The Fight Against Terrorism - Five Years After 9/11

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Almost five years ago Al Qaeda struck America and changed the world. By bringing down the Twin Towers and by damaging the Pentagon, icons of American power, Osama bin Laden and his followers delivered a spectacular blow to the world's most mighty nation, inflicted unprecedented hurt and humiliation, and shattered America's sense of inviolability. Horrified by the scale and brutality of the attack the world responded by reaching out to the United States, confirming, with Le Monde's celebrated editorial, that 'nous sommes tous Américains'. On September 12th America's Canadian and European allies invoked NATO's Article V, declaring that they considered the attack on the US to have been an attack against them all. America declared itself to be at war.

Five years later, the echoes of 9/11 still reverberate across the world. Al Qaeda has been damaged but not destroyed. Its operational capacity has been curtailed - many of its original leaders have been killed or captured - but its ideological strength in many respects remains intact. Its followers believe violence against civilians is justified to end what they perceive as the oppression of Muslims at home or abroad. In the past five years, terrorists motivated by this extremist ideology have attacked across the globe, from Casablanca to Jakarta, from Riyadh to Mombassa, from Madrid to London and elsewhere. Some strike across borders; others choose to attack at home.

Though many more attacks have been prevented as countries have strengthened their defences against terrorism, domestically as well as through international co-operation, there is mounting concern that in the process fundamental rights and liberties have been seriously infringed or put at risk. Furthermore, Washington's conduct of the 'war on terror', including the invasion of Iraq, has profoundly affected America's standing in the world.

Five years on, it is not easy to say who is 'winning' this 'war' on terror. The threat we face is a heterogeneous one. Certain common ideological and rhetorical features notwithstanding, today's terrorism reflects different regional and local realities. The differences between situations are often as important as any similarities. The threat is also constantly evolving as terrorists learn and adapt their tactics. What we habitually refer to as 'terrorism' is, in reality, a highly complex, multidimensional, and rapidly changing phenomenon and we should think twice before we speak of counter-terrorism as of waging a war. As a conceptual prism the war paradigm is not particularly well-suited.

Since 9/11 international cooperation against terrorism has been intensified across the board. The UN has strengthened its contribution to the fight against terrorism. The European Union too, has emerged as an increasingly dynamic player. Let us take a closer look at their role and performance.

United Nations

Terrorists inspired by the ideology disseminated by Al Qaeda have killed and maimed people in around twenty countries on four continents. As a global phenomenon terrorism requires a global response. As a framework for providing collective security and for the defence of human rights the UN is central to the fight against terrorism. The 13 international conventions against terrorism and the various Security Council Resolutions provide a strong basis for enhancing international cooperation against terrorism. Support for the conventions is growing. The number of parties (146 this month) to the Convention for the Suppression of Terrorist Bombings increased almost sixfold since 2001; adherence to the Convention for the Suppression of the Financing of Terrorism grew from 4 countries in 1999 to 153 today, and three other conventions have been joined by more than 180 states. However, only 80 Member States of the UN have ratified, acceded or succeeded at least twelve of the conventions against terrorism; 33 states have joined fewer than six. Universal ratification is still a long way off. The same is true for the international agreements against the proliferation of weapons of mass destruction and their means of delivery.

In May Secretary-General Annan has issued recommendations for a UN Counter-Terrorism Strategy. These proposals are sensible and useful and deserve the broadest possible support. The time has also come to conclude the long-running negotiations about a comprehensive counter-terrorism convention. Let us make clear once and for all that no cause, political or otherwise, can justify the slaughtering of civilians. An agreement this year would be a welcome tribute to the victims of terrorism, including the many Muslims who died at the hands of terrorists.

Subsequent to 9/11 the Security Council imposed sanctions on Al Qaeda, the Taliban, and their associates. By the end of 2005, the 1267 Sanctions List had 466 entries: 205 individuals and 188 entities associated with Al Qaeda, and 142 individuals and one entity associated with the Taliban. Listing - particularly of groups - has had an important political and psychological impact. The sanctions have also reduced the possibilities of terrorists to raise and move funds. However, the pace of asset freezing has slowed, and in 2004 the UN signalled that no state had reported stopping anyone on the 1267 list from travelling or reported action against them in respect of the arms embargo.

Clearly, some countries need help in implementing the sanctions, and UNODC and the Counter-Terrorism Executive Directorate must be commended for their efforts in delivering and coordinating assistance. But more must be done. It is particularly important to ensure that counter-terrorism capacity-building is joined up with wider efforts in the field of security sector reform and the promotion of good governance. We need to bolster the capacity of fragile states to deliver security and justice, and to promote development. An impartial and capable judiciary, a transparent financial system, a free press, and adequate safeguards against corruption, torture and abuse are indispensable elements of an effective counter-terrorism strategy. There is no long-term security without development, just as there is no development without security. This means the development community and the counter-terrorism community need to work together, instead of pursuing separate tracks, as is still too often the case.

Terrorists who travel often use a false identity. Interpol has created a database of lost and stolen passports which could become a powerful tool against terrorism and other forms of serious crime. As Switzerland has shown, giving local police forces access to these data can yield impressive results. Interpol's database has been growing strongly but it still only stores data about one third of the more than 35 million passports that are estimated to have been lost or stolen worldwide. Countries not yet using the database should be encouraged to do so.

Terrorists also need money. Provided they are properly staffed and empowered, Financial Intelligence Units can be important instruments against terrorist finance. However, only a little over half of the Member States of the UN have set up an FIU which has been accepted as a member of the Egmont Group. Many FIUs still focus exclusively on money laundering; less than two-thirds of the world's FIUs have the search for terrorist finance as part of their mandate. On this front too, therefore, the global coalition against terrorism needs to be reinforced.

Strong and effective global cooperation requires equally dedicated regional efforts. So let us take a closer look at the regional level and at the European Union in particular.

European Union

In the past few years the role of the European Union in the fight against terrorism has been considerably enhanced. While Member States remain responsible for the functioning of their police forces, security/intelligence services and judicial authorities, they have been strengthening the role of the European Union to exchange information, establish common legal frameworks, and work with international partners. Member States also increasingly compare domestic experiences with a view to identifying best practice. Belgium and Denmark, for example, responded to the EU Peer Evaluation into domestic competences and coordinating mechanisms in the fight against terrorism by creating national centres for terrorist threat assessment, and Finland has taken measures to strengthen the competences of its internal security agency.

In December 2005 the Council adopted the European Union Counter-Terrorism Strategy which the Presidency and I had prepared. The Council set itself four strategic objectives: to *prevent* people turning to terrorism, to *protect* borders and infrastructure, to *pursue* terrorists across borders and bring them to justice, and to *prepare* ourselves, in the spirit of solidarity, to minimize the consequences of an attack. Earlier this year the French Government published a White Paper on Domestic Security Against Terrorism which closely resembles the strategy and policies of the Union, to which it consistently refers. The French strategy illustrates the extent to which national and European efforts in the fight against terrorism are complementary and mutually reinforcing.

British citizens interested in how the EU contributes to the fight against terrorism will find the "key achievements" of last year's UK Presidency listed on the website of the Foreign Office. Those interested in the achievements of previous or subsequent Presidencies, or in the EU Strategy and its

results, will have to look elsewhere. So for the benefit of today's audience I thought I might mention some of the initiatives agreed since 2001, and particularly since March 2004.

Some of these concern measures to help prevent radicalisation and recruitment into terrorism, such as analyzing the way extremists use the Internet. The Austrian, Finnish and German Presidencies are closely coordinating the implementation of this action plan.

In terms of border protection, the Council agreed to include biometric security features into national passports. New European standards have been set to improve security at ports and airports. Initiatives to improve the Schengen Information System and to introduce a Visa Information System are under discussion, as are plans to provide services responsible for national security with wider access to these and other data bases, while strengthening data protection. Measures to significantly step up security research in Europe have been proposed by the Commission, and proposals to better protect critical infrastructure will be presented soon.

Recent measures to disrupt terrorist networks and bring terrorists to justice include stringent new rules against terrorist finance and a directive on data retention. National police forces and public prosecutors - including those of the UK - continue to make frequent use of the European Arrest Warrant, and a European Evidence Warrant is close to being agreed. Europol and Eurojust are supporting around twenty cross-border terrorism-related investigations, and Europe's security and intelligence services support the frequent and detailed threat assessments produced by the EU Situation Centre. National customs services have engaged in joint counter-terrorism exercises, as have rapid intervention units of national police forces. EU-wide emergency management exercises have been organised around scenario's concerning a bioterrorist attack and a flu pandemic.

On the international front, assistance to the IAEA and the OPCW has been increased to prevent weapons of mass destruction falling being used by terrorists. Cooperation with the UN has intensified, as has cooperation with the US and other partners - in Europe, across the Mediterranean, in the wider Middle East and in Asia. The EU remains strongly committed to regional security, from Afghanistan to Iraq, and from the Palestinian territories to Aceh and Africa.

The European Commission and the Member states have begun to coordinate their assistance to third countries in the field of counter-terrorism. Aid packages have been agreed with Algeria and Morocco, and several Member States and the Commission are providing support to the Jakarta Centre for Law Enforcement Cooperation. Assistance to the African Union's Counter-Terrorism

Centre in Algiers is also being prepared. In several areas of the world the Union is supporting projects to strengthen border controls and to build CT-capacity through training of police forces, judicial authorities and financial experts.

Nevertheless there are four areas where I believe the European Union still needs to do better. Subject to appropriate data protection rules national and European data bases must be made more accessible to the competent authorities in all Member States. Much more systematic use could be made of non-legislative instruments such as exchange of national experiences, peer evaluations and identification of best practices. The capacity of Member States to assist each other in case of massive or simultaneous attacks must be improved further, notably to protect our population against the risk of chemical, biological, or radiological attacks. Fourthly, more systematic coordination of national and European efforts to provide CT-related development assistance would permit limited resources to be allocated much more effectively.

Less than fifteen years ago, the EU was given initial, limited competences in the field of justice and home affairs. Today, a growing body of policies and laws testifies to the commitment of national authorities and the EU to combat terrorism across borders. On the whole, EU counter-terrorism policy has developed rapidly. Together with ESDP it is probably the area where the role of the European Union has grown most significantly since the signing of the Treaty of Nice. Against a background of growing disenchantment with politics, including European politics, opinion polls consistently indicate strong public support for this role of the Union.

However, under the current EU Treaty there are clear limits to what the EU can do in practice to help protect our public against terrorism. The unanimity requirement often makes for a slow and cumbersome decision-making process. It took Ministers more than a year before they could muster the necessary unanimity to appoint a successor to the director of Europol. And even when the Council manages to reach unanimity it often takes years before national parliaments implement the relevant legislation, as shown in the case of the three Europol Conventions. This amounts to having to fight terrorism with one hand tied behind our back.

There are three areas where the introduction of qualified majority voting would give a strong boost to the effectiveness of the European fight against terrorism: aspects of justice and home affairs (Articles III-265, 267, 270, 271, 272, 273, 275 and 276 of the draft Constitutional Treaty), cross-border co-operation in the field of civil protection (Article III-284), and co-operation to act against

serious cross-border threats to human health such as bioterrorist attacks (Article III-278). At the Intergovernmental Conference all EU governments agreed to these changes.

In any democratic system power needs to be subject to strict political and judicial controls. This is particularly important in matters related to security. This is why in the draft Constitutional Treaty proposals have been included not only to strengthen the decision-making capacity of the Council, but to strengthen the role of national parliaments and the European Parliament as well (in the field of Justice and Home Affairs this concerns Article III-259 and following). The need to strike a proper balance is also why important proposals were included to enlarge the competence of the European Court of Justice (and hence the power of the Commission to act as guardian of EU law). Finally, this is why it had been proposed to widen access by national Courts and individual citizens to the Court, and to enable the EU to accede to the European Convention of Human Rights.

Member States unanimously agreed that, in order to combat terrorism and other forms of serious international crime, three sets of reforms were required: greater effectiveness of decision-making, stronger parliamentary control, and better judicial protection of civil liberties. These reforms represent a careful balance between security and liberty. The balance between liberty and security is at the heart of the European approach to combating terrorism, and it would be good if, whatever the ultimate fate of the draft Constitutional treaty, these three sets of reforms could be salvaged.

Human rights

Protecting - and, where necessary, restoring - the balance between liberty and security should not only be our concern in relation to the Treaty. It must be a daily concern.

Of course security is a precondition of liberty. Indeed, under international law it is the duty of states to protect their citizens against terrorism. In that sense the fight against terrorism is a fight for human rights. But, as always, the end does not justify all means. The fight against terrorism must be fought within the boundaries of human rights law, humanitarian law, and refugee law.

This principle is at the heart of the Counter-Terrorist Strategy which the Council adopted in December 2005. It states as the EU's strategic commitment: "to combat terrorism globally while respecting human rights, and making Europe safer, allowing its citizens to live in an area of freedom, security and justice".

Torture is abhorrent. The prohibition against it is absolute. All EU member states are a party to the UN Convention against Torture, which sets out the principle of non-refoulement if there is a risk of torture. Furthermore, EU governments unanimously agreed to enshrine the principle of non-refoulement in the draft Constitutional Treaty (Article II-79). In the case of Chahal v United Kingdom the European Court of Human Rights ruled that diplomatic assurances are an inadequate guarantee where torture is "endemic" or a "recalcitrant or enduring problem".

The right to a fair trial is another basic human right. With respect to secret or incommunicado detention centres, the EU's position is clear. As Javier Solana has said, any such centres, in Europe or elsewhere, would violate international human rights and humanitarian law.

Respecting human rights in the fight against terrorism is first and foremost a moral and legal obligation. It is also a practical necessity.

As demonstrated by last year's vicious attacks in London, the terrorist threat to Europe emanates not only from across our borders, but also from local networks rooted in their own breeding ground. Radical ideologues and terrorist recruiters are targeting Muslim communities both outside and inside the EU. Aided by the power of modern technology, in particular the Internet, they seek to fuel and exploit feelings of oppression, discrimination and humiliation. The core of the issue is propaganda which distorts conflicts around the world as a supposed proof of a clash between the West and Islam and which claims to give individuals both an explanation for grievances and an outlet for their anger. This diagnosis distorts perceptions of Western policies and increases suspicions of hidden agendas and double standards.

Addressing this challenge is beyond the power of governments alone. Today's terrorism will only be defeated with the engagement of the public, and especially Muslims, in Europe and beyond. To defeat the extremists, Western countries need to win the battle for hearts and minds. We need to engage in this fight together with Muslims, on the basis of common values. Those values are centred on a respect for the sanctity of life, for democracy and human rights. This is why the promotion and protection of human rights, regardless of nationality or creed, is key to the prevention of terrorism.

There is a second reason why human rights protection is a core element in the strategy against radicalisation and terrorist recruitment which the Council adopted six months ago. Terrorist movements often arise in societies where human rights are denied and opportunities for political

expression are lacking. The rule of law, good governance, and protection of basic freedoms are among the strongest tools in the fight against terrorism. To be effective in our efforts to promote human rights globally as Western countries we must lead by example.

As a country that was attacked on 9/11 and as the world's most powerful nation the United States cannot but play a leading role in the fight against terrorism. America's security partly depends on how its partners contribute to the fight against terrorism. However, America's partners also have a stake in America's policies and actions.

In 2003 researchers at the Pew Center concluded that "the bottom has fallen out of support for America in most of the Muslim world". Three years later support for the United States has fallen still further, and not only in the Muslim world. In Indonesia, support for the Administration's war on terror has declined to 39% from 50% a year ago. In Turkey, 77% oppose the war on terror, up from 56% in 2004. In Japan, support has fallen from 61% in 2002 to 26% today. In Britain, France and the UK support has fallen to below 50%, down from around 70% in 2002; in Spain support is down to 16%.

These statistics stand out even more in light of other findings. Declining support for the US war on terror does not translate into growing support for Osama bin Laden. Quite the contrary: support for Bin Laden has fallen in many Muslim countries, especially in Jordan and Pakistan. In Jordan, Indonesia and Pakistan there has also been a substantial decline in the percentages saying suicide bombings can be justified. At the same time, despite deep attitudinal divisions between Western and Muslim publics popular support for democracy in Muslim countries remains strong. Pluralities or majorities in Jordan, Indonesia, Egypt, Pakistan and Turkey say that democracy is not just for the West and can work in their countries. The World Values Survey has recorded higher support for democracy in the Arab world than in any other region.

In the fight against terrorism popular support is critical, including among Muslims. The struggle against terrorism is first and foremost a conflict over values. To win the battle for hearts and minds our policies to combat terrorism must respect the rights and values we have pledged to defend, including the rights of prisoners. Abu Ghraib, Guantanamo and CIA renditions have damaged America's standing in the world and have compromised our common struggle against terrorism. Credibility matters. The European Union continues to believe that in this battle we should be guided by established international legal standards, including international human rights law. Any war paradigm should operate within these standards.

Terrorists aim to scare and provoke democracies into abrogating the right and liberties they have pledged to uphold. It is a trap we must avoid. Democratic societies can only overcome the scourge of terrorism in the long term if they remain committed to their own principles.

At the same time, however, it must be said that the battle for hearts and minds cannot be won by the West or by non-Muslims alone. Muslims, too, carry a heavy responsibility, both in Europe and elsewhere in the world. Just as non-Muslims must guard against double standards, stereotypes, prejudice and bigotry, so should Muslims. The revolting phenomenon of anti-Semitism remains widespread among Muslims and efforts to eradicate it have been half-hearted at best. Extremist, anti-Western propaganda is the daily fare in much of the media in the Muslim world. The claim that the CIA was responsible for 9/11, and Muslims had nothing to do with it - a popular conspiracy theory among many Muslims - is, frankly, insulting. Nor do violations of fundamental rights promote a positive image of the Muslim world. As Dr Kim Howells said some weeks ago: "reports of raped women being punished and stoned; restrictions on other religions, including death sentences pronounced on Christian converts, poor human rights records and authoritarian, undemocratic governments all have a negative impact which we cannot ignore."

So we must work together, not only by sharing intelligence and through law enforcement cooperation - important work, which has helped prevent attacks - but also by countering extremism and incitement into violence, by facing up to unpleasant realities, and by investing in genuine dialogue - internationally, at national level, and locally, in cities and boroughs. Muslims and non-Muslims need to recognise each other's concerns.

In several European countries, from Spain to Germany, tensions between religious and ethnic communities have been growing. In its recent report on *Violent Jihad in the Netherlands* the Dutch Security/Intelligence agency AIVD has drawn attention not only to the current urgent threat of terrorist violence, but also to the long-term threat represented by processes of radicalisation and social polarisation in the Netherlands. They involve "the risk of insidious segregation between various ethnic or religious groups and the emergence of parallel societies which undermine social cohesion and hence - in the long run - constitutional democracy." To counter these trends must be a common endeavour of all citizens, regardless of ethnicity or belief. It is an urgent task.

Muslim countries, too, face challenges over and above the threat of terrorism. As the Arab Human Development Reports have pointed out, Arab countries have some of the lowest rates of literacy and education in the world. It makes no sense to blame the West for these ills. Only when Arab societies

embrace the necessary political and economic reforms will they be able to escape stagnation. The European Union remains committed to assist them on this road. This too is an urgent challenge.

Five years after 9/11 the world has suffered many terrorist attacks. Though a significant number have been foiled, we know that other attacks will probably follow. But we also know that the terrorists will ultimately fail. Contrary to what Al Qaeda and its supporters had hoped, the West has not crumbled. From New York to Madrid and London people have reacted with courage and dignity. Bin Laden's offers for a truce have been rejected out of hand. In defiance of extremist propaganda, the people of Afghanistan and Iraq have voted in free, democratic elections. So have Malaysians, Indonesians, and others. The lesson is a simple one. Freedom is stronger than fear. So let us preserve and promote these freedoms, these rights and liberties which constitute the very core of our identity. In the fight against terrorism, our values are our best defence.