

Sally Neighbour

Speaking notes for presentation at the Sydney Institute February 20 2007

I thought I would talk to you tonight about a seminar I attended at Harvard University in December.

It was held by the Radcliffe Institute for Advanced Study, and the purpose of it was to examine how different countries have dealt with terrorism... or, to be more precise, to compare the “political and legislative responses to terrorism” in seven countries. (Australia, by the way, was not one of them. Apparently we are *not* seen as being at the forefront of the so-called Global War on Terror, despite the extent to which it occupies our political debate.)

The countries we looked at were the US, the UK, Egypt, Israel, Indonesia, Germany and Peru. I was invited to talk about Indonesia, having written a book about Abu Bakar Bashir’s terrorist group, JI.

The hosts of the seminar were Louise Richardson and Philip Heymann, who are both professors at the Harvard Law School.

The subject of terrorism law is quite a talking point among American legal brains, as you would imagine, given the current very intense debates on issues like the rules for the US Military Commissions; the role of the President as Commander-in-Chief versus the role of Congress; and whether America should abide by international conventions on the treatment of prisoners. All highly contentious topics.

Another law professor at Harvard - the famous criminal defence attorney Alan Dershowitz - has recently been arguing that if the US is going to use torture on terrorism suspects, then it should be legalised, and subject to limitations and guidelines... a rather provocative argument from a renowned civil libertarian. That’s another subject. Suffice to say there was a lot to talk about.

The co-host of the seminar, Louise Richardson, has been teaching terrorism studies since the 1990s, well before it was fashionable. I think you could say that terrorism is in Louise Richardson’s blood. She grew up in Northern Ireland during “the

troubles”, and at Dublin University was recruited into the student branch of the IRA, before deciding that killing people was not the way to achieve a united Ireland.

She has spent much of her life since then studying terrorists, to try to understand what motivates them. She’s written a fascinating book called “What Terrorists Want”, in which she argues that the best way to deal with terrorism is to identify just what it is that the terrorists want and then to implement policies to deprive them of it, in order to render their campaigns futile.

Incidentally she argues that the current war on terror is having the reverse effect. Her argument, in a nutshell, is that what terrorists want are what she calls “the three Rs’ – revenge, renown and reaction”. And she says the US and its allies have played right into the terrorists’ hands with their overblown Global War, by giving them exactly what they wanted – namely, new opportunities for revenge; a massive over-reaction – which delivers angry new recruits into the terrorists’ arms; and worldwide renown, by elevating them to the status of combatants in what they now see as a war between the West and Islam.

The starting point of both Louise Richardson’s book and her seminar at Harvard was, in essence, that terrorism is not new. It’s been around for centuries. And in order to contain it – because destroying it is impossible – we have to study it closely, understand how it functions, analyse its weaknesses, and identify what works against it, and what doesn’t.

The statement that terrorism is not new seems self evident. But the rhetoric of some of our leaders would have us believe otherwise. President George Bush, for example: “September 11 changed our world”. Vice-President Dick Cheney: “9/11 changed everything”. And Tony Blair: “The rules of the game have changed”.

But everything did not change on September 11 2001. What changed was that a particular terrorist group carried out an extraordinarily successful and horrendous attack, aimed at civilians, on US soil.

What also changed was that the US - instead of pursuing a carefully targetted counter-terrorism strategy - embarked on a global war. It was an extraordinarily ambitious endeavour. President Bush declared: “Our war on terror begins with al Qaeda, but it does not end there. It will not end until every terrorist group of global reach has been found, stopped and defeated.”

There is by now a very large body of expert opinion that says this is not a war the US can ever win – and I’m talking not about the war in Iraq, but about the so-called global war on terror, though the phrase itself has fallen out of vogue.

I won’t go on at length about this... But Louise Richardson makes the point that “terrorism” as such is not a defined enemy, it’s not an army, or a state. Terrorism is an idea, it’s a strategy, and you can’t fight a “war” – at least not in conventional military terms - against an idea or a strategy.

She also points out that in three decades, thirty-thousand British troops in Northern Ireland were unable to defeat the few hundred fighters of the IRA.

A conventional military response is simply too blunt an instrument against what is essentially a form of psychological warfare, in that the fear that terrorism engenders is far greater than the actual damage it can inflict. Effective counter-terrorism has to be much more scientific and precisely targeted than conventional warfare.

Another problem with the military model of counter-terrorism is that terrorists like to see themselves as soldiers, as fighters, ‘holy warriors’ in the case of the Islamists, rather than as criminals. So declaring ‘war’ on them rewards them with a kind of legitimacy and elevates their cause, giving it the status of an officially sanctioned conflict. The British authorities eventually recognised this in Northern Ireland, replacing the military response with a policing response to the IRA.

Having said all that, the purpose of the seminar was not to analyse or critique the US response to al Qaeda, and nor is that my purpose here. Rather, the seminar’s aim was to carefully examine the different responses to terrorism, to try to establish which ones work and which don’t.

It was a fascinating three days. We heard presentations on the IRA, the Shining Path in Peru, JI, the Egyptian Islamic Jihad, Hezbollah, and of course al Qaeda. The problem was it’s a huge subject to try to grapple with in such a short time. And the unofficial consensus at the end of it was that the experience of terrorism has been so broad and so varied that it’s difficult to come to any over-arching conclusions, except for these:-

Terrorism is *not* new. And it’s here to stay, in one form or another. The current wave of Islamist terrorism is going to be with us for at least a decade, probably a generation. So we have to learn to deal with it, and preferably without sacrificing the very freedoms and liberties that we’re defending.

There's another conclusion that I reached from the seminar, based on the case-studies we heard from those seven countries. And that is that draconian counter-terrorism measures appear to have had limited success, and have the potential to severely backfire, by alienating the populations whose support is crucial to their outcome. And that's the point I would like to focus on tonight.

One country whose experience illustrates this most starkly is Peru. We heard about Peru at Harvard from a very interesting man named Oscar Schiappa-Pietra. He is a former senior advisor to the Peruvian Cabinet and to the Minister of Foreign Affairs. He's a human rights activist who taught international humanitarian law to the police and military in Peru at the height of its civil war - a rather hair-raising occupation from what I've heard. He's now Professor of International Law at Lima University. And he gave a chilling account of Peru's struggle against the Shining Path, one of the most vicious terrorist movements we've seen.

Peru was at war against the Shining Path for 20 years, through the 1980s and '90s. The toll from that conflict dwarfs the death count achieved by al Qaeda. 62,000 people were killed, and hundreds of thousands injured, disabled, widowed, orphaned or forced out of their homes. About half the deaths were caused by the terrorists, and half by the security forces pitted against them.

I use the term 'terrorist' here because it seems an obvious description now, but interestingly they *weren't* called terrorists in Peru at the time. The country's Truth and Reconciliation Commission, for example, refers to the violence as an "internal armed conflict" or an "insurgency".

We've seen this in other countries as well. Another example is Egypt. The first wave of the Islamist insurgency there - which began after the assassination of Anwar Sadat in 1981 - was generally referred to as "political violence". Sadat's assassins were branded "traitors", not terrorists.

It's only relatively recently that it seems we have begun to label all politically-motivated violence as "terrorism". Part of the problem is the lack of a clear definition of terrorism. Another part of it is that it's become politically convenient for many governments to brand their opponents as terrorists.

The Shining Path was a very different phenomenon from the al Qaeda of today. It was a fanatical Maoist group whose aim was to destroy the state. But there are similarities worth noting. One is that the Shining Path's strategy was to deliberately

provoke disproportionate responses by the state, in order to fuel support for their cause. A similar approach has been enunciated by Osama bin Laden. And in both cases it's been successful.

Another similarity was that the Peruvian authorities – like the US - adopted a “war model” in response to the threat, giving their armed forces carriage of counter-terrorism strategy. What followed was that the vicious, verging on genocidal (a term they used themselves), tactics of the guerillas were met with equal savagery by the government.

Massive and systematic human rights violations were carried out in the name of Peru's ‘war on terror’. Torture during interrogation, extra-judicial executions, disappearances, routine sexual violence against women. It was a policy of “indiscriminate repression” in the words of the Truth and Reconciliation Commission.

It's important to note that Peru was a democracy at the time, and all this was done within the framework of anti-terrorist legislation passed by a democratically elected Congress. Extensive new powers were given to the police, such as the right to detain people incommunicado and to interrogate suspects while bound and blindfolded. A compliant judiciary provided a “strict and uncritical application” of the legislation. To protect the judiciary, special military tribunals were set up to try terrorist crimes in secret, featuring “faceless courts” in which the identities of judges and other officials were kept hidden.

We should also note that all this was also done - at least initially - with a high degree of popular support. The public was “willing to exchange democracy for security, and tolerate human rights violations as the necessary cost” to end the insurgency. We see the same trend reflected in opinion surveys in many countries today. I'll come back to that later.

Over time in Peru, the conflict was manipulated to keep the increasingly dictatorial government of Alberto Fujimori in power, and to crush his political opposition. Hundreds of innocent people were jailed. Detainees were frequently tortured to confess. Government sanctioned death squads carried out assassinations, disappearances and massacres.

Eventually the Shining Path was defeated - but *not* because of effectiveness of these measures. There were two reasons for its defeat, according to Oscar Schiappa-Pietra.

One was the capture of its leader Abimael Guzman and his top associates. The other was that because the terrorists were so vicious, they lost public support. The authorities saw this happening and changed their own tactics in response. They supported and armed civilian groups known as public defence committees to resist the Shining Path. So the peasants who the guerillas had sought to win over saw that in fact it was the government authorities who were on their side, and increasingly they turned against the terrorists. The strategy was described as “taking the water out of the fishbowl” - meaning leaving the insurgency without popular support. And it worked.

The experience and legacy of Peru’s war on terror has been as traumatic for the country as the guerilla insurgency itself, as the Truth and Reconciliation Commission attests. The “faceless courts” were eventually declared illegal and some 700 terrorism cases had to be retried. Peru is still trying to extradite Fujimori from Chile to try him for human rights crimes. The lesson from all this, according to Oscar Schiappa-Pietra, is that “the extra-legal approach (to counter-terrorism) is unsustainable”. He wonders if the US will one day need a Truth & Reconciliation Commission of its own, in the aftermath of *its* war on terror.

Since September 11, of course, the nature of the terrorist threat has changed, and the number of countries having to confront terrorism has grown exponentially.

Public support for extreme counter-terrorism measures remains high. This is particularly so with the recent emergence of the phenomenon of “home-grown” terrorism – that is second and third generation residents - in the US, the UK, Canada, Australia and elsewhere.

Another country we talked about at the Harvard seminar was Germany. Despite the fact that Germany has not had a terrorist attack on its own soil, attitudes there have hardened considerably. Keep in mind that Germany is a country with 3-and-a-half million Muslims. 65% of people recently surveyed said they don’t believe that the Western and Islamic worlds can coexist peacefully. 61% said they value ‘security more than freedom’. 62% were ready to give up individual rights in order to fight terrorism. Nearly half - 46% - support taking terror suspects into custody without proof. A similar percentage support the use of racial or religious profiling, that is targetting people for investigation, purely on the basis of their ethnic or religious background.

This issue of profiling is a thorny one that has been much debated. It gets civil libertarians very hot under the collar - the idea of targetting people simply because of their color or creed or demographic profile.

In the case of Islamist terrorism, it certainly seems logical enough to do so – after all the terrorists are male, Muslim and of Middle Eastern background. So why not pick on the obvious suspects? Well the German authorities tried it - and it was spectacularly unsuccessful.

You'll remember that after September 11 it was learned that 3 of the hijackers came from a Hamburg cell led by the ringleader Mohammed Atta. So the German police embarked on a massive *Rasterfahndung*, meaning 'drag-net investigation', to find out whether there were any more of them out there.

First they drew up a 'profile' based on the known perpetrators of September 11 – male, aged 18 to 40, current or former student, Muslim, legal resident, originating from one of 26 Muslim countries. They combed through data on 8 million individuals, and then compiled a "Sleepers Database" with 32,000 entries. After closer examination the number of potential sleepers was whittled down to 1,689. But after a full years investigation, not a single sleeper had been identified.

The dragnet investigations were ultimately declared illegal by Germany's Constitutional Court, which found that there had to be a 'concrete danger' in order to justify such an investigation. The data from this enormously laborious and costly exercise was eventually destroyed.

Racial and religious profiling has also been used in the United States – where it's been equally unsuccessful. Interestingly, there is much lower support for profiling in America. In a recent survey by Cornell University, only 22% of people agreed that citizens should be profiled for being Muslim or Middle Eastern in heritage. I wonder if this is because memories of the targetting of black Americans in the United States are fresher than memories of the Nazis targetting Jews in Germany.

After September 11, the US Attorney General ordered a similar "dragnet" style investigation. He had his department draw up a list of all men aged 18 to 33, from countries in which "intelligence indicated an al Qaeda presence or activity", who had entered the US since 2000 and who currently held student visas.

They ended up with a list of just over 5,000 names. 2,261 of them were interviewed. It was a massive operation. At the end of it, fewer than 20 individuals were taken into

custody, according to Philip Heymann from the Harvard Law School. Most of those were picked up for minor immigration violations, three on criminal charges, but none on terrorism-related offences.

In a similar dragnet, cast by the FBI, more than 1,200 Arab-Americans were picked up for questioning. Under the FBI's "hold until cleared" policy, they were detained for an average of 80 days, and up to 244 days. They were denied access to lawyers and other normal legal protections. A later inquiry by the Justice Department's Office of Inspector General found that they were subject to a "pattern of physical and verbal abuse". Apparently none of them were terrorists.

These operations caused enormous ill-will in the American Muslim community, whose support could be crucial for the US's counter-terrorism effort.

The US Justice Department has since declared that "Racial profiling in law enforcement is not merely wrong, but also ineffective", as it is premised on an "erroneous assumption", that an individual from one background is more likely to commit a crime than someone from another. As well as being ineffective, it states that profiling "clearly has a terrible cost, both to the individuals who suffer invidious discrimination and to the nation, whose goal of 'liberty and justice for all' recedes with every act of such discrimination".

The experience of terrorism around the world has shown that the greater the perceived threat to a society, the higher the popular support will be for draconian measures to counter it.

We also looked at Israel, a country which regards itself as being in a perpetual state of war with terrorists. 53% of Israelis questioned in a worldwide BBC survey in 2006 supported the use of torture on terrorist suspects, the highest of 25 countries surveyed. Three-quarters of them supported the targeted killing of suspected terrorist leaders. There is little evidence that the existential threat posed to Israel by terrorism has diminished as a result of the extreme measures the state has taken to counter it, though it is likely these measures have helped to ward off more catastrophic attacks.

In general the point to be taken is that politicians should be wary of giving the public what they want. Just because the populace supports something doesn't mean it works or is good policy.

Now the unfortunate corollary of opining on what does *not* work in counter-terrorism, is that one is invariably asked what *does* work. What should we be doing? This is one of the questions I'm always asked at the end of talks like these. And I always fumble about for an answer. So I thought I'd pre-empt it by coming up with a few points. And I should add that none of them are original. They are drawn from the research and studies of numerous people more expert than I, including some of the participants at the Harvard seminar, notably Louise Richardson.

First, and more than anything else, we need good intelligence and policing. Thankfully we now seem to be on track with those, as a result of the huge investments in funding and manpower since the attacks of September 11 and Bali.

We need to abandon glib slogans and cliches that portray the terrorists as evil and immoral fanatics. They are not. They are, for the most part, thoughtful, educated idealists, who believe in the justness of their cause, to the point that they are willing to die for it.

We must understand their cause and exactly what motivates them, if we are to have any hope of defeating them. We must listen to their grievances. Some are pure propaganda, others are simply rhetorical justification for their murderous acts. But some of them need to be addressed – such as the demands for a Palestinian state and for an end to hostilities in Iraq. Discussing these issues doesn't mean negotiating with terrorists. It simply means addressing the grievances that continue to spawn new recruits to their cause.

We need to engage in the war of ideas, through public diplomacy and development projects that promote economic growth, employment, education and hope in desperate countries. This is not because poverty and deprivation *cause* terrorism. They don't. But poor, deprived communities are more likely to provide a pool of willing new recruits.

And finally we need to hold fast to the values that we are defending – democracy, civil society, the rule of law and human rights. I'm not the first to say this: if we abandon these in our efforts to defeat terrorism, then the terrorists will have won.

Copyright: Sally Neighbour

- References
- Giovanni Capoccia, Department of Politics and IR, Corpus Christi College, Oxford University. “Germany’s Response to 9/11: Rapid Change and Constitutional Traditions”, draft August 2006.
- Tamar Hermann, The Open University of Israel and Tel Aviv University. “The Terror Paradox: Israeli Jewish Public Opinion on Fighting Terrorism and Making Peace”, 2006.
- Philip Heymann, Harvard Law School. “Muslims in America after 9/11: The Legal Situation”, 2006.
- Louise Richardson, Harvard Law School. “What Terrorists Want”, John Murray (Publishers) 2006.
- Oscar Schiappa-Pietra, Professor of International Law, Universidad Nacional Mayor de San Marcos, Lima. “Taking the water out of the fishbowl: Peru’s Case Study submitted to the Radcliffe Institute Seminar – State Responses to Terrorism” 2006
- Amr Shalakany, Assistant Professor of Law, The American University in Cairo and Cairo Law School. “Of Tourists and Terrorists: The Governance of Political Violence in Egypt, 1981-2006”.
- Clive Walker, Centre for Criminal Justice Studies, School of Law, University of Leeds. “Keeping control of terrorists without losing control of constitutionalism” 2006.
- Clive Walker, “United Kingdom: Law, Policy & Practice” 2006.