

Mr. Martin Scheinin statement
“Fireside chat” on the changing nature of protecting the rights of victims of terrorism
Friday 9 September 2022
10:10-10:50

Excellencies, ladies and gentlemen, colleagues

Much of my work as Special Rapporteur on human rights and counter-terrorism was related to definitions of terrorism. The requirement of legality demands that such definitions are clear, precise and public. Central to a human rights law scrutiny of national definitions of terrorism is insistence on the exhaustive nature of aims of terrorism, as spelled out for instance in the 1999 Terrorism Financing Convention or in Security Council Resolution 1566 (2004). Both of the two alternative aims that the international community accepts as defining elements of terrorism are victim-centred: One relates directly to creating fear amongst innocent bystanders. The other one, unduly compelling a government to doing something, primarily is about hostage-taking and is thereby defined through the victim. A human rights approach to countering terrorism must define terrorism through the suffering it entails for the victims and give proper attention to the promotion of the human rights of victims of terrorism, including through compensation, rehabilitation and closure.

Especially when conducting missions to countries faced with terrorism, I was deeply impressed by the courage and resilience of terrorism victims and their families and often also by concrete measures taken by governments which I then commended as best practice in my reports. That said, at times I was also troubled by the temptation for governments, political parties or other actors to instrumentalize terrorism victims and their suffering towards political aspirations. Sometimes there was a lack of good faith, and the rhetoric of standing for victims of terrorism carried the perverse consequence of perpetuating cleavages in divided societies and thereby reproducing conditions conducive to terrorism.

These experiences led me to propose, in my final 2011 report to the Human Rights Council, a best practice clause concerning victims of terrorism. It addressed the rights of both victims of terrorism and victims of human rights violations committed in the name of countering terrorism, calling for compensation and for legal, medical, psychological and other assistance required for their social rehabilitation.

The mandate of the Special Rapporteur on human rights and counterterrorism was created in the long aftermath of 9/11, the dreadful day of 11 September 2001. Twenty years later, In an essay published last year in Global Governance I criticized the best international definitions of terrorism – those that as Special Rapporteur I had sought to enforce – for not capturing the essence of terrorism. The two alternative aims of terrorism, mentioned before, are casuistic, often impossible to prove in a criminal trial, and sometimes counterintuitive in respect of real-life incidents of terrorism.

What I proposed as the better alternative, is what call a Kantian definition of terrorism. It focuses on the instrumentalization of another human being, the victim, to a mere means, denying her value as an end. This effort to reconceptualize terrorism is pertinent also in today's context of doing justice to victims of terrorism. The inexcusable and categorical moral wrongfulness of terrorism follows from the reduction of its victims to mere means. Likewise, the message to governments must be not to instrumentalize victims of terrorism which would often entail their revictimization. A human rights approach to victims of terrorism requires that governments engage with them and their families, in a spirit of promoting and protecting all human rights of all human individuals, as a path to a society without terrorism.