. This is due to the repressive nature of several counter-terrorism measures, especially in 'the South' or developing world, argued Cortright.

"These overly-restricted security measures have created a climate of suspicion and hostility toward non-governmental groups. This is valid especially when these groups are challenging social exclusion or unequal power relations," stated Cortright. This has caused a chilling effect, especially against charities in communities that are accused of being associated with terrorism.

Instead of diminishing the space in which civil society operates, it is important to empower civil society organisations to enable them to execute their activities in the most effective way, concluded Cortright. Furthermore, it would be useful to discuss how civil society organisations can have their voice heard at the UN review of its counter-terrorism strategy in 2012.

> **"These overly-restricted security measures have created a climate of suspicion and hostility toward non-governmental groups, especially when these groups are challenging social exclusion or unequal power relations"**
>
> **David Cortright**

Dr. Bibi van Ginkel argued that up until now, entities of the UN Counter-Terrorism Implementation Task Force (CTITF) are not engaged in a structural dialogue with civil society on the implementation of the UN Global Counter-Terrorism Strategy. This is however highly needed. In the UN General Assembly Resolution following the biannual review of the Strategy, which was adopted by consensus in 2010, clear reference was made to the need for further engagement with and involvement of civil society in the implementation efforts.

Van Ginkel agreed with Cortright as she underlined the importance of guaranteeing dialogue with a diverse array of civil society actors, and moreover stressed that governments and international organisations should refrain from instrumentalising civil society and its role in counter-terrorism by pressuring them to adopt a counter-terrorism agenda or by merely using their

input for intelligence purposes. Civil society groups need their own space, concluded van Ginkel.

Mr. Fulco van Deventer in his presentation reported on the difficulties that Cordaid experienced after 9/11 in its contacts with partner organisations that work on peace-building in different areas around the world, as these organisations suffered from some of the restrictive counter-terrorism measures implemented. Civil society especially works within the lacuna that originates in the fact that certain regimes are not inclusive, but in fact exclude certain groups. Van Deventer explained that, historically, security is not an issue that is on the agenda of civil society. However, due to the contemporary environment a lot of civil society actors are confronted with this agenda, even though this is often approached from a human security perspective.

Van Deventer emphasised that one cannot and should not perceive civil society as a single or united sector. It is therefore "impossible to represent civil society as a whole, but we can represent the space in which non-state actors operate." States should engage with these various networks of organisations, which can be organised along pillars of conflict-mediation, capacity-building and human rights defenders.

Local initiatives of civil society organisations, such as Stockwell Green Community Services (SGCS) in the UK, can play a constructive role in de-radicalisation and should be nurtured and supported by governments, argued **Mr. Toaha Qureshi MBE**. He explained how his organisation, in a very early stage, became aware of the problems within the local communities that run the risk of becoming nurturing ground for radicalisation and violent extremism. Qureshi stated that a comprehensive understanding of the problems and creating awareness of these issues should be the first step. This should form the basis for building trust and credibility within the community and with the authorities.

The different programmes of SGCS have benefited from its close cooperation with police, local authorities and other civil society actors. The organisation focuses on offering disenfranchised youngster education and training programmes that provide better prospects for the future, provides them the space and time to express their frustrations and encourages them to take responsibility in their community. This approach is essential in countering radicalisation, concluded Qureshi.

Mr. Colin Mellis explored the interaction between (local) governments and civil society organisations from a governmental perspective. The main question that should be raised, he argued, is what relevant role can and should civil society actors actually fulfil in countering violent extremism? He stressed the importance of distinguishing between such efforts at home and those abroad; partnering with civil society actors at home is a completely different story than utilising international actors. Then the question is: should civil society be focused on diminishing the breeding ground of radicalisation, building resilience among the vulnerable, fighting the supply of extremist narratives or assisting with intervention in individual cases of radicalisation?

On a very local level, Mellis stressed the importance of utilising the expertise of local specialists. Bottom-up programmes are probably most successful, as civil society actors draw much of their strength from the fact that they are rooted and respected in certain communities and can reach out effectively to individuals and groups that are vulnerable to violent radicalisation. Pivotal for successful cooperation is experience and investment in the personal relationships between government and civil society actors. These personal relationships are often more important than projects that look good on paper, and should be fostered by governments.

In the debate that followed, the participants in the workshop emphasised their conviction that civil society organisations perform critically important work, and that the vision and analysis of civil society organisations should be taken into account in the design and implementation of any long-term strategy to address terrorism. Civil society organisations have important roles to play in advocacy, research, policy formulation, oversight, and as service providers. The speakers and participants expressed particular concern about government efforts to restrict the legitimate activities of civil society groups, by cracking down on civil society under the pretext of fighting terrorism.

Recommendations

The workshop on the *Role of Civil Society in Countering Violent Extremism* concluded that governments should recognise that a vibrant and diverse civil society can play a crucially important role in countering violent extremism. Civil society actors can assist in ameliorating conditions conducive to the spread of terrorism, countering extremist ideologies, preventing outbreaks of

political violence and resolving disputes peacefully. They can help to give a voice to marginalised and vulnerable groups such as victims of terrorism and provide a constructive outlet for the redress of grievances. They can also play a significant role in ensuring that counter-terrorism measures respect human rights and the rule of law.

In its dealings with civil society groups, governments should scrupulously respect their members' rights of association, speech and assembly. In particular, governments should not use counter-terrorism as a pretext for restricting legitimate civil society activities. Furthermore, the workgroup called on governments to engage constructively with civil society in formulating legal and policy responses to terrorism. For a broad counter-terrorism strategy to be effective in the long term, civil society needs to have a voice both in its development and its implementation.

Finally, the workshop concluded that multilateral agencies and institutions that address terrorism should enhance their contacts with civil society organisations, both in order to benefit from these organisations' concrete understanding of the local context and problems, and in order to underscore to governments that civil society has a legitimate role to play in this area. To cite a specific example, the United Nations Counter-Terrorism Executive Directorate should meet regularly with civil society organisations, if feasible during country visits, and should invite civil society organisations to contribute information relevant to CTED's assessments of national counter-terrorism efforts. The same more intensive engagement dialogue should be built between the UN Counter-Terrorism Implementation Task Force and civil society.

Panel Workshop IV - Effective Counter-Terrorism: Striking a Balance between Repression and Prevention

Chair: **Mr. Gilles de Kerchove**
EU Counter-terrorism Coordinator

Panellists:
Dr. John Bew
Lecturer at King's College London
Prof. Dr. Martha Crenshaw
Professor at Stanford University and Senior Fellow at CISAC and FSI
Prof. Dr. Richard English
Professor at Queen's University Belfast
Dr. Jean-Luc Marret
Senior Fellow, Center for Transatlantic Relations

Mr. Gilles de Kerchove opened the workshop arguing that assessing the balance is necessary and high on the agenda of the European Parliament. He called for an analysis of EU and US counter-terrorism measures and a discussion of the question whether the international framework based on law enforcement is sufficient to counter international terrorism effectively.

Furthermore, de Kerchove asked the workshop's participants to consider whether it is possible to integrate both development and security goals in a comprehensive counter-terrorism policy. He concluded that terrorists should always be treated as regular criminals, arguing that "if we want to deglamourise Al Qaeda it is important to emphasise the criminal justice dimension."

> ### "If we want to deglamourise Al Qaeda it is important to emphasise the criminal justice dimension"
> #### Gilles de Kerchove

Dr. John Bew in his presentation discussed the balance between repressive and preventive counter-terrorism measures in the cases of the Irish Republican Army (IRA) and ETA. Repressive measures proved to be more effective than it is now fashionable to argue, claimed Bew: both IRA's and ETA's power was reduced by strong repressive measures, before the peace process and political reconciliation started. Repressive actions by governments and security forces can produce effective results, but police primacy should be maintained over a militarised response and terrorists must be separated from the community for whom they claim to speak.

Bew concluded that historical experience clearly indicates that preventive measures, or soft power, can also reap positive results, yet – just like hard power – they should "not be reactive or politicised." In the UK, both the repressive and preventative measures since 9/11 have become too politicised.

A comparison of the successes and failures of US counter-terrorism policy under the Bush and Obama administrations was the topic addressed by **Prof. Dr. Martha Crenshaw.** She stated that repressive measures alone will never be the solution: there is a clear need for a broader strategy, which mainly requires solid intelligence

"before there can be any effectiveness in the use of force."

In the US, the bottom line is that once a powerful country embarks on a certain road, a change in presidency often does not lead to a major change in policy. The 'War paradigm' continues despite Obama's election promises of change; the focus has merely shifted from Iraq to Afghanistan. Many unpopular measures have continued under Obama despite his outspoken desire to improve American relations with the Muslim world and to shift course by opting to close the prison at Guantanamo Bay and holding trials in civilian rather than military courts.

Counter-terrorism in the US has always been heavily politicised. Since 9/11, failed terror plots, such as the attempted bombing in Times Square, have alarmed the public as well as government officials, further feeding into the need for a strong security response. Therefore, President Obama will continue to struggle with reforming US counter-terrorism policy as this climate of fear will make it very difficult to introduce what are perceived to be 'soft' measures, Crenshaw concluded.

Dr. Jean-Luc Marret elaborated on the specificities of the French approach to counter-terrorism. There is no explicit prevention policy in France, as the focus is largely defined by state neutrality towards religion (*laïcité*). Hence, the government is reluctant to engage in de-radicalisation programmes that target certain religious communities. "The French perception does not consider terrorism to be a columnisation of a radicalisation process; rather, it views terrorism as a concrete violation of laws in all its diversity," stated Marret.

The French perception is that focussing solely on terrorism as a criminal offence has a number of advantages. Firstly, it puts terrorism in the right perspective, as it fully underlines that terrorism is a criminal activity. Secondly, it allows for making a clear cut distinction between the fight against terrorism *per se* and the social-political conditions under which political violence can develop. Furthermore, Marret argued that "by regarding terrorism as a criminal act, France negates the possibility of legitimising the perpetrators."

The French counter-terrorism policy instead focuses strongly on pre-emptive arrests and the removal of non-nationals linked to terrorism. Many consider the French approach successful, as France has not witnessed any attacks on its soil since 1996 and its national counter-terrorism system does not seem to be a key issue in political or public debates. Marret stated that there are only two circumstances in which he could foresee the implementation of more preventive measures focused at de- and counter-radicalisation, in the first place likely to be focused on individuals formerly detained on terrorism-related charges. The first one would follow a successful and deadly terrorist attack on French soil; this would probably evoke major political and public debates on the future of the French counter-terrorism strategy, possibly leading to more prevention-focused measures. The second would involve a possible outcome of a in-depth cost-benefit analysis of the French counter-terrorism system: it may be the case that continuously monitoring former detainees and other suspected individuals might be more costly than investing in effective de-and counter-radicalisation programmes.

A practical counter-terrorism strategy, grounded in a historical based, coherent and long-term framework, will always be more effective than a reactive, crisis-driven response, argued **Prof. Dr. Richard English**. He continued by stating that terrorism will always pose a threat to society, but that its consequences can be managed to a certain extent.

In order to decrease the threat as much as possible, he has set out seven principles for governments, policymakers and society at large which could serve as a guideline in responding to terrorism: 1) avoid an over-militarisation of the response; 2) recognise that intelligence is the most vital aspect of counter-terrorism; 3) maintain strong credibility in the public debate and avoid misrepresentations of terrorist behaviour and motivations; 4) terrorism will outlive us all, thus, "learn to live with it"; 5) address root causes and recognise the political nature of the concerns where possible; 6) respect orthodox legal frameworks and the democratic framework of the rule of law; 7) coordinate security related financial and technological approaches and create long-term habits of cooperation.

During the ensuing discussion, participants debated the effectiveness of deportations of suspected terrorists, the human rights deficits in terrorist court cases and the counter-productive effects that a very visible counter-terrorism strategy can unwittingly evoke. The workshop agreed that no response will ever be perfect, but states should not deliver terrorists the attention and status they seek to obtain. The workshop, furthermore, discussed the nexus between security and development and the importance of

integrating counter-terrorism aims in assistance programs in third countries such as Yemen and the Sahel region.

Recommendations

The workshop on *Effective Counter-Terrorism: Striking a Balance between Repression and Prevention* led to a call for a comparison of the effectiveness of the European approach (focused on traditional law enforcement) vis-à-vis the more militarised US approach, for instance analysing the impact of the initial American policies after 9/11 and the readjusted policies towards the end of the Bush Administration and under President Obama. Is an international approach based on law enforcement outside of traditional armed conflicts such as Afghanistan and Iraq effective in countering international terrorism? This kind of evaluation was deemed vital.

The workshop emphasised that prevention does not necessarily exclude repression and *vice versa*; hard power and soft power are not mutually exclusive, but both should always be executed with full respect for the rule of law and within existing legal frameworks.

There existed broad agreement that much more has to be done on the preventive side. It is however deemed important to avoid securitisation of the prevention agenda in counter-terrorism efforts, as over-securitisation will take away much of the credibility and support within certain segments of society that is vital for the success of prevention-related policies. Thus, such counter-terrorism-relevant measures as strengthening social resilience, promoting interfaith and intercultural dialogue and empowering moderate voices, should not be openly and overtly be portrayed as pursuing mainly counter-terrorism goals, as this has proven to be counter-productive.

There still remain many questions to be answered and issues to be researched. For instance, what more could be done to prevent radicalisation and recruitment? What is the impact of the experience of social marginalisation and discrimination on counter-terrorism policies? How are human rights concerns being taken into account in counter-terrorism policies? For these kinds of research questions, it would be valuable to identify best practices and bring together policymakers, academics and practitioners to share knowledge and experiences relating to these themes.

About ICCT - The Hague

The International Centre for Counter-Terrorism (ICCT) – The Hague is an independent knowledge centre that focuses on information creation, collation and dissemination pertaining to the preventative and international legal aspects of counter-terrorism.

Connecting Experts, Policymakers and Practitioners

The core of ICCT's work centres on such themes as de- and counter-radicalisation, human rights, impunity, the rule of law and communication in relation to counter-terrorism. Functioning as a nucleus within the international counter-terrorism network, ICCT – The Hague endeavours to connect academics, policymakers and practitioners by providing a platform for productive collaboration, practical research, exchange of expertise and analysis of relevant scholarly findings. By connecting the knowledge of experts to the issues that policymakers are confronted with, ICCT – The Hague contributes to the strengthening of both

research and policy. Consequently, avenues to new and innovative solutions are identified, which will reinforce both human rights and security.

Founding Institutions

ICCT – The Hague is supported and nurtured by a unique partnership comprising three renowned institutions based in The Hague; the T.M.C. Asser Instituut, the Netherlands Institute of International Relations 'Clingendael' and the Centre for Terrorism & Counterterrorism of Campus The Hague / Leiden University.

ICCT – The Hague is an independent centre; its activities and views are independent of any public or private bodies (with the exception of the founding institutions), and the centre is not allied to any political party, denominational group or ideological movement. The centre is the result of an initiative originating in the Dutch parliament and will, in its nascent years, receive financial support from the Ministry of Foreign Affairs.

About the editors

Mr. Eelco J.A.M. Kessels MA is the Programme Manager of ICCT – The Hague. He recently edited a publication on *Countering Violent Extremist Narratives* (NCTb: The Hague, 2010).

Mr. Anno M. Bunnik MA is an intern at ICCT – The Hague.