

# **SOME DIMENSIONS OF THE CANADIAN AND DUTCH ANALYSIS OF HUMAN RIGHTS IN OUR TIMES**

---

## **I. INTRODUCTION**

Arms laden with bags of vegetables and loaves of bread, and with her two young children at her side, a mother turns onto the central aisle of a crowded marketplace when a bomb-packed car explodes with earthshaking force. The mother, her two innocent children and thirty-one other morning shoppers are killed, and one hundred and three others are injured.

The deadly assault on the right to life perpetrated by such an attack on the innocent is offensive to all international legal norms of human rights, yet such assaults remain disturbingly prevalent in our time.

One might well ask whether international positive law is sufficient given the persistence of terrorists, whose resourcefulness and resolve appear largely undeterred by the normative claims of international human rights legislation.

Terrorist organizations, systematically devoted as they are to devising, funding and executing both targeted and indiscriminate assaults on the right to life, present one of the most pressing challenges in the struggle to protect and promote human rights in today's global community. Can we really say that modernism, liberalism and the contemporary human rights regime have been successful if someone can still not walk through a marketplace without fearing they will be yet another victim of terrorism? The urgent search for a more effective strategic and tactical response might well lead us to consider the value and power of moral law.

In times of strife, such as in the aftermath of a terrorist act, ensuring that we do not sink to the level of the attackers – for example, by resorting to torture to extract information in the attempt to prevent further terrorism – is a great act of courage. The goal of terrorists is to inflict fear and if we respond with the same methods this goal is accomplished and a vicious cycle develops. This is why tolerance is so often a hard road to take; the immediate, natural desire for most people after they are attacked is to retaliate in kind, or worse. To effectively combat terrorism, and to eventually stop it altogether, we must maintain the unwavering respect for the dignity of human life and travel the sometimes difficult path of moral law and tolerance – not tolerance of terrorism and those who perpetrate it, but for differences of belief and opinion. It is only in this way that we will show those who want to see our free, democratic way of life destroyed that inciting terror serves no purpose.

## **II. THE NETHERLANDS IN THE TIME OF ERASMUS**

It is particularly appropriate to be here today for two reasons. First, this year marks 75 years of diplomatic relations between Canada and the Netherlands. Since 1939, our two nations

have enjoyed a strong bilateral relationship which continues to thrive due in large part to shared values and close person-to-person ties. Second, a need for acceptance of differences and recognition of human rights – critical to a dialogue on how to deal with terrorism – is particularly appropriate given that we are gathered here in the country that best exemplified these ideals and which was home to one of the major figures of the tolerance movement and of humanism.

Erasmus of Rotterdam is considered to be one of the most influential thinkers of his time and sought reconciliation out of the discord that grew from the Protestant Reformation. His ideas about “toleration” helped the Netherlands to become perhaps the most open society in the years and decades following his death and they have become a part of Dutch heritage and culture that continues to this day. While most of Europe still struggled to accommodate the divisions between Catholics and Protestants, the Netherlands, itself free of Spanish control, became a land for exiles. This country benefitted greatly from its toleration of various religious groups – Catholic, Protestant, Jewish – because it attracted the best minds from areas of Europe where discrimination and persecution ruled. Even during this violent era of religious conformity, in the 1600s the Netherlands was home to religious pluralism, with migrants converging, engaging in trade through diverse skills and goods, and driving the state towards greater economic prosperity.<sup>1</sup>

We know today that tolerance – and, better still, acceptance – encourages respect for diversity and multiculturalism which, in turn, fosters ideas and dialogue. It is perhaps no coincidence, then, that many of the world’s major human rights institutions – the International Criminal Court, the International Criminal Tribunal for the former Yugoslavia, and the International Court of Justice – share their home with the birthplace of these ideals.

### **III. RELIGIOUS TOLERATION IN REFORMATION-ERA HOLLAND**

As the Reformation made inroads in the Netherlands after 1517, Dutch Protestants were repressed by their country’s Catholic rulers from Spain; however, these non-Catholics were tolerated by local authorities. Perhaps because of this, the Protestant population became quite influential in the Netherlands, but was still a minority in the middle of the 16<sup>th</sup> century.<sup>2</sup> As a particularly trade-dependent state, it was strategically crucial for Holland to ensure tolerance for diversity and freedom from persecution for its visitors. The cultural and economic benefits fed back into a pluralistic society in a virtuous cycle, in marked contrast to other insular states with religious hegemonies and rampant persecution.

Erasmus, though a convinced Catholic, outlined his views on religious toleration in several of his works. In *De libero arbitrio*, he stated that people of different religious beliefs should refrain from using inflammatory language toward one another “because in this way the truth, which is often lost amidst too much wrangling, may be more surely perceived”.<sup>3</sup> Gary Remer further explained this by noting that “like Cicero, Erasmus concludes that truth is furthered by a more harmonious relationship between interlocutors”.<sup>4</sup>

Outside of the Netherlands, the struggles between the Reformation and Counter-Reformation led to a brutal series of religious wars. For example, in France, the fighting between

Catholics and Protestants (Huguenots) from the mid to late 16<sup>th</sup> century was particularly vicious. The French Wars of Religion included the St. Bartholomew's Day Massacre of 1572, in which mobs of Catholics targeted Huguenots. Later, from 1618 to 1648, the Thirty Years' War devastated much of Europe – not just in terms of property and lives lost but also economically and culturally – and became one of the longest continuous conflicts in modern history.

These events which began during Erasmus' lifetime and continued well after his death were a matter of increasing concern for him. In March of 1514, three years before Luther first challenged the Catholic Church, Erasmus wrote a letter to the Abbot of St. Bertin, Antony of Bergen, lamenting the propensity of European leaders to wage war amongst themselves. In it, Erasmus made the point that:

Europe's rulers, for very practical reasons, should recognize that to effect and maintain a general peace is solidly in their own self-interest. ... It is plain that in war humans display actions worse than the wildest brute beasts, who fight only occasionally and without arms (except claws, teeth, and so forth): men, however, have perverted their intelligence by devising ingenious machinery for human slaughter. One must wonder what drives men (seemingly rational beings) to such chronic madness. ... War does not pay – not when all the costs are realistically counted: does not pay in money, in blood, or in true glory.... that is no true glory which is mainly sought in wrongful acts... the greatest part of the mischief affects those who have no part of the fighting. The advantages of peace reach everybody; while in war for the most part even the conqueror weeps.<sup>5</sup>

Given Erasmus' strong stance against war, particularly in the context of violence provoked by different religious beliefs, this passage, as I see it, also speaks to the futility of terrorism and the need to appeal to people on a human, moral level. There is no doubt that Erasmus would agree that terrorism is a threat to stability, freedom and democracy.

#### **IV. FREE WILL, NATURAL LAW AND TERRORISM**

As a staunch and influential humanist, Erasmus believed that human beings are governed by free will. He outlined what he thought a lack of agency would mean for humanity: namely, without free will, morality would be irrelevant.<sup>6</sup> If all was predetermined,

people would conclude that virtuous actions would not receive eternal rewards and evil deeds would not result in eternal damnation, and thus the masses of people would be less hesitant to sin. If people believed they had free will, they would feel more hopeful, less inclined to fall into despair.<sup>7</sup>

Ultimately, Erasmus believed that because men and women are not born with claws or horns to fight each other, but are instead equipped to speak and think rationally, humans should be able to coexist peacefully.<sup>8</sup>

From a theological standpoint, reason is a hallmark of human dignity, and therefore, human rights, because it is with reason that human beings come to know themselves in relation

to each other and to the natural order. More profoundly, it is through reason that God allowed his creation to know and discover its Creator. John XXIII, in *Pacem in Terris*, illustrates this point when he states that the “Creator has stamped man’s innermost being with an order revealed to man by his conscience; and his conscience insists on his preserving it”.<sup>9</sup> Only in discovering the position humankind has with respect to the natural order is it possible to live and thrive within that order, to live as God intended human beings to live.

From the awareness of self comes responsibility for oneself, or self-possession. As individuals with a capacity to ascend to knowledge of the natural order through reason, human beings are called to do so. It is the responsibility of each person to “show the work of the law written in their hearts”. This is so because “their conscience bears witness to them”.<sup>10</sup> It is only by living in accordance with the natural order that one can truly possess himself or herself. All are called to live righteously and to learn what this truly means because it is constitutive of the human condition to do so; human nature pulls us toward God.

God created human beings as rational beings with the capacity to initiate and control their own actions:

Man can turn to good only in freedom, which God has given to him as one of the highest signs of his image. For God has willed that man remain ‘under the control of his own decisions’ (Sirach 15:14), so that he can seek his Creator spontaneously, and come freely to utter and blissful perfection through loyalty to Him.<sup>11</sup>

That God created human beings with a free will and a capacity to fully direct themselves in this life is testimony to the capacity that human beings possess to discover, recognize and pursue their own dignity as an end. Only through the free choice of the individual, to temper one’s passions in such a way as to direct them and, consequentially, one’s life work toward the discovery and achievement of the dignity of the person, in all respects, can one truly live in Christ.

In the introduction, I described a terrorist act that we are likely to immediately assume happened in the Middle East, perpetrated by members of the Taliban or Al-Qaeda. The fact is, though, that terrorism is not confined to developing countries and radical Islamist groups. In 2002, a far-right politician who campaigned against immigration and who was often painted as racist by his opponents was assassinated in a parking lot as he left a radio interview.<sup>12</sup> His name was Pim Fortuyn and he was shot dead by a white Dutch countryman in the city of Hilversum.<sup>13</sup> We do not expect such an attack to take place in a country with a long history of openness, democracy, freedom and peace. The fact that it happened in the Netherlands – the home of Erasmus and a historical haven for reason and tolerance – makes appealing to moral law that much more poignant.

So, what leads people, born with free will and the capacity for rational thought, to commit acts of terrorism? Many terrorists believe they are fighting for freedom from tyranny, but terrorism itself is a form of tyranny and thus cannot bring any real measure of peace and freedom. It is simply fighting fire with fire. Why would someone choose to blow himself up in a crowded marketplace; to steer an airplane full of innocent people into a building also packed

with men and women who share no blame in the perpetrators' grievances; or even to murder a politician for what they campaign on? Surely even the worst terrorist must have a heart and a conscience, or are some people devoid of human emotion?

Rational beings use their God-given, natural capacities for speech and reason to make their voices heard; they fight their battles with thoughtful words, not by subjecting the masses to terror. This is why we must appeal to people on a human level, the level of natural and moral law. Terrorism grasps at power through violence due to a collapse of faith in the terrorist's capacity to reason; thus it represents the worst in man, a rejection of his most precious gift. Moral law, perhaps even more than laws developed by governments and organizations, offers the best way to stop the worst in men from repeating and resurfacing, by reminding them of their capacity in every moment for reason, conscience, and choice.

## **V. THE BIRTH OF MODERNISM AND INTERNATIONAL HUMAN RIGHTS**

It is opportune to reflect on some of the foundational elements of human rights and the duties of states in the context of current global events. As a result of the complete absence of respect for human rights and dignity on a wide scale, particularly during World War II and specifically the Holocaust, the international community came together to create the *Universal Declaration of Human Rights* in 1948.

This was not the first document that addressed the issue of human rights as a critical part of international law. However, the UDHR is perhaps the most influential given that it was the first to make clear that rights are, in fact, universal and inherent to all human beings simply by virtue of being human. It holds a unique historical resonance and contemporary relevance in view of the atrocities and global cry of "never again" that precipitated it, as well as the number of treaties and conventions that it has served as the basis for, including many dealing with terrorism. Indeed, the modern human rights regime owes much of its start to the drafters of the *Universal Declaration of Human Rights*.

Even with documents such as the UDHR and the progress we have made with regard to tolerance, the pernicious influence of many non-state actors whose acts violate the human rights of persons constitutes an urgent present-day challenge for people of goodwill. Despite the ability of human beings to think rationally and to make individual choices, terrorism and related violence persist. Particularly troubling, according to the Office of the United Nations High Commissioner for Human Rights, is that:

Terrorism aims at the very destruction of human rights, democracy and the rule of law. It attacks the values that lie at the heart of the Charter of the United Nations and other international instruments: respect for human rights; the rule of law; rules governing armed conflict and the protection of civilians; tolerance among peoples and nations; and the peaceful resolution of conflict.

Terrorism clearly has a very real and direct impact on human rights, with devastating consequences for the enjoyment of the right to life, liberty and physical integrity of

victims. In addition to these individual costs, terrorism can destabilize Governments, undermine civil society, jeopardize peace and security, and threaten social and economic development. All of these also have a real impact on the enjoyment of human rights.<sup>14</sup>

Given its innumerable repercussions, it has become necessary to turn to legal avenues in an effort to stop the scourge of terrorism and hate-filled violence that afflicts our world.

Terrorism is not new, but it can be said that applying the international legal framework to it is a more modern development.<sup>15</sup> Legal approaches to terrorism began to take shape as early as 1937 when the precursor to the United Nations, the League of Nations, drafted the *Geneva Convention for the Prevention and Punishment of Terrorism*<sup>16, 17</sup>. Though this treaty never entered into force, it is clear to see that the international community was deeply concerned about the far-reaching effects of terrorism<sup>18</sup> long before the events of September 11, 2001. After the failure of the 1937 Geneva Convention to be adopted, the UN continued its efforts to negotiate multilateral anti-terrorism treaties.<sup>19</sup>

There have been 14 international legal instruments, in addition to four amendments, developed to prevent terrorism since 1963.<sup>20</sup> Currently, the Member States of the United Nations are developing an additional international treaty designed to be a comprehensive convention on international terrorism.<sup>21</sup> The objective of this new convention is to strengthen the existing international anti-terrorism instruments and guiding principles, including:<sup>22</sup>

the importance of criminalization of terrorist offences; making them punishable by law and calling for prosecution or extradition of the perpetrators; the need to eliminate legislation which establishes exceptions to such criminalization on political, philosophical, ideological, racial, ethnic, religious or similar grounds; a strong call for Member States to take action to prevent terrorist acts; and emphasis on the need for Member States to cooperate, exchange information and provide each other with the greatest measure of assistance in connection with the prevention, investigation and prosecution of terrorist acts.<sup>23</sup>

More and more, UN Member States have been working in collaboration with each other to coordinate their domestic and international counter-terrorism initiatives and to continue formulating legal standards on the issue.<sup>24</sup> Also, the Security Council has used the collective influence of its 5 permanent members — China, France, Russia, the United Kingdom, and the United States — to fight terrorism by passing resolutions and forming several subsidiary bodies.<sup>25</sup> To further the efforts of the General Assembly to counter terrorism, a number of existing UN programmes, offices and agencies have been involved in specific activities to stem the tide of terrorism.<sup>26</sup>

To more effectively direct and control these activities, on September 8, 2006, the Member States came to an agreement on a plan to combat terrorism on an international scale that would consolidate and enhance their existing efforts.<sup>27</sup> The United Nations Global Counter-Terrorism Strategy is significant because it is the first time that the entire General Assembly reached a consensus on a “common strategic and operational framework to fight terrorism”.<sup>28</sup> The Strategy being adopted is thanks in large part to the 2005 September Summit, at which

world leaders spoke as one to condemn all forms of terrorism.<sup>29</sup> Further, it serves as a foundation for a specific and detailed plan of action:<sup>30</sup>

to address the conditions conducive to the spread of terrorism; to prevent and combat terrorism; to take measures to build state capacity to fight terrorism; to strengthen the role of the United Nations in combating terrorism; and to ensure the respect of human rights while countering terrorism.<sup>31</sup>

The UN has not been the only organization to address the issue of terrorism from a legal perspective, however.

In their respective jurisdictions, regional international bodies have also made concerted efforts to deal with terrorism by negotiating multilateral treaties and strategies such as those of the United Nations.<sup>32</sup> These regional bodies include the African Union, the Council of Europe, the European Union, the Organization of American States, and the Organization for Security and Cooperation in Europe.<sup>33</sup> In the inter-American system, for example, there have been a number of important counter-terrorism initiatives: the adoption in 1971 of the *Convention to Prevent and Punish the Acts of Terrorism Taking the Form of Crimes Against Persons and Related Extortion that are of International Significance*;<sup>34</sup> the continuing efforts of the Inter-American Committee Against Terrorism; and the *Inter-American Convention Against Terrorism*<sup>35</sup> of 2002.<sup>36</sup> Finally, recognizing the immeasurable negative consequences of terrorism to freedom and democracy, the Inter-American Commission on Human Rights has long included the issue of terrorism in its mandate to promote and protect human rights in the Americas.<sup>37</sup> While such efforts taken by these regional bodies apply to their respective jurisdictions, the impact of consolidated, focussed work to counter terrorism can be felt worldwide.

Aside from initiatives specifically designed to stop terrorism, many seminal human rights documents — for example the *Universal Declaration of Human Rights*<sup>38</sup>, the *International Convention on the Elimination of All Forms of Racial Discrimination*<sup>39</sup>, the *International Covenant on Civil and Political Rights*<sup>40</sup>, and the *International Covenant on Economic, Social and Cultural Rights*<sup>41</sup> — indirectly deal with the issue because the ability to enjoy the rights codified within them are severely impacted by terrorism. These include, of course, economic, social, cultural, civil and political rights; and the rights to life, liberty and security. On the other hand, many domestic laws created to fight terrorism — particularly those implemented by various nations after September 11 — have affected peoples' negative rights to be free from racial profiling, discrimination and torture, while also threatening their positive rights to privacy, due process and fair trial, and freedom of expression and association.

In the post-September 11<sup>th</sup> world, many non-state actors appear to not be influenced by the traditional rule of law principle. One might ask whether or not in this circumstance an appeal to moral law would be strategically more efficacious. One might also reflect on the effectiveness of a renewed appeal to *ius naturalis* — natural law — or to *ius gentium* — the law of nations.

It can be difficult for the average person to understand why someone would turn to mass violence, which likely results in their own death, to air their grievances and attempt to have their demands met. This is not the action of a rational being, which makes terrorists that much harder

to deal with. With all the international and domestic treaties, laws and strategies developed to combat such acts, and the near-unanimous global condemnation, the fact that terrorism and related violence persist is that much more frustrating; this is largely because laws are not necessarily accepted and recognized by people prone to terrorism. This is why we must appeal to these people with moral law.

## **VI. LEGAL APPROACHES TO TERRORISM**

A considerable amount of scholarly work has been done in an attempt to define terrorism, much of it likely motivated by a desire to understand terrorism with a view to preventing it. Terrorism nevertheless remains difficult to define and the reoccurrence of terrorist acts causes it to remain at the forefront of concern for the international community.

Although many definitions share similar characteristics, there is still great debate on the overarching notion of precisely what defines a terrorist act, and how such an act is to be distinguished from other forms of crime. The United Nations, for all its success in achieving a consensus framework for strategic and operational efforts against terrorism, continues to struggle with articulating a definition of terrorism that adequately represents the concerns of all member countries. Perhaps one of the reasons why it has been so difficult to quell the root of terrorism before it grows is in part due to the inability of legal systems to adequately frame the concept as a whole. Perhaps this has to do with the nature of law itself and its relation to reason, with terrorism being inherently unreasonable.

Terrorism is a threat to stability, freedom and democracy, and all states therefore have a duty to combat terrorism in order to protect themselves and their citizens. However, while it is evident that this struggle requires certain measures, it is also paramount that the legitimate right of states to combat terrorism be exercised in full accordance with international human rights law and moral principles.

In their attempt to deal with terrorism, democratic states are confronted with an unfortunate paradox. The very qualities that make democracies so vulnerable to terrorists are those that make them superior to other systems of government and so worth preserving. When dealing with the matter of appropriate response, we find that the overriding questions are neither legal nor technological; they are philosophical and political.

Circumventing established international human rights standards and humanitarian law when adopting legislative and administrative counter-terrorism measures is problematic. To do so relinquishes the moral high ground and thus the ability to address human rights problems in other countries. Ignoring commonly agreed norms can only lead to an unpredictable and chaotic international legal order. It is therefore the duty of all states, and also in their own best interests, to preserve existing achievements when developing new approaches to the fight against terrorism.<sup>42</sup>

States are confronted with many challenges in applying international law to modern terrorism as distinguished from armed conflicts. As international humanitarian law is concerned



with conduct between parties to a conflict and is animated through their mutual rights and obligations, there can be no assessment of rights and responsibilities without identifying the parties. Terrorism is a phenomenon, not a party.<sup>43</sup> This, combined with the fact that there is no agreed upon definition of terrorism, creates a practical barrier to the application of international humanitarian law and the protections it offers civilians.

Additionally, international humanitarian law is only applicable during an armed conflict. It is first of all often challenging to determine if a conflict has reached this required standard. Terrorist attacks generally do not, as one of the main requirements is an organized group with a command structure; terrorist attacks are often committed by individuals or groups which lack a command structure. Further, extensive protections exist only for civilian rights in an international armed conflict and the majority of these protections are contained only in *Additional Protocol I, 1977*<sup>44</sup>, which has not been universally ratified. The law relating to non-international armed conflicts is much less developed and would be the more likely place for conflicts with terrorist groups, who are non-state actors, to fall.

Another basic challenge to the practical implementation of international humanitarian law is that the international obligations of States participating in the same international military operation often differ. This is mainly due to the fact that not all States are parties to the same international conventions, which creates gaps in the protection of rights.

International humanitarian law is meant to be supplemented by human rights law during an armed conflict to offer protections. However, the political classification of the fight against terrorism as a “war on terror”, incorrectly suggesting that it is a general international armed conflict, has been used by States to argue the non-application of human rights law in an armed conflict and to avoid adhering to basic human rights protections.

This abrogation of key human rights protections based on the wrongful classification of the fight against terrorism, along with the practical implications of applying international humanitarian law to terrorist attacks, demonstrates that current international law is not capable of effectively governing armed conflicts with terrorist groups.<sup>45</sup>

The purpose of counter-terrorism measures is to guarantee the protection of international and national security. In the longer term, however, the struggle against terrorism is also an effort to protect the fundamental values and freedoms that have been developed over the years, as well as to defend an international environment based on a mutually agreed set of rules that can be called the “international rule of law”. Our efforts against terrorism cannot be to protect an international order based exclusively on the “law of the strongest” and the projection of power.. The protection of democratic values and human rights, therefore, should be seen as an integral part of the struggle against terrorism, not as an obstacle to it.<sup>46</sup>

## **VII. ON THE NATURE OF TERRORISM IN RELATION TO MORAL LAW**

Given the reach and resilience of terrorist organizations in continuing to wreak violence, fear and suffering upon countless human beings in total disregard for human rights laws , an

urgent appeal to moral law might well constitute the best strategic and tactical response. In the struggle to protect and promote human rights in today's global community, we must now more than ever before look to the individual's capacity for reason, as well as his relational role and bonds of conscience to his fellow man. These are visceral virtues, the pulsing lifeblood of moral law virtually encoded in the DNA of every human.

In his *Summa Theologica*,<sup>47</sup> Thomas Aquinas defines law as "a rule and measure of acts, whereby man is induced to act or is restrained from acting." "Law [*lex*]", he points out, "is derived from *ligare* [to bind] because it binds to act."<sup>48</sup> Laws, therefore, are rules meant to bind individuals to certain actions.

Furthermore, Aquinas advances the necessary of Divine's Law contingency on the human ability to reason actions for the sake of committing good. The principle upon which he justifies such a notion is one of relation. Things can only be known wholly or by their effect. Aquinas argues that although only few people come to know Divine Law directly, all persons interact with it to a greater or lesser extent because of its having been permeated throughout all God's creation, particularly through human beings by virtue of their rational capacity.

Law, therefore, is in accordance with reason based upon the notion that individuals only engage in action that is thought to bring forth some good. The judgment used to determine the goodness of an action is decided by the individual's reason. An individual's rational capacity for judgment, then, will determine the goodness of the end towards which his or her action aims. Does it follow then, that terrorists only engage in acts of terror because they believe that the pain and suffering they will cause, as well as the taking of their own life in suicide attacks, will truly result in good? If so, what is the relation between their thought process and divine law?

## VIII. CONCLUSION

Notwithstanding political ideology, system of law or faith tradition, everyone reacts with horror and anguish to attacks on human rights perpetrated by terrorists. The root of this universal repugnance is not only the fact that such attacks are contrary to international human rights law, but that these assaults offend the law of the Creator written in the heart of every person.

The non-state actors, who today greatly influence the extent to which the peoples of the world enjoy human rights, have a serious moral obligation to respect the rights of peoples. The challenge of faith communities is to continue to promote respect for human dignity and human rights. In his World Day of Peace message in 2002, Pope John Paul II was very clear that acts of terrorism strike at the heart of human dignity and are an offence against all humanity.<sup>49</sup>

The socio-political reality of today presents a world composed of states and non-state actors. An examination of the foundations of human rights and the duty of states reveals that sublime dignity of the human person and the high duty which our social nature and the common good impose on all, including the non-state actor.

Counter-terrorism initiatives need to comply with international humanitarian law when the situation meets the requirements of an armed conflict. Terrorism is perceived as a threat to international peace and security as it violates law and order.<sup>50</sup> However, if States respond to this threat in a way that is inconsistent with international law and legal order, they themselves are essentially threatening that international law and the very legal order they are trying to protect.

The strong history of 75 years of diplomatic relations between Canada and the Netherlands provides an excellent foundation for our countries to continue to ally together to promote the need for acceptance and recognition of human rights in dealing with the persisting problem of terrorism. To enforce compliance with international law and international peace and security, States need to lead by example, ensuring that they are complying with international humanitarian law and using the established legal framework as a solution rather than becoming part of the problem. It is vital that all those who seek to influence the affairs of society must accept the responsibility imposed by reason. We must not neglect or shrink from the sacred obligation to respect the human right to security and the human right to life. We must never sacrifice our principles in combating the unprincipled. We must look to reason, we must heed our common humanity, and we must communicate in the universal language of moral law, to eliminate terrorism and to protect human rights for all peoples and in all nations.

---

<sup>1</sup> R. Po-Chia Hsia and Henk Van Nierop, eds. Calvinism and Religious Toleration in the Dutch Golden Age (New York: Cambridge University Press, 2002) 4.

<sup>2</sup> Jonathan Israel, The Dutch Republic: Its Rise, Greatness, and Fall 1477–1806 (New York: Oxford University Press, 1995) 104.

<sup>3</sup> Desiderius Erasmus of Rotterdam, “On the Freedom of the Will: A Diatribe or Discourse,” Luther and Erasmus: Free Will and Salvation, eds. Ernest Gordon Rupp and Philip Saville Watson (Philadelphia: The Westminster Press, 1969) 36.

<sup>4</sup> Gary Remer, Humanism and the Rhetoric of Toleration (University Park: Pennsylvania State University Press, 1996) 95.

<sup>5</sup> *Ibid.*, 81-84.

<sup>6</sup> Charles Nauert, “Desiderius Erasmus,” The Stanford Encyclopedia of Philosophy, Winter 2012, 23 April 2014 <<http://plato.stanford.edu/entries/erasmus/#PolPac>>.

<sup>7</sup> *Ibid.*

<sup>8</sup> *Ibid.*

<sup>9</sup> Pope John XXIII, “Pacem in Terris - Encyclical Letter on Establishing Universal Peace in Truth, Justice, Charity, and Liberty, John XXIII,” 11 April 1963, Vatican: the Holy See, 16 May 2014 <[http://www.vatican.va/holy\\_father/john\\_xxiii/encyclicals/documents/hf\\_j-xxiii\\_enc\\_11041963\\_pacem\\_en.html](http://www.vatican.va/holy_father/john_xxiii/encyclicals/documents/hf_j-xxiii_enc_11041963_pacem_en.html)> para. 5.

<sup>10</sup> Romans 2:15.

<sup>11</sup> Compendium of the Social Doctrine of the Church (Vatican City: Libreria Editrice Vaticana, 2004) para. 135.

<sup>12</sup>

BBC News, “Dutch far-right leader shot dead,” 6 May 2002, News.bbc.co.uk, 6 May 2014 <<http://news.bbc.co.uk/2/hi/europe/1971423.stm>>.

<sup>13</sup> *Ibid.*

<sup>14</sup> Office of the United Nations High Commissioner for Human Rights, Human Rights, Terrorism and Counter-terrorism: Fact Sheet No. 32 (New York: United Nations, 2008) 1.

<sup>15</sup> IACHR, Report on Terrorism and Human Rights, 22 October 2002, OEA/Ser.L/V/II.116 Doc. 5 rev. 1 corr. <<http://www.cidh.org/terrorism/eng/intro.htm>> para. 10 (IACHR).

- <sup>16</sup> League of Nations, Convention for the Prevention and Punishment of Terrorism, 16 November 1937, O.J. 19 at 23 (1938), League of Nations Doc. C.546 (I).M.383 (I). 1937, V (1938) (never entered into force) (League of Nations).
- <sup>17</sup> IACHR, *op. cit.*
- <sup>18</sup> League of Nations, *op. cit.*
- <sup>19</sup> *Ibid.*
- <sup>20</sup> United Nations, United Nations Action to Counter Terrorism, 2014, United Nations Web Services <<http://www.un.org/en/terrorism/>>.
- <sup>21</sup> United Nations, United Nations Action to Counter Terrorism, 2014, United Nations Web Services <<http://www.un.org/en/terrorism/instruments.shtml>>.
- <sup>22</sup> *Ibid.*
- <sup>23</sup> *Ibid.*
- <sup>24</sup> *Ibid.*
- <sup>25</sup> *Ibid.*
- <sup>26</sup> *Ibid.*
- <sup>27</sup> *Ibid.*
- <sup>28</sup> *Ibid.*
- <sup>29</sup> *Ibid.*
- <sup>30</sup> *Ibid.*
- <sup>31</sup> *Ibid.*
- <sup>32</sup> *Ibid.*
- <sup>33</sup> IACHR, *op. cit.*, para. 11.
- <sup>34</sup> United Nations, OAS Convention to Prevent and Punish the Acts of Terrorism Taking the Form of Crimes Against Persons and Related Extortion that are of International Significance, adopted on 2 February 1971, U.N.T.S. Vol. 1438, No. 24381 <[http://www.unodc.org/documents/terrorism/Publications/Int\\_Instruments\\_Prevention\\_and\\_Suppression\\_Int\\_Terrorism/Publication\\_-\\_English\\_-\\_08-25503\\_text.pdf](http://www.unodc.org/documents/terrorism/Publications/Int_Instruments_Prevention_and_Suppression_Int_Terrorism/Publication_-_English_-_08-25503_text.pdf)> 159-162.
- <sup>35</sup> United Nations, Inter-American Convention Against Terrorism, OAS General Assembly Resolution AG/RES. 1840 (XXXII-O/02) 2nd plenary session, 3 June 2002 <[http://www.oas.org/xxxiiga/english/docs\\_en/docs\\_items/AGres1840\\_02.htm](http://www.oas.org/xxxiiga/english/docs_en/docs_items/AGres1840_02.htm)>.
- <sup>36</sup> IACHR, *op. cit.*, *loc. cit.*
- <sup>37</sup> *Ibid.*
- <sup>38</sup> UDHR, *op. cit.*
- <sup>39</sup> UN General Assembly, International Convention on the Elimination of All Forms of Racial Discrimination, 21 December 1965, United Nations Treaty Series vol. 660 <<http://www.ohchr.org/EN/ProfessionalInterest/Pages/CERD.aspx>>.
- <sup>40</sup> UN General Assembly, International Covenant on Civil and Political Rights, 16 December 1966, United Nations Treaty Series vol. 999 <<http://www.ohchr.org/en/professionalinterest/pages/ccpr.aspx>>.
- <sup>41</sup> UN General Assembly, International Covenant on Economic, Social and Cultural Rights, 16 December 1966, United Nations Treaty Series vol. 993 <<http://www.ohchr.org/EN/ProfessionalInterest/Pages/CESCR.aspx>>.
- <sup>42</sup> Gerard Stoudmann, Striking a Fair Balance: Protecting Human Rights in the Fight Against Terrorism, April 2002, OSCE Newsletter, 16 May 2014 <<http://www.osce.org/odihr/18816?download=true>> (Stoudmann).
- <sup>43</sup> *Ibid.*
- <sup>44</sup> International Committee of the Red Cross, Protocol Additional to the Geneva Conventions of 12 August 1949, and relating to the Protection of Victims of International Armed Conflicts (Protocol I), 8 June 1977, 1125 United Nations Treaty Series 3 <<http://www.icrc.org/ihl/INTRO/470>>.
- <sup>45</sup> Marco Sassòli, “Transnational armed groups and international humanitarian law,” Winter 2006, 6 HPCR Occasional Paper Series at 14, 16 May 2014 <<http://www.hpcrresearch.org/sites/default/files/publications/OccasionalPaper6.pdf>>.
- <sup>46</sup> Stoudmann, *op. cit.*
- <sup>47</sup> Thomas Aquinas, Summa Theologiae, trans. Thomas Gornall, vol. 4 (London: Blackfriars, 1964).
- <sup>48</sup> *Ibid.*, I-II, q. 90, a. 1.
- <sup>49</sup> Pope John Paul II, Message for the 2002 World Day of Peace, 1 January 2002, 5: AAS 94, 16 May 2014 <[http://www.vatican.va/holy\\_father/john\\_paul\\_ii/messages/peace/documents/hf\\_jp-ii\\_mes\\_20011211\\_xxxv-world-day-for-peace\\_en.html](http://www.vatican.va/holy_father/john_paul_ii/messages/peace/documents/hf_jp-ii_mes_20011211_xxxv-world-day-for-peace_en.html)>, para. 6.

---

<sup>50</sup> Secretary of State and the Coordinator for Counterterrorism, "Patterns of Global Terrorism 2002," April 2003, U.S. Department of State, 16 May 2014 <<http://www.state.gov/j/ct/rls/crt/2002/pdf/index.htm>>.