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Statement by Martin Scheinin

**SPECIAL RAPPORTEUR ON THE PROMOTION AND PROTECTION
OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS WHILE
COUNTERING TERRORISM**

17th session of the Human Rights Council

**Panel discussion on the issue of the human rights of
victims of terrorism**

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Mr. President, Madame High Commissioner, distinguished delegates, ladies and gentlemen,

Allow me to make some observations on how the issue of human rights of victims of terrorism is related to the mandate of a special rapporteur on human rights and counter-terrorism, assumed and renewed by the Human Rights Council. This mandate is about “the promotion and protection of human rights and fundamental freedoms while countering terrorism” (Human Rights Council resolution 15/15), not about the human rights of terrorists, or human rights of suspected terrorists, or alleged terrorists. A victims’ perspective is important in a comprehensive, holistic perspective to the role of human rights in counter-terrorism. As embodied in the 2006 Global Counter-Terrorism Strategy (A/RES/60/288), promotion and protection of human rights is both one pillar of the strategy and an ingredient in all other pillars. Rightly, the strategy also mentions the dehumanization of victims of terrorism as one of the conditions conducive to the spread of terrorism. There is no terrorism without the decision by one or more morally responsible individuals to resort to the morally inexcusable tactics of terrorism that sacrifice innocent bystanders to create fear.

In my very first report to the Commission on Human Rights (E/CN.4/2006/98), submitted in late 2005 and considered by the Council in 2006, I discussed the issue whether acts of terrorism “violate” human rights. Noting that the resolution establishing the mandate of the Special Rapporteur referred to acts of terrorism as the destruction of human rights and that all international monitoring mechanisms for human rights are geared towards the State as the potential human rights violator, I voiced support for the creation of mechanisms for the effective implementation of human rights also in respect of non-State actors. This is a line I have since pursued, including by promoting the idea of a World Court of Human Rights, the jurisdiction of which would comprise not only States but also other actors, including private ones.¹

In the course of my country visits I have systematically included a victim’s perspective to counter-terrorism, including through addressing questions to governmental authorities and through meeting with terrorism victims and their organizations. My mandate is also a member of the Working Group on Supporting and Highlighting Victims of Terrorism within the Counter-Terrorism Implementation Task Force. Through these experiences I have become convinced that there is no contradiction between defending at the same time the human rights of victims of terrorism and the human rights of all persons adversely affected by counter-terrorism measures. Rather, it appears that those Governments that are ignorant in respect of the human rights violations resulting from their counter-terrorism measures are often also ignorant about the human rights of victims of terrorism. They may make public statements about terrorists violating human rights and the human rights of victims of terrorism being a priority compared to “human rights of terrorists”. All too often,

¹ See, <http://www.udhr60.ch/research.html> and Special Rapporteur’s 2010 report to the General Assembly, A/65/258, paragraph 80.

such words are mere rhetoric, and the Governments resorting to them fail to address the rights and concerns of victims of terrorism. There are no proper investigations, public disclosure of the truth, collective and individual reparations, rehabilitation measures or steps of accountability for those whose acts or omissions allowed the terrorist act to happen.

My country missions allow for some observations on good practice and practice in relation to the human rights of victims of terrorism. The subordination of the issue to a demagogic tool of rhetoric is certainly one of bad practice, and actually adds to the vicious circle of terrorism by contributing to the dehumanization of victims of terrorism by reducing them and their suffering to mere means in order to back up the aggressive and human rights violating counter-terrorism policies of the State.

My final report to the Council (A/HRC/16/51) presents a compilation of best practice in countering terrorism. One of the ten areas of best practice contained in the compilation (practice number 6) is about the human rights of victims of terrorism:

“1. Damage to natural or legal persons and their property resulting from an act of terrorism or acts committed in the name of countering terrorism shall be compensated through funds from the State budget, in accordance with international human rights law.

2. Natural persons who have suffered physical or other damage, or who have suffered violations of their human rights as a result of an act of terrorism or acts committed in the name of countering terrorism shall be provided with additional legal, medical, psychological and other assistance required for their social rehabilitation through funds from the State budget. “

This proposal is based on the following considerations.

Firstly, much of the work done in the field of remedies for gross violations of human rights is applicable and represents best practice in relation to promoting the human rights of victims of terrorism. In particular, I am referring to the tremendously important work behind the so-called Van Boven–Bassiouni Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law (A/RES/60/147).

Secondly, through my country visits, particularly to Turkey (A/HRC/4/26/Add.2) and Peru (A/HRC/16/51/Add.3), I have seen that effective collective and individual reparations programs for victims of terrorism are built by doing justice at the same time to victims of terrorism and victims of abusive counter-terrorism measures by State authorities. When villagers are caught in conflicts between terrorist groups and the military or police, the result is the destruction of their houses, communities and means of livelihood. In providing compensation and measures of rehabilitation, resettlement or return, the victims must not be required to prove who burned their house – whether it was the terrorist organization or the army. What matters is comprehensive and effective

support to the individuals, families and communities. Turkey and Peru provide very useful lessons in these respects.

Thirdly, terrorism may pop up anywhere but it breeds in divided societies. Building bridges across political, geographical, religious or ethnic lines is one tool in a sustainable strategy for a society without terrorism. Hence, bringing together victims of terrorism and victims of counter-terrorism, and the communities where their experiences are shared, is a good strategic choice. It is also the best option for securing the promotion and protection of human rights in the fight against terrorism, and for effective and sustainable results in combating terrorism.