

FINDING A BALANCE IN AN ERA OF TERRORISM, MARY ROBINSON

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Club of Madrid member Mary Robinson believes that international law has been one of the casualties of the terrorist attacks on New York, Madrid and London.

How can we be strong in confronting and bringing to justice those who carry out terrorist acts while holding to our core values, including our commitment to respecting the rule of law and defending fundamental human rights?

Mary Robinson, miembro del Club de Madrid, ex presidenta de Irlanda y ex miembro del Alto Comisariado de la ONU para los Derechos Humanos, considera que el buen uso del derecho internacional ha sido una de las pérdidas más lamentables tras los atentados terroristas en Nueva York, Madrid y Londres. Afirma que los abogados, como colectivo, deberían ser los portavoces de la

necesidad de salvaguardar la integridad y los derechos humanos además de respetar las normativas humanitarias en un entorno inseguro y sin protección para la ciudadanía que se deriva de las tensiones y conflictos actuales. It is a question that people in New York, like those in Madrid, Sharm al-Sheikh, Bali, London and elsewhere have been asking since the terrible attacks on the United States of 9/11 2001 five years ago. We have been confronted once again with an overwhelming sense of anger and loss. We know instinctively that justice must be served, that security and order must be restored, that such acts must be prevented in the future. The question, of course, is how best to achieve all of these while remaining true to our core values.

Language is vital in shaping our reactions: the words we use to characterise an event may determine the nature of the response. But as we know, despite efforts to frame the response to terrorism within the framework of crimes under national and international law, an alternative language emerged post – 9/11. That language, which has shaped to a much larger extent the response at all levels, has spoken of a war on terrorism. As such, it has brought a subtle change in emphasis in many parts of the world; order and security have become the overriding priorities.

As in the past, the world has learned that emphasis on national order and security often involved curtailment of democracy and human rights. The reality is that by responding in this way the United States has, often inadvertently, given other governments an opening to take their own measures which run counter to the rule of law and undermine efforts to strengthen democratic forms of government.

Some imply that the security imperative outweighs all other considerations. I do not believe that. Five years after 9/11, I believe we must evaluate such assumptions and ask ourselves if all of the measures taken have been justified and consistent with the rule of law. The question facing us today is: how are we to respond to this situation and what steps can we – and must we – take to restore and protect the international rule of law?

✘ New efforts to reassert the importance of the rule of law in the struggle against terrorism are emerging. For example, the Club of Madrid, a group of former heads of state and government from countries in all regions, of which I am a member, came together last year to organise an International Summit on Democracy, Terrorism and Security. Our purpose was to build a common agenda on how the community of democratic nations could most effectively confront terrorism while maintaining commitments to civil liberties and fundamental rights.

The resulting Madrid Agenda makes a compelling case not only for more effective joint action against terrorist organisations but also the need to increase resources aimed at tackling the humiliation, anger and frustration felt by many that can be manipulated to draw recruits for terrorist action.

The sad reality is that over the past five years, the view that governments will ultimately only rule by power and in their own interest, rather than by law and in accordance with international standards has been strengthened significantly. As lawyers we must use our collective voice to maintain the integrity of international human rights and humanitarian law norms in the light of heightened security tensions. Not just because it is the right thing to do, but because it is the most effective strategy in countering the forces which fuel terrorism.

Mary Robinson served as United Nations High Commissioner for Human Rights from 1997 to 2002 and as President of Ireland from 1990 to 1997. She is a leading member of the Club of Madrid and has recently received the Prince of Asturias Award for Social Sciences. (With kind permission of the IBA).