

NJCM Principles 'Combating Terrorism with Human Rights'
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Dutch Section of the International Commission of Jurists (NJCM)

1. The world has been shocked by terrorist attacks which were regarded as impossible before. The destruction of the Twin Towers and the Pentagon in the United States and the bomb attacks in Madrid, followed by the murder of Theo van Gogh in Amsterdam are clear examples of the recent global threat of terrorism.
2. The threat of terrorist attacks frightens many individuals. Feelings of insecurity should be taken seriously by the government. Not only because many people have become arbitrary chosen victims of terrorist attacks, but also because both the attacks themselves and these feelings of insecurity can seriously disrupt the society.
3. The call in society for measures against (potential) terrorists is strong. Some bills of the Dutch minister of Justice have already entered into force. Other bills with far-going powers for the Dutch law enforcement authorities are being prepared.
4. This conference on the occasion of the 30th anniversary of the NJCM has the title 'Combating Terrorism with Human Rights', based on the idea that in a world community where human rights are respected there is no breeding ground for terrorism. In the near future such a world will be a utopia. It is also a utopia to suppose that terrorism will be beaten solely by extra powers for law enforcement authorities.
5. Human rights should, also in the context of the fight against terrorism, remain the granite base which should be impenetrable. Without the pretension to be complete, the NJCM proposes the following basic principles:
 - a. Torture in whatever form should never be allowed. The Abu Graib prison and Guantanamo Bay show that the risk of torture exists.
 - b. Anonymous statements and sources of information should, when used as testimony in a criminal law procedure in court, be tested on origin and reliability by a judge.
 - c. The right to a fair trial with an independent and impartial judge should also be respected in the context of the fight against terrorism.
 - d. Detention without intervention by a judge is unacceptable. The new and far going methods of coercion, created for the purpose of combating terrorism, should be put under supervision of a judge.
 - e. Restrictions to human rights for the purpose of combating terrorism should fulfil the requirements of proportionality and subsidiarity and the requirement of legality.
 - f. Respect for the principle that rules shall not be retroactive and the principle of *lex certa*.
 - g. Respect for the freedom of expression as recognized in the International Covenant on Civil and Political Rights, the European Convention for the Protection of Human Rights and Fundamental Freedoms and in the case law of the European Court of Human Rights.
 - h. The input of an independent National Human Rights Committee is indispensable for finding a balance between the interest of combating terrorism and respect for human rights.