

Strengthening the Role of Victims and Incorporating Victims in Efforts to Counter Violent Extremism and Terrorism

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Abstract

Following terrorist attacks, governments are often quick to express their solidarity with victims of terrorism but as the memory of a terrorist atrocity fades, political attention for the victims also ebbs away – in both government and society. In this ICCT Research Paper, Dr. Alex P. Schmid explores the roles of victims of terrorism. The paper looks at various definitions of what it means to be a ‘victim’ and also traces the various initiatives aimed at supporting victims over the last two decades. In many cases, the paper finds, such initiatives have been weak. Victims of terrorism are often one of the best positioned actors to counter violent extremism and their role in this respect is also analysed. While the importance of victims is slowly being recognised, this Paper concludes that there is still a lot more work to be done. The Paper ends with several recommendations which could enhance and improve the position of victims and their role in countering violent extremism.

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1. Introduction

Following terrorist attacks, governments are quick to express their solidarity with victims of terrorism but as the memory of a terrorist atrocity fades, political attention for the victims also ebbs away – in both government and society. Victims, survivors and the bereaved families, however, continue to suffer from the consequences – physical, psychological, social and economic. In the last decade we have been flooded with news from and about the Global War on Terror. The emphasis generally has been on the perpetrators of acts of terrorism and the fight against them; much less on the victims. Traditionally, terrorism research and counter-terrorism policies as well as the media have focused more on the terrorist perpetrators and supporters than on the victims of terrorism and those who survived terrorist attacks, including relatives of direct victims.¹ At first glance this might seem strange since one would expect that surviving victims would be given a stronger voice in responding to what threatened them more than anyone else.

However, victims have, in fact, long been sidelined. In criminology, for example, attention for victims has only slowly emerged since the 1970s.² The rights of victims of crime were not internationally codified until 1985 when the *United Nations Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power* was adopted by the General Assembly.³

Why this long neglect of victims? In modern societies, the state claims the monopoly of legitimate violence and when a member of society is victimised, it is up to the state to bring to justice the perpetrator and not, like in archaic societies, the victim's family and kin. In the process of eliminating revenge, the role of victims has become a passive one. They have become marginal in most criminal justice systems, a trend that has only been gradually reversed in the last decennia. Victims who survived attacks on their lives have often been traumatised by the violence they faced and this could be one reason why they have not generally been in a strong position throughout criminal justice procedures or when in court.

However, in recent years victim associations have begun to make their voices heard and now begin to have – in some countries more than in others - a stronger say on the course of events after a terrorist crime has been committed. This development, belated as it is, should be welcomed. After all, nobody has a greater right to be listened to than the victims of terrorism themselves – they are innocent and deserving and societies have a collective responsibility towards them.⁴ This paper will argue that since victims possess an unblemished moral capital (something few governments can claim), their role in counter-terrorism ought to be enhanced. They are, as it were, an untapped source of strength that should to be mobilised and incorporated in efforts to counter violent extremism.

In this Research Paper, recent initiatives and developments that point in that direction are explored. This leads to the proposal of a set of recommendations which could be the subject for a roundtable discussion among government officials, representatives of victims' associations, the judiciary, the media, academics working in this area and, of course, former victims and their relatives.

¹ A review of the two leading academic journals on terrorism revealed that these published only one article on victims of terrorism in more than a decade [*Terrorism and Political Violence* (1994-July 2006); *Studies in Conflict and Terrorism* (1995-July 2006)]. - Roger Cabrera. Victims of ETA and the fight against terrorism: an analysis of their contribution since the mid-1980s. St. Andrews: School of International Relations, August 2006, p. 7.

² Anthony Pemberton. In: World Society of Victimology. 14th International Symposium. Book of Abstracts. The Hague, 20-24 May 2012, p. 50.

³ United Nations. General Assembly. Resolution 40/34, U.N. GAOR, 40th Sess., Supp. No.53, at 213, U.N. Doc A/30/53 (1986), 19 December 1985. For a discussion, of this resolution, see Jan van Dijk. Benchmarking Legislation on Crime Victims: The UN Victims Declaration of 1985. In: Alex P. Schmid, (Managing Ed.) *Victims of Crime and Abuse of Power*. Bangkok: UN Congress on Crime Prevention and Criminal Justice, 2005, pp. 202-208. – The resolution is non-binding (“soft-law”) and national implementation has been slow and uneven. Cf. Jan van Dijk. *The World of Crime. Breaking the Silence on Problems of Security, Justice, and Develop, Across the World*. Los Angeles, Sage, 2008, pp. 225-226.

⁴ Terrorists deny the innocence of their victims. George Habash, who headed the Popular Front for the Liberation of Palestine (PFLP) once said: “There are no innocent victims. All share the responsibility for society's wrongs. No one is innocent”. – Cit. R. Reuben Miller. Lemma “Victims of Terrorism”. In: Martha Crenshaw and John Pimlott (Eds.). *Encyclopedia of World Terrorism*. Armonk, N.Y.: M.E. Sharpe, Inc., 1997, p. 250.

2. Terrorist Uses of Victims

Before we turn to possible ways of enhancing the role of victims in countering terrorism, it is worth recalling the nature of terrorist victimisation and looking at how terrorists (ab-)use victims. Contrary to most other forms of violence, terrorist violence is triangular: there is perpetrator, a victim and a target (or several). The direct victim of violence is, however, only a secondary target – although he or she might be part of a general target population. While in a political assassination, the victim and target are identical, this is not always so in terrorism. The indirect victim is in fact the primary (or ultimate) target of terror, intimidation, extortion, demands or coercion.⁵ The victims of terrorist attacks are usually defenceless civilians and unarmed non-combatants. That is the main difference between a terrorist attack and an act of warfare by armies or guerrilla forces where two armed opponents face each other and generally try to avoid, to the extent possible, civilian casualties. Terrorists, on the other hand, make no distinctions between civilians and others. Terrorists target civilians partly because they are easier targets than the security forces. They also target them because sudden, unprovoked attacks on innocent people peacefully leading their daily lives creates shock, terror and confusion but also anger far beyond the immediate victims. With terrorism, in contrast to most other forms of violence, the direct victims of violence are used to terrorise others who identify with them and gratify those who identify with the terrorists or their cause.

For terrorists the victims themselves rarely matter. Brian Jenkins expressed this notion in 1975 when he wrote: “Terrorists want a lot of people watching, not a lot of people dead.”⁶ The first half of this statement is still true, the second half has to be partly modified with the arrival of jihadist terrorism and violent extremists such as Anders Breivik, who admitted to being inspired greatly by jihadist tactics and modus operandi. There has been a significant increase in indiscriminate attacks on masses of people in public places since the 1990s, partly linked to the arrival of suicide bombings. The lack of discrimination in targeting, a characteristic of terrorism, has expanded over the years: women and children in the enemy camp, even neutral Red Cross workers, have become targets of acts of terrorism.

In addition to wounding, maiming, and killing people, to spread fear and mistrust in communities, terrorists also take hostages and kidnap civilians for ransom. This places the government of the kidnapped citizens, their employers and their relatives in a difficult no-win situation: not to negotiate with the terrorists or their middlemen means risking the lives of those kidnapped and taken hostage, while giving in to terrorist demands and paying the ransom enables and encourages terrorists to engage in further crimes.⁷ In many cases either the government, or the employer (sometimes through an insurance company) or the family have given in to such blackmail and funds have reached the terrorist organisation through back channels, enabling them to recruit new members and prepare further attacks.

Terrorists also make use of video recordings of coerced victim statements whereby victims are made to appeal to their government or their societies to give in to the terrorist demands. Sometimes no direct demands are made. The main purpose of the victimisation is to generate messages. As one American terrorist, the Harvard-educated Unabomber, put it: “In order to get our message before the public with some chance of making a lasting impression, we’ve had to kill people.”⁸ Victims, especially high profile ones or totally innocent ones like school children have a high news value. There is a human interest in the public and the media use it as an argument to feature terrorist stories very prominently. This makes terrorists and journalists “strange bedfellows in a marriage

⁵ Alex P. Schmid. *Political Terrorism. A Research Guide to Concepts, Theories, Data Bases and Literature*. Amsterdam: North-Holland Publ. Company, 1984, p. 92.

⁶ Brian M. Jenkins. *International Terrorism: a New Mode of Conflict*. In: David Carlton and Carlo Schaerf (Eds.). *International Terrorism and World Security*. London: Croom Helm, 1975, pp. 13-49.

⁷ Ariel Merari. *Government Policy in Incidents Involving Hostages*. In: A Merari (Ed.) *On Terrorism and Combating Terrorism*. Frederick, MD.: University Publ. of America, Inc. 1985, pp. 163-176.- The difference between a kidnapping and a hostage-taking is that the victim is in the first case moved to a unknown location while in hostage-taking the scene of crime is generally known but security forces are hesitant to rush in for fear of causing or triggering deaths among those captured by the hostage takers. There are also mixed forms of these two types of victimization.

⁸ Cit. Badley, 1998, as quoted in Alex P. Schmid. *Magnitudes and Focus of Terrorist Victimization*. In: A.P. Schmid (Managing Editor), op. cit., p. 335.

of convenience” as journalist turned terrorism researcher Brigitte Nacos put it.⁹ Staged public victimisations are used by terrorists to access the news system and obtain free publicity in their search for attention, respect, solidarity, legitimacy and, ultimately, political power. In some cases, terrorists humiliate and then kill victims in front of a rolling camera in order to intimidate and terrorise all those who watch the macabre spectacle, culminating in beheadings which are then uploaded to the Internet and often broadcast (at least in part) through regular news channels.

The obvious purpose is to shock or impress audiences in the expectation that this demoralizes the enemy while furthering the terrorists’ own cause. Such expectations are, however, frequently simplistic and even mistaken. An act of terrorism causes not only terror among some sectors of the public but also often an angry (over-) response from the state, often in response to calls for reprisals from sectors of the public. At times a government’s reaction might be much stronger than anticipated by the perpetrators of terrorist acts. The (over-) response, in turn, might, however, create new victims – not of terrorism but of (the negative side-effects of) implemented counter-terrorism policies – and these might outnumber the former by several magnitudes, offering justifications to the terrorists to escalate victimisation as well.

For terrorists, victims are pawns in a power game - the skin on the drum beaten to make a wider audience dance to their tune.¹⁰ Over the years, terrorists have managed to manipulate target groups with increasing skill. As Ursula Wilder put it recently:

“Terrorism is about hijacking the attention of the public with scenes of random carnage, and what locks the attention of viewers is fear and sympathetic horror. He [the terrorist] understands the way others react to the use to which he puts human bodies but stands apart from such reactions while ruthlessly manipulating them. He exploits the compassion of audiences as much as he exploits the bodies of his comrades and victims.”¹¹

At the same time terrorists are, as Tom Parker put it, quite successful in “sanitizing the suffering that their actions cause”.¹² They do not like to talk about the victims of their violence – least of all innocent victims from their own camp. Furthermore, many terrorists in fact see and/or portray themselves as victims having (perceived or actual) grievances – which they use to justify creating further victims for their cause. On the other hand, many governments have not been very good at engaging surviving victims to their advantage. This is strange since the interests of governments and those of victims are, in many situations, largely the same, at least in democratic societies. Giving victims a larger role in countering terrorism therefore is a policy option that ought to be further explored. However, which victims?

⁹ Brigitte Nacos. *Terrorism and Counterterrorism*. Boston: Longmans, 2010 (3rd ed.), p. 263. She explained: “The American media and terrorists are not accomplices. However, they are involved in a symbiotic relationship in that they feed on each other: The media want dramatic, shocking, disconcerting news that keeps readers, listeners, and viewers captivated and that bolsters the circulation of the print press and the ratings of the electronic media. Terrorists need to spread their propaganda to further their ultimate political objectives. To put it differently, the news media and terrorists are not involved in a love story; they are strange bedfellows in a marriage of convenience” (ibid.).

¹⁰ In the words of Brigitte Nacos: “In a real sense, then, immediate victims of bombings, hijackings, and other terrorist acts are simply pawns in the plays that terrorists stage in order to engage their domestic and international audience. But unlike the producers who stage a drama on Broadway or in theaters elsewhere, terrorists cannot reach their intended audiences unless they generate a great deal of news coverage. (...) By staging horrific spectacles, terrorists gain instant access to the communication triangle: The media report – and overreport – the public watches, and decision-makers pay attention to both the media’s frenzy and the public’s fearful reactions. – Brigitte Nacos. *Terrorism and Counterterrorism*. Boston: Longman, 2010 (3rd edition), pp. 254, 257-258.

¹¹ Ursula Wilder. *Inside the Mind of a Terrorist*. *The National Interest*, 5 June 2012.

¹² Tom Parker, op .cit., p. 1141.

3. Typology of Victims and Magnitude of Victimization

Who are the victims of terrorism? The answer is not as obvious as it looks at first sight. A basic typology might distinguish between primary (A) and secondary victims (B):

A. Primary (Direct) Victims of Terrorist Acts and Campaigns

- (i) Those who are killed by terrorist kidnappers, hostage-takers, gunmen or bombers;
- (ii) Those who are injured, mutilated or mentally tortured by terrorists but are ultimately released or liberated;
- (iii) Those who are wounded or die in a counter-terrorist (rescue) operation at the hands of terrorists or armed first responders;
- (iv) Those who become mentally or physically handicapped or die (e.g. in a Post Traumatic Stress Disorder-based suicide) in a causal sequel to one or several terrorist events in which they were involved or of which they were direct witnesses.

B. Secondary (Indirect) Victims of Terrorist Acts and Campaigns

- (v) Those close to persons in the four categories of primary and direct victims: family, dependents, friends and colleagues;
- (vi) Those whose names appear on terrorist 'death lists' and have to fear for their lives;
- (vii) Those who have otherwise a well-founded reason to fear that they might be a victim in the future;
- (viii) Those first responders to acts of terrorism who have suffered harm in intervening to assist victims or to prevent their victimisation;
- (ix) Those who experience income loss or property damage due to acts of terrorism;
- (x) Those whose personal well-being and normal lifestyle is changed in a negative way by terrorist threats and counter-terrorist measures.¹³

These two lists of victims are not complete and the categories are not always exclusive. One might add a third category, consisting of various other victims, e.g. in the actual terrorist camp: some suicide bombers, especially children, are hardly aware of what they are doing, having been brainwashed by their handlers. They too are victims, having been sacrificed, often against their will. We should also keep in mind that some of today's terrorists have been victims of violence or terrorism themselves – they might have decided to pay back in kind in acts of vengeance. However, in the following considerations cases where victims become terrorists and terrorists turn victims are not discussed. The same applies, to victims of state terrorism – it would go beyond the scope of this Research Paper.

What is the number of terrorism victims in the world? According to one of the most comprehensive counts, in terrorist attacks during the year 2010, 13,192 people got killed, 30,684 were wounded and 6,050 were taken hostage, bringing the total to almost 50,000 victims. The next year, in 2011, the respective figures fell to

¹³ Adapted from Alex P. Schmid. Magnitudes and Focus of Terrorist Victimization. In: Alex P. Schmid Managing Editor. Victims of Crime and Abuse of Power. Bangkok, UN Congress on Crime Prevention and Criminal Justice, April 2005, p. 337. An alternative typology has been proposed by Ben Emmerson, the UN Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism: "The following persons are to be considered as victims of terrorism:

(a) natural persons who have been killed or suffered serious physical or psychological injury through the commission of an act of terrorism (direct victims);
 (b) the next-of-kin or dependants of a direct victim (secondary victims);
 (c) innocent individuals who have been killed or suffered serious injury indirectly attributable to an act of terrorism (indirect victims); and
 (d) potential future victims of terrorism."

- Report of the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism, Ben Emmerson. Framework Principles for Securing the Human Rights of Victims of Terrorism. Human Rights Council, 20th session Agenda item 3, Promotion and protection of all human rights, civil, political, economic, social and cultural rights, including the right to development. Advance Unedited Version, A/HRC/20/14, 7 May 2012, p. 18.

9,562 people killed, 20,261 wounded and 4,598 taken hostage, bringing the total number of victims to more than 34,000 people.¹⁴ Cumulatively, casualties since 9/11 number in the hundreds of thousands. Terrorist attacks took place in 70 countries in 2011, with 75 percent of them in the Middle East and South Asia.¹⁵

While the number of primary victims is large, it is important to point out that not all victims have to remain victims forever. Many of them are survivors, and despite physical wounds and mental scars, they manage to recover and become fully functioning members of society again. While a few will remain victims for the rest of their lives, a large group, possibly even a majority, turn out to be more or less resilient survivors. A few of them have even emerged stronger after the terrorist attack and find a new role in their lives – like helping others to cope with victimisation. Victims and survivors have the best reasons of all to join the fight against violent radicalisation. Paradoxically, however, their potential – and desire – to do so has hardly been tapped into. Below, the three dimensions of this issue will be explored:

- (i) Victims in the criminal justice system;
- (ii) The rise of victims' associations, and
- (iii) Victims and the media.

Before that, however, we will briefly look at how the United Nations and the European Union have approached the subject of victims of terrorism.

4. The Weak Responses of the United Nations and the European Union

The United Nations was slow in adopting victim issues in the fields of crime and terrorism. In 1973, the General Assembly, in reactions to 'diplo-nappings' [kidnappings of diplomats] in Latin America, passed a *Convention on the Prevention and Punishment of Crimes against Internationally Protected Persons, including Diplomatic Agents*. In 1979, it adopted a more general one, the *International Convention against the Taking of Hostages*. The absence of a definition of terrorism agreed upon by the General Assembly has made it more difficult to arrive at specific legislation related to victims of terrorism in general. However, since certain acts of terrorism (such as killing of civilians and non-combatants) are often also international crimes under human rights law or international humanitarian law, provisions applying to victims of war crimes could often also apply to acts of terrorism. Provisions made by the United Nations for international criminal law can also have a bearing on terrorist victimisation, especially when committed in peacetime.

In 1985, UN General Assembly Resolution 42/34 was adopted unanimously. It contained the United Nations *Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power*. The document proposed seven principles ("rights") which are also relevant to victims of terrorism:

1. The right to be treated with respect and recognition;
2. The right to be referred to adequate support services;
3. The right to receive information about the progress of the case;
4. The right to be present and involved in the decision-making process;
5. The right to counsel;
6. The right to protection of physical safety and privacy;
7. The right of compensation, from both the offender and the State.¹⁶

¹⁴ NCTC, WITS database, accessed 11 March 2012.

¹⁵ Figures from NCTC/WITS.

¹⁶ Adapted from UNGA Res. A/40/34 (29 November 1985). - It should be noted that these seven principles have only become rights in those cases where they were incorporated into national legislations. The UN Declaration of 1985 itself only constitutes "soft-law" and its national implementation by Member States has been very slow and uneven.

The 1985 UN Declaration also contained a rudimentary definition of “victim”:

1. “victims” means persons who, individually or collectively, have suffered harm, including physical or mental injury, emotional suffering, economic loss or substantial impairment of their fundamental rights, through acts of omissions that are in violation of criminal laws operative within Member States, including those laws proscribing criminal abuse of power.

2.[...] The term “victim” also includes, where appropriate, the immediate family or dependants of the direct victim and persons who have suffered harm in intervening to assist victims in distress or to prevent victimization.¹⁷

“Victims of terrorism” are not specifically defined in international (i.e. UN-based or treaty-based) law. However, the *Guidelines from the Council of Europe on the Protection of Victims of Terrorist Acts* (2005) give us some indication of the persons likely to be covered by a legal definition:

“States should ensure that any person who has suffered direct physical or psychological harm as a result of a terrorist act as well as, in appropriate circumstances, their close family can benefit from the services and measures prescribed by these Guidelines. These persons are considered victims for the purposes of these Guidelines.”¹⁸

While some European countries, notably Spain, France and the United Kingdom, had already developed special provisions for victims of terrorism in the last century, the wake-up call for the European Union to begin to look for common solutions came only a while after the 9/11 attacks. It took the Madrid –Atocha train bombing of 11 March 2004 (which killed nearly 200 people and wounded 1800 others) and the London transport system bombings of 7 July 2005 (52 people killed and more than 700 wounded) to push the agenda on the protection of victims further. As a symbolic gesture of solidarity, the EU has designated the 11th March as *European Day on Remembrance of Victims of Terrorism*.

In November of the same year as the Madrid bombings, a great tragedy struck Russia when Chechen terrorists occupied a school in Beslan, taking more than 1100 people, including 777 school children, hostage. In the end more than 330 persons died, the majority of them children. This event triggered UN Security Council resolution 1566. As an outflow of this resolution, a UN working group was tasked “to consider the possibility of establishing an international fund to compensate victims of terrorist acts and their families, which might be financed through voluntary contributions, which could consist in part of assets seized from terrorist organizations, their members and sponsor, and submit its recommendation to the Council.”¹⁹ Yet very little has come out of that; setting up a voluntary fund for victims of terrorism was considered “premature”.²⁰

In the following year, on 22 March 2005, the UN General Assembly adopted a resolution on human rights and terrorism which requested the Secretary-General to look into “the possible establishment of a voluntary fund for the victims of terrorism, as well as on ways and means to rehabilitate the victims of terrorism and to reintegrate them into society”.²¹

In September 2006, the United Nations’ General Assembly unanimously adopted a Global Counter-Terrorism Strategy. In the document, the Member States of the United Nations called for ending the dehumanisation of victims of terrorism in all its forms and manifestations. The document also suggested a

¹⁷ UN Doc. A/40/53 (1985), 34 annex, 40 United Nations General Assembly; G.A. Supp. (No.53) at 214; repr. In A.P. Schmid, *Victims of Crime and Abuse of Power*, op. cit., p. 625. - It should be noted that this is a “soft law” definition which only becomes hard law when incorporated into national legislations or regional treaties.

¹⁸ Cit. Rianne Letschert, Ines Staiger, Anthony Pemberton (Eds.). *Assisting Victims of Terrorism. Towards a European Standard of Justice*. New York: Springer, 2010, p. 18.

¹⁹ UNSC Res. 1566 (2004); cit. Irune Aguirrezabal Quijera. *The United Nations’ Responsibility towards Victims of Terrorist Acts*. Madrid: FRIDE, 2005, p.1.

²⁰ Bibi van Ginkel, op. cit., p. 259.

²¹ A/RES/59/195, 22 March 2005; cit. I.A. Quijera, op. cit., p. 19.

consolidation of national assistance frameworks to promote the needs of victims of terrorism. The strategy document further called for international solidarity in support of victims of terrorism and the protection of the rights of such victims by Member States.²²

In order to give substance to the Global Counter-Terrorism Strategy of 2006, a United Nations Counter-Terrorism Implementation/Integration Task Force (CTITF) was subsequently established. One of its nine working groups was tasked to report on “Supporting and Highlighting Victims of Terrorism”. It convened, on 9 September 2008, in the presence of the Secretary-General, a Symposium on Supporting Victims of Terrorism in New York. Its purpose was to give victims an identity and human face. For this purpose, a more or less representative sample of victims was invited to attend.²³ The forum provided an opportunity for discussing concrete steps to assist victims and to share best practices developed by member states and non-governmental organizations. Out of this event a report *Supporting Victims of Terrorism*, was produced which contained a number of recommendations.

In June 2011 CTITF organised, in collaboration with the US-based *Center on Global Counterterrorism Cooperation*, a workshop for victims of terrorism, aiming to strengthen their ability to interact in appropriate ways with the media and to engage in communication campaigns.²⁴

These steps, while not insignificant, have to be judged as weak responses of the international community. Until quite recently, the standard answer to those who asked for a greater regard for the concerns of victims of terrorism from the international community was that the primary responsibility to promote and protect the rights of victims rests with Member States and civil society and not with the United Nations as a whole.²⁵ However, some of the states most affected by terrorism are weak and failed states and possess the least capacity to take good care of victims. In some cases, elements of the state themselves are part of the problem as repression turns into state terrorism.

Partly in answer to such concerns, the *UN Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism*, British lawyer Ben Emmerson, published on 12 May 2012 a report on the human rights of victims of terrorism. In the report, which he presented to the UN Human Rights Council on 20 June 2012 he argued for the adoption of a new global legal instrument that specifically addresses the human rights of victims of terrorism.²⁶

In his presentation, Ben Emmerson noted that “Despite the proliferation of international instruments dealing with counter-terrorism co-operation, there was none that directly addressed the rights of the victims.” In the Framework Principles set out in his report (see Appendix) , the Special Rapporteur recommended the adoption of a specific international instrument, negotiated under the auspices of the United Nations. He also called on all States to voluntarily accept a new binding international obligation to provide compensation and other forms of reparation and support to all victims of terrorism²⁷ In his report, Emmerson recommends far-reaching changes to rebalance international law in favour of victims. People seriously injured or maimed by terrorist attacks across the world should be granted automatic legal rights to compensation and rehabilitation. If accepted by the General Assembly to be implemented by the United Nations, this would represent a major

²² The two relevant paragraphs read as follows: *Section I*: “To consider putting in place, on a voluntary basis, national systems of assistance that would promote the needs of victims of terrorism and their families and facilitate the normalization of their lives. In this regard, we encourage States to request the relevant United Nations entities to help them to develop such national systems. We will also strive to promote international solidarity in support of victims and foster the involvement of civil society in a global campaign against terrorism and for its condemnation. This could include exploring at the General Assembly the possibility of developing practical mechanisms of assistance to victims.” (...)

Section IV: “We resolve to undertake the following measures, reaffirming that the promotion and protection of human rights for all and the rule of law is essential to all components of the Strategy... and stressing the need to promote and protect the rights of victims of terrorism.” – UNGA Res. 60/288.

²³ Bibi van Ginkel. *The Practice of the United Nations in Combating Terrorism from 1946 to 2008. Questions of Legality and Legitimacy*. Antwerp: Intersentia, 2010, p. 206.

²⁴ www.un.org website, Working Group on Supporting and Highlighting Victims of Terrorism. Overview; accessed 31 May 2012;

²⁵ Robert Orr, 2 April 2012, New York: UN Panel Discussion on the rights of victims of terrorism.

²⁶ Ben Emmerson. *Framework Principles for Securing the Human Rights of Victims of Terrorism*. Report of the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism; available at http://www.ohchr.org/Documents/HRBodies/HRCouncil/RegularSession/Session20/A-HRC-20-14_en.pdf.

²⁷ UN Office Geneva, News & Media, 20 June 2012;

[http://www.unog.ch/80256EDD006B9C2E/\(httpNewsByYear_en\)/8EE66039C6ABB96EC1257A2300473147?OpenDocument](http://www.unog.ch/80256EDD006B9C2E/(httpNewsByYear_en)/8EE66039C6ABB96EC1257A2300473147?OpenDocument). - In the subsequent interactive dialogue, only Tunisia reacted, making some general statements referring to terrorism victims in Tunisia.

change, providing victims with an instrument leading to compensation and rehabilitation.²⁸ It would also contribute to a uniform set of standards for compensating victims of terrorism.

Emmerson's report is likely to receive the support of a number of European states, especially Spain which has been a forerunner in this field. A month after the Madrid bombing of 11 March 2004, the Council of the European Union had adopted, on 26 April 2004, a "Directive Relating to Compensation for Victims of Crime".²⁹ On 2 March 2005 the Committee of Ministers of the Council of Europe adopted *Guidelines on the Protection of Victims of Terrorist Acts*.³⁰ These encouraged states to provide victims and, where appropriate, their immediate families with emergency and continued assistance and stressed the need to compensate victims and facilitate their access to the legal system and to justice.³¹ To this day, these soft-law Guidelines of the Council of Europe are the clearest acknowledgment by states of the specific needs and rights of victims of terrorism.

In 2001, the European Commission took a first step towards victim compensation in a Council Directive relating to compensation to crime victims and a Framework Decision on the standing of victims in criminal proceedings. But little was done with it in the next decade. In May 2011, a redrafted version of the Framework Decision on victims of crime had been put forward by the European Commission in the form of a Directive. Its adoption is not expected before late 2012.³² That, however, will not bring matters to a successful end; it will only be the end of the beginning since EU Member States will have to translate the provisions of the Directive into national legislation.

The realisation that victims of crime and victims of terrorism should be granted a larger role has been growing steadily. Yet from the point of view of the victims, progress has been agonisingly slow. As two Spanish representatives of victim associations and a Spanish law professor recently put it:

"Although being an international crime entailing serious violations of human rights, no attention has yet been paid by international organizations to victims of terrorism and their rights. On the contrary, only expressions of mere courtesy deprived of any legal obligation showing, for example inside the UN, the General Assembly's solidarity with them or requesting the Secretary-General to seek the views of Member States on the possible establishment of a United Nations voluntary fund for victims of terrorism. Nor the EU, upon the territory of which numerous and serious situations of terrorism have taken place, has yet adopted a legal norm on the rights of victims of terrorism. The only exception in this desert is that of the Council of Europe and its Guidelines on the Protection of Victims of Terrorist Acts adopted by the Committee of Ministers on 2 March 2005. The EU and other international organizations must see in these Guidelines the way to be followed. That is, the building of an international legal statute made up of a catalogue of rights inherent to the conditions of victims of terrorism."³³

This *cri de coeur* refers mainly to victim needs in the realm of financial, legal and psychological assistance to victims of terrorism and their families.

However, the involvement of victims should also be enhanced in other areas. It should involve strengthening their role in the criminal justice system, strengthening victim associations and strengthening their role in the media. In the following, each of these three areas will be briefly examined.

²⁸ Toby Helm, Tracy McVeigh and Emma Craig. UN Moves to Compensate the Victims of Terrorism. *The Guardian*, 12 May 2012.

²⁹ I.A. Quijera, op. cit., p. 9.

³⁰ Council of Europe. 917th meeting of Ministers Deputies. – For a discussion, see: Rianne Letschert, Ines Staiger and Anthony Pemberton (Eds.). *Assisting Victims of Terrorism. Towards a European Standard of Justice*. New York: Springer 2010, p. 172.

³¹ I.A. Quijera, op. cit., p. 9.

³² Anthony Pemberton. A single market for victims' rights? What the EU can and cannot do for victims of crime. Abstract of paper delivered on the occasion of the 14th International Symposium of the World Society of Victimology, The Hague 20-24 May 2012. Book of Abstracts, pp. 50-51.

³³ Carlos Fernandez de Casadevante Romani, Cristina Cuesta and Maite Pagazaurtundua. The international statute of victims of terrorism. A deficiency that must be filled. Paper presented on the occasion of the 14th International Symposium of the World Society of Victimology. The Hague, 20-24 May 2012. Book of Abstracts, p. 88.

5. Strengthening the Role of Victims in the Criminal Justice Process

It would appear that victims have a legitimate claim for justice, restitution and reparation for loss of life and limb. Denying them that right might induce surviving victims and their families to take revenge themselves. To bring terrorists to court and have them sentenced and pay for their crimes is, from the victims' point of view, of prime importance to bring closure to a traumatic episode in their lives. Courts are also the first, and, in many ways, the most appropriate platform where victims can play a larger role in countering terrorism. In criminal courts their present role, though increasing, is still small – they are little more than “witnesses”. This has to do primarily with historical reasons.

When the modern state began to claim successfully the monopoly of legitimate violence, it was taking the task of seeking justice for a crime away from the victim and his kin. In return, however, the state signed a tacit social contract, promising to protect its citizens in return for their refraining from private violence. Where such protection failed and victimisation took place, the state took it upon itself to prosecute the perpetrator and bring him to justice, sentencing him to prison or even death, depending on the seriousness of the violent crime. In the course of this process, the role of the (surviving) victim became a passive one; at best he or she might act as a witness in the court proceedings. However, in recent years surviving victims and their families have come to expect some kind of recognition and compensation from the state. A number of governments, moved by humanitarian concerns or for political reasons, often pressed by public opinion, have sometimes been awarded (some) victims very generous financial compensation. This has raised difficult questions like “What is the worth of a human life?”; “Are all lives of equal worth?” “Are the entitlements and needs of victims of terrorism different from those of other victims of crime?” and last but not least: “Who should pay for it?”

Compensation for different categories of victims has been very uneven, depending on victims, time, place and circumstances. The victims of the 9/11 attacks were given very generous compensation, creating bitterness among other victims of terrorism such as those from the Oklahoma attack in 1995. A clarification of the legal status of victims of terrorism – are they to be treated like victims of crime, victims of civil war or victims of natural disasters, etc.? - is long overdue.³⁴

A good opportunity to give surviving victims a voice is when they are given a chance in court to make a “victim impact statement” in front of the accused perpetrators.³⁵ In such a statement the survivor or the relatives of a victim can make it clear to the persons accused of terrorism and to a larger public inside the courtroom and beyond what harm has been done and how undeserved the victimisation was. Even some hardened terrorists have, in such confrontations, not been able to remain completely unmoved by the stories about the human tragedies they have caused. Acceptance of guilt by terrorists in court and bringing them to the point where they experience remorse and offer apologies to victims and their relatives should be an explicit aim of the court's strategy. It serves to make it clear to everybody – including the terrorists' constituency – that an unacceptable wrong has been done. While a heavy prison sentence meted out by the court might be one source of satisfaction to victims and their friends, the more intangible confrontation between the terrorist and his victim in front of an audience might, ultimately, be more effective than the court's sentence itself. In the end the public inside and outside the court needs to be convinced that certain types of behaviour are totally unacceptable under any circumstances. A public admission of guilt and an apology to the victims by a terrorist can have a powerful impact on comrades still fighting the terrorist struggle, potentially making them pause and consider the morally bankruptcy of their mode of fighting. But even when terrorists do not admit guilt, the victims' statements can have a powerful effect on various audiences in their own right.

³⁴ United Nations. *Supporting Victims of Terrorism*. New York: UN, 2009, p. 9.

³⁵ This practice has also been supported by the International Criminal Court in The Hague. However, terrorism is not part of its mandate although some manifestations of terrorism can arguably be considered ‘crimes against humanity’ – a category covered by the ICC. – For more on the ICC mandate, see: Roberta Arnold. *The ICC as a New Instrument for Repressing Terrorism*. Ardsley, N.Y.: Transnational Publishers 2004., p. 57

If victims and survivors manage to achieve this outcome, their contribution to the fight against terrorism is significant. However, such an outcome is exceptional. Even when it cannot be achieved, the trial itself should serve to give the public the opportunity to make up its mind and take the just side in the confrontation between the terrorists and their victims. The public rejection of terrorism should be the ultimate goal of victim impact statements. To reach that effect, a victim should seek not only personal compensation and the punishment of the offender but also attempt to educate the public with regard to the illegitimacy of the terrorist mode of conflict waging.³⁶ Such an outcome can, however, only be achieved if the media which report the case focus their coverage as much, if not more, on the victims than on the terrorist suspects. It also requires that the surviving victims who are willing and able to act as witnesses have received some training in how to interact effectively with the media.

The trial is a platform where the prosecutor can make clear that a moral norm of society has been violated. An effective victim impact statement can enhance this by adding the victim's narrative in support of it. Due to the authenticity of his or her statement, a greater social impact can be achieved by the victim's own story than merely by references to laws that have been broken/breached/violated. While during the original terrorist attack, the victim was the passive recipient of physical and/or psychological violence, in court the roles are, to some extent, reversed: the victim enjoys the protection of the state and should have the upper hand while the terrorist has the prospect of facing judgement in the form of a long prison sentence.

Criminal justice systems have in the past gone to considerable lengths to protect the rights of the accused. It is time that the rights of the offended should be given more prominence. Not only should the state offer deserving victims compensation because the state has not been able to protect them, it should also make other gestures on behalf of society as a sign of solidarity with their plight. New strategies should also be devised to strengthen the role of victims during terrorist trials and in the entire criminal justice process so that their voice can be heard loud and clear and their interests and needs be met.³⁷

6. Strengthening the Role of Victims' Associations

Since the victims of terrorism are often dead, incapacitated or traumatised,³⁸ it is logical that those surviving and those who were closest to those who were killed or wounded rally in their defence and offer support. That is how many victims' associations have come into existence.

This subject is not very well explored. As Bruce Hoffman and Anna-Britt Kasupski put it in 2007: "There is simply very little published material available on victims' groups formed specifically in response to terrorist attacks".³⁹ Victims' associations tend to serve a number of purposes:

- they bring together victims or their families, allowing them to seek support with each other and break out of social isolation imposed by fear or public indifference;
- they can together make a stronger stand against the state in cases where their needs and rights are not recognised;
- they can present their case to the public in the hope to generate solidarity;

³⁶ Cf. Bas van Stokkom. Impact statement and victim duties: Pleading as a citizen. An ethical examination. Paper presented on the occasion of the World Society of Victimology's 14th International Symposium. Book of Abstracts. The Hague, 21 May 2012., Abstract, pp.46-47.

³⁷ In this regard the Lockerbie Trial (2000/2001) developed some innovative ways to include victims in the trial., notably by creating video-links for families of survivors, allowing them to follow the proceedings from the United States.

³⁸ Surviving victims of terrorism tend to experience a series of interrelated psychological processes and manifest related behaviours: fear, shock, grief, guilt, identifying with the terrorists if they are released, isolation, alienation, withdrawal and lobbying the government. – Jeffrey Ian Ross. Political Terrorism. An Interdisciplinary Approach. New York: Peter Lang, 2006, p. 103.

³⁹ Bruce Hoffman and Anna-Britt Kasupski The Victims of Terrorism. An Assessment of Their Influence and Growing Role in Policy, Legislation, and the Private Sector. St. Monica, RAND, 2007, p. 1.

- they can try to influence law makers and the government to listen to their concerns.⁴⁰

The names of such associations and groups tell us something about their main focus:

- 9/11 FSA: 9/11 Families for a Secure America
- 11-M: March 11 Association of Those Affected by Terror
- AVT: Association for Victims of Terrorism
- FAIR: Families Acting for Innocent Relatives
- Victims of Pan Am Flight 103
- Widows' and Victims' Family Association
- Beslan Mothers' Committee
- SOS Attentats
- UK Bali Bombing Victims Group⁴¹

One of these groups, Families of September 11th (FOS11), for instance, described its mission as “to promote the interests of families of victims of the September 11th attacks and support public policies that improve the prevention of and response to terrorism.”⁴² A French group, SOS Attentats (1986-2008), set up by a former victim, Françoise Rudetzki, managed to develop a broad spectrum of activities:

- Provides information and guidance to victims in their dealings with the authorities and the courts;
- Provides psychological and social support structure;
- Gives victims an opportunity to meet other people in the same situation and to draw strength from each other;
- Provides financial assistance to those in desperate need;
- Assist victims with medical assessments;
- Provides support to victims throughout the judicial process, from the initial investigative hearings to the trial;
- Helps with legal costs.⁴³

With the support of the French government, especially judge Jean-Louis Bruguiere, Ms. Rudetzki managed to create a financial scheme where compensation to victims is paid from a mandatory solidarity contribution of all those who buy life insurance in France.⁴⁴

Similar successes have been achieved by American victims' associations. Bruce Hoffman and Anna-Britt Kasupski discussed some of their achievements in a study written in 2004/05:

“One of the groups founded after 9/11 by 12 members even managed to push a reluctant President to set up an independent investigative commission to study the attacks on the intelligence' community's failure to prevent the tragedy of 11 September 2001. (...)”

⁴⁰ Robert Cario. *Terrorism and Victims' Rights*. In: SOS Attentats. *Terrorism, Victims and International Criminal Responsibility*. Paris: SOS Attentats, 2003, p. 25.

⁴¹ *Ibid.*, pp. xvii- xviii.

⁴² Cit. B. Hoffman and Anna-Britt Kasupski. *The Victims of Terrorism*, op. cit., p. 3.

⁴³ P. 347.F. Rudetzki, SOS Attentats; www.sos.attentats.org/; cit. A.P. Schmid (2005), op. cit., p. 347.

⁴⁴ As one journalist wrote when Ms. Rudetzki dissolved SOS Attentats in 2008: “...in 22 years she has practically succeeded to realise a real judicial status for victims. Their financial compensation by means of the creation of a guarantee fund, the creation of a national solidarity contribution on insurance contracts, that is able to pay fully for the physical, psychological and economic consequences of victims, whatever their nationality, and for Frenchmen abroad, that is her [achievement]”. – Philippe Madelin. *SOS Attentats: Françoise Rudetzki jette l'éponge*. *Blog Chez Philippe Madelin*, 23 September 2008.

Concluding their survey of victims associations, they note the growing influence of groups of victims over recent decades:

“The success of 9/11 victims’ groups, in particular, leaves a legacy for victims of future terrorist attacks, who may devise even more refined and effective methods of political pressure and lobbying and providing for support services. Ultimately, future victims’ groups may continue to raise the bar in pressuring governments to be held responsible for failing to avert, prevent, pre-empt, or prepare for a terrorist attack.”⁴⁵

Victims possess a moral capital few politicians can ignore if the victims’ associations manage to play it right. However, their struggle is often a long and arduous one as we can gather from the experience of some Spanish victims groups who lobby with major international organisations:

“Currently [our] initiatives are carried out at the United Nations in Geneva and New York, and at the European Union. (...) After years of efforts we managed to promote a panel on Victims of Terrorism on the 17 sessions of the HRC [Human Rights Council], where Member States agreed to discuss the issue. Our immediate objective in Geneva will be to promote a specific resolution setting out mechanisms for protecting the human rights of victims of terrorism and the appointment of a Special Rapporteur. At the United Nations in New York we seek to promote an international status for victims of terrorism. To introduce this issue on the agenda we have organized a seminar in New York together with the Counter-terrorism Implementation Task Force. (...) Within the European Union we intend to encourage the negotiation of [a] specific directive for victims of terrorism.”⁴⁶

Victim (Family) Associations exist in a number of countries, e.g. France, Israel, Algeria, the United Kingdom (esp. Northern Ireland) and Spain. The work of the Spanish (including Basque) victims’ associations has been especially remarkable.

Roger Cabrera described the evolution of victims’ responses to ETA’s terrorist acts from groups demanding merely recognition of their rights to a more pro-active, at times even leading, role of the societal response to terrorism. He concludes that:

“ [...]the contribution of the victims of ETA to the fight against terrorism has been significant. First and foremost, their peaceful reactions have prevented the development of a *vigilante* terrorist phenomenon, which would have probably aggravated significantly the situation in the Basque Country. Additionally, victim-led actions have provided support to the initiatives taken by the state institutions, especially those that were aimed at the supporters of ETA, thus complementing said state policies.”⁴⁷

The greatest achievement of the Spanish victims associations was that they managed to prevent the rise of a rival terrorist camp as happened in Northern Ireland where Protestant Loyalists responded to the Provisional IRA with similar terrorist tactics.⁴⁸

⁴⁵ B. Hoffman and A-B Kasupski, op. cit., p. 38.

⁴⁶ Arantza Mota. Lobbying for international instruments for victims of terrorism. Where the process stands today. Paper presented on the occasion of the World Society of Victimology’s 14th International Symposium. Book of Abstracts. The Hague, 21 May 2012, p. 119. For the Spanish victims’ activities, see also: Fundacion Miguel Angel Blanco. International Action. Terrorism: A Crime against Humanity. Geneva, Palais des Nations, March 010 and idem. March 2011)Dossier II).

⁴⁷ Roger Cabrera. Victims of ETA and the fight against terrorism: an analysis of their contribution since the mid-1980s. St. Andrews: Thesis, School of International Relations, August 2006, p. 3.

⁴⁸ There was, for a brief time (1983-late 1980s), in Spain a counter-terrorist force that used terrorist tactics in the form of GAL (Grupos Antiterroristas de Liberacion). However, GAL was not linked to victims’ associations but was a misguided initiative of the Spanish security forces involving death squads active in southern France where ETA operated from.

Since 2008, efforts have also been made to create regional networks and even a global one. The *Global Survivors Network* grew out of the United Nations Symposium on Supporting Victims of Terrorism, held in New York on 9 September 2008. It describes part of its mission as:

“We work with groups on the ground in communities vulnerable to the messages of extremists. We aim to create opportunities for the exchange of experiences and ideas that can build counter narratives and contribute to de-radicalisation. Where incidents of terrorist activity have left emotional and physical scars on those citizens who remain, we hope to channel grief into action for peace and understanding”⁴⁹

There is still considerable reluctance with international organisations and many national governments to strengthen the ties between their counter-terrorism efforts and those of victims associations. There is no denying that there are situations where the interests of victims and those of policymakers are not the same and at times even the opposite. This is most obviously the case in certain situations of hostage negotiations where victims and their relatives are naturally interested in personal survival while the state has to act also with an eye to future situations – making major concessions in one particular case might provoke more kidnappings and acts of hostage taking. Another situation where the interests of the government and those of victims’ associations can clash is when it comes to peace negotiations. Governments are sometimes willing to sacrifice justice for peace and as a result former terrorists or their supporters end up in important public positions rather than in jail. Ideally, peace and justice should not be opposite values and those who argue that there can be no lasting peace without justice have a point. Yet short-term *Realpolitik* or lack of resources and political power often get in the way of a solution that is both just and peaceful.

Nevertheless, it is argued here that governments and international organisations would do well to explore in greater depth than before how teaming up with victims’ association could strengthen their fight against terrorism and assist them in countering violent extremism.

Victims can and should also play a larger role as witnesses and commentators in the public debate in the aftermath of terrorist attacks.

7. Strengthening the Role of Victims in the Media

After a terrorist attack the media often try to interview surviving victims of the attack or their relatives. In doing so, they mainly tend to amplify the shock and horror of a terrorist atrocity, thereby often playing directly into the hands of terrorists. This much was even acknowledged by the late Osama Bin Laden:

“Terror is the most dreaded weapon in [the] modern age and Western media is mercilessly using it against its own people. It can add fear and helplessness in the psyche of the people of Europe and the United States. It means that what the enemies of the United States cannot do, its media is doing that.”⁵⁰

Terrorists have learned to make good use of mass media; they use it for political manipulation. In recent years, the character of the news – on the one hand a public good and on the other a commercial commodity – has shifted more and more towards the commodity side with the result that we get more “info-tainment” and “info-

⁴⁹ See “Who We Are” at <http://www.globalsurvivors.org>

⁵⁰ Cit. Faisal Devji. *Landscapes of the Jihad: Militancy, Morality, Modernity*. London: Hurst, 2005, p. 160.

horror shows”.⁵¹ Both grab the attention of the public and create greater audiences, offering more opportunities for commercial advertisements to be sold to a news-hungry public.

The traditional professional ethics of journalism have to some extent been a check against exploitation by those who consider “news” as a mere business. Pressure on journalism also comes from the side of the government which seeks to impose its perspective on journalists and, through them, influence the public in ways that enhance its standing, especially around election times. Governments have habitual access to the news system while terrorists have to fight their way into it by creating disruptive events and compelling stories that have news value due to their life-threatening character. Terrorists are attention seekers and some of the Western news values (“Good news is bad news and bad news is good news and no news is bad news” and “If it bleeds, it leads” [i.e. becomes a lead article]) open them the door to the masses.⁵² Terrorists are not the only attention seekers. As Brigitte Nacos and her colleagues noted:

“Ultimately, those who commit terrorism and those who respond to terrorist violence compete for media attention. Just as terrorists market their brand of violence and the threat of further attacks, political leaders in targeted societies market their overblown threat assessments to enlist support for their counterterrorism policies. To put it differently, publicity is the oxygen of both terrorism and counterterrorism.”⁵³

Where does this leave the victims and survivors of acts of terrorism? They too want our attention and seek our solidarity. However, media attention for them is currently only a brief moment in time when they can be heard, as public and media interest fades quickly after most terrorist incidents. So far, victims have more been used by the media than being able to use it.⁵⁴ The media often meet victims in the most unfortunate circumstances when they are shocked and traumatised. In such a situation questions to family members of victims on live television such as “How do you feel having just lost your children”? is likely to trigger answers that are based on a mixture of anger (at the journalist who asks such an insensitive question), despair (at the loss of a loved one) and helplessness (which can increase public panic). Their statements are often not helpful to create solidarity with the victims and shame the terrorists.

This does not mean that victims should not be interviewed; instead, efforts should be made to coach them and make them aware what the likely effect of their TV appearance might be. In general, traumatised survivors should be protected from the media and only those who are willing to talk to the media should do so. This should be done under controlled circumstances so that victims and their relatives do not feel they are again used by sensation-seeking journalists.

The interests of the media, the victim and the government should be carefully balanced and efforts should be made so that the interview does not play into the hands of the terrorists. Victims sometimes unwittingly accept the perspectives of terrorists. This is most evident after the resolution of siege situations. Where terrorists and hostages are holed up together and special forces prepare to rescue the victims, the latter often bond with the hostage takers and define their situation as one of “us” against “them” – them being the

⁵¹ Brigitte Nacos, herself a journalist turned terrorism expert, and two of her co-authors have noted: “In the competition for audience share, even organizations once committed to quality public affairs news have moved increasingly away from reporting what professional journalists, editors, producers deem *important* for the enlightenment of fellow citizens to what profit-oriented corporate managers consider *interesting* for the entertainment of news consumers”. – Brigitte L. Nacos, Yaeli Bloch-Elkon and Robert Y. Shapiro. *Selling Fear. Counterterrorism, the Media and Public Opinion*. Chicago: University of Chicago Press, 2011, p. 9.

⁵² For a discussion of Western news values, see: Alex P. Schmid & Janny de Graaf. *Violence as Communication. Insurgent Terrorism and the Western News Media*. London: Sage, 1982, chapter 5, *Insurgent Terrorism and the Western Information Order* (pp. 175-233).

⁵³ Brigitte Nacos et al, op. cit., p. 14.

⁵⁴ Jean Seaton noted: “Victims’ have to be passive angels to call on the sorcery of the media. Innocence is defined in media terms as being acted on – not acting. Indeed, any intention or purpose may raise doubts about the complete merit of a casualty. Nevertheless, the logic of the news implies that victims who are good may have things done to help them – they may be saved. This virtue is powerful: it legitimates action. In a related way, the media prefer aesthetically attractive and appealing victims”. – Jean Seaton. *Carnage and the Media. The Making and Breaking of News About Violence*. London: Penguin Books, 2005, pp. 280-281.

government and the security forces. If such a hostage situation is resolved through negotiations, victims sometimes express gratitude and sympathy for those who seized them and held them as captives.

Such identification with the aggressor is also known as “Stockholm Syndrome”, named after a 1973 bank robbery that went wrong. After release from a six day siege, the four hostages expressed empathy for their captors and one of them even fell in love with one of the bank robbers.⁵⁵ Since the hostage takers become masters over the fate of their victims, many of them show an undeserved respect and friendliness towards them. After release, hostages have even defended their capturers. They interpreted the fact that they had not been abusing them as kindness. According to a FBI database, slightly more than a quarter of all hostages develop Stockholm syndrome.⁵⁶ When a released hostage expresses such feelings, this is not really helpful in terms of strengthening counter-terrorist policies. Survivors showing this syndrome are clearly not the ones that should be interviewed from a counter-terrorism perspective.

Some victims enjoy media attention; many do not. Ronald Crelinsten talked about “double victimization” experienced by victims of terrorism – “once at the hands of their attackers and then at the hands of the media and those who are curious to know ‘how they feel’.”⁵⁷

Both the media’s and the government’s attention for the victims is often only temporary and might serve another purpose. In the words of Jean Seaton, “calling on compassion for victims is often a disguise for self-righteous fury against perpetrators – which excites audiences without helping those in need.”⁵⁸

On the other hand there are victims of terrorism who claim they owe their lives to the media. One of them is Ingrid Betancourt, a hostage of the Colombian FARC for more than six years (2002-2008). She said: “Is the media exposure of a victim a good thing or a bad thing? My answer on this is unequivocal: media exposure is absolutely essential.”⁵⁹

The fact is that in a hostage or kidnap situation, there is often a clash of interests. As I wrote in a case study on a hostage crisis in the mid-1980s:

“The media were not just neutral observers but simply one of the four principal actors in a co-production. Each principal actor was in a different “business”: the terrorists in the blackmail business, the hostages in the survival business, the media in the human interest business, and the American President in the national security business”.⁶⁰

Ways need to be found to make the voices of victims heard in a different way, one that does not encourage sympathy for criminals and terrorists and does not make “heroes” out of some of them. One possibility is to give (some) victims media training before they face the press. Efforts in this direction have been made on a small, experimental scale. In June 2011 a four-day media training workshop was organised for victims of terrorism by the Center on Global Counterterrorism Cooperation in collaboration with the United Nations CTITF.⁶¹

However, such efforts, while welcome, do not basically alter the balance of power between the terrorists’ forceful display of demonstrative violence and the underdeveloped repertoire of reactions available to victims. The language of the terrorists – they talk about national liberation, jihad against infidels, resistance against occupation, etc. needs to be countered by a counter-narrative that stresses not the goals of the terrorists or the policies of the government but the concerns of victim groups.

⁵⁵ Sheila Ager. Thera and the Pirates: An Ancient Case of the Stockholm Syndrome. *The Ancient History Bulletin*, Vol. 12, No. 3, 1998, pp. 86-87.

⁵⁶ G. Dwayne Fuselier, “Placing the Stockholm Syndrome in Perspective,” *FBI Law Enforcement Bulletin*, July 1999, 22-25.

⁵⁷ R.D. Crelinsten. Victim’s Perspectives. In: David L. Paletz & Alex P. Schmid. *Terrorism and the Media*. Newbury Park: Sage, 1992, p. 209.

⁵⁸ Jean Seaton. *Carnage and the Media. The Making and Breaking of News About Violence*. London: Penguin Books, 2005, p. 245

⁵⁹ Cit., United Nations. *Supporting Victims of Terrorism*. New York: UN, 2009, p. 20.

⁶⁰ Alex P. Schmid. *Terrorism and the Media: The Ethics of Publicity*. *Terrorism and Political Violence* No. 1, 1989, p. 553. - See also: Ronald D. Crelinsten. *Victims’ Perspectives*. In: David L. Paletz and Alex P. Schmid (Eds.). *Terrorism and the Media. How Researchers, Terrorists, Government, Press, Public, Victims View and Use the Media*. Newbury Park: Sage, 1992, pp. 208-238.

⁶¹ http://www.globalct.org/ourWork_events.php, accessed 9 June 2012.

It can be argued that the counter-narratives of the surviving victims is more effective than the one of opposing governments to “reshape the linguistic and political landscape”, to use the words of Tom Parker.⁶²

An example of “reshaping the linguistic and political landscape” is the reaction of a group of victims in the Basque country of Spain to the violence of ETA, *Gesto por la Paz* (Gesture for Peace). The guiding principles of this group are:

- Pacifism: rejection of all violence, regardless of origin;
- Citizen-based: working towards convincing the broader society of its responsibility vis-à-vis terrorism, especially when it is allegedly used in its name;
- Unity: of diverse groups and individuals around the aim of achieving peace;
- Pluralism: open to all groups and individuals, regardless of political or ideological affiliation, who are committed to the rejection of violence as a means of political action and conflict resolution;
- Independence: from any ideological, institutional or governmental affiliation.⁶³

To bring to the public – including the constituency which supports the goals if not the methods of the terrorists – such an alternative perspective is a challenge. It can only have a chance of success if the media, as conduit to the public, open up to a different type of discourse. The media will not do so purely by themselves. However, if governments side with the victims and survivors more than they have done so in the past, together they can counterbalance the unholy alliance between media and terrorism. Thirty years ago I wrote, in “Violence as Communication: Insurgent Terrorism and the Western News Media”:

“In theory much could be changed in the way the media report on violence. Most bad news stories can at least in part be turned into less destructive stories.(...) A more victim-centred approach in reporting, stressing the horror of violence, its aftermath, rather than the terror of the act of violence, could also reduce the chances of media-induced contagion of violence.”⁶⁴

Since I wrote this, the situation has become more complicated with the arrival of the Internet, an instrument which terrorists have made much better use of than the victims. In the end both terrorists and victims are “solidarity-seekers”⁶⁵ who try to influence sectors of the public and affect the decisions of governments. The terrorists do so by public displays of demonstrative violence against random and symbolic targets. Victims however cannot compete by stressing their victimhood alone and by pleading for compassion. Ultimately, they will need a stronger narrative based on solidarity and resilience in the face of adversity to win the battle for hearts and minds.

8. Summary and Conclusions

Terrorists injure and kill a few in a demonstrative way to frighten the many. The murders are mostly de-individualised: almost anybody could be a victim. The anonymity of terrorist killings is an expression of their disrespect for human lives. The most powerful response to this is respect for life, and care for victims so that the moral gap between terrorists and members of the community becomes apparent to all. A community expresses its quality by the solidarity it shows towards the weakest members in its midst – in this case, victims of terrorism.

⁶² Tom Parker, op. cit., p. 1130.

⁶³ As stated in their website www.gesto.org/definicion.htm; cit. R. Cabrera, op. cit., p. 22.

⁶⁴ Alex P. Schmid & Janny de Graaf. Violence as Communication. Insurgent Terrorism and the Western News Media. London: Sage, 1982, pp. 211-212.

⁶⁵ Tom Parker. Redressing the Balance: How Human Rights Defenders Can Use Victim Narratives to Confront the Violence of Armed Groups. *Human Rights Quarterly*, 33 (2011), p. 1129.

A cohesive, inclusive community that cares is less likely to face terrorism from inside than one where sub-groups live apart from each other, divided by class, colour, religion, language or place of origin. Social cohesion, however, is of no help against a foreign terrorist group that uses a community as theatre of terror to gain visibility for its target audience. The response to that has to be based on international solidarity and cooperation.⁶⁶

The role of victims in countering terrorism appears, at first sight, to be small. After all, they are on the receiving end, unprepared, unarmed and suddenly facing the fanatic determination of political desperados. However, even in seemingly hopeless situations victims can make a difference, saving others people's lives if not their own, we only have to think of the passengers and crew of *United Airlines flight 93* on 11 September 2001. When they learned, by mobile phone, that two other passenger planes crashed into the towers of the World Trade Center in New York, they decided to fight against all odds. Thanks to their efforts the hijackers of their plane did not manage to use the plane as a cruise missile to crash it into another high-profile target (probably the US Congress on Capitol Hill) thereby causing further casualties.

The state can ill afford to deny victims a role in preventing and countering violent radicalisation and terrorism. At worst, they, or their relatives and friends would be left in a position where they seek vengeance for themselves and would repay the terrorists in kind – becoming in fact terrorists themselves. The government would then be confronted with two terrorist camps – the original one and a rage-driven reactive one and this might spiral into cycles of escalation where both sides are victims and victimisers. Clearly, for pragmatic reasons, not to mention ethical ones, it cannot be in the government's interest to deny the victims of terrorism a meaningful role.

How can victims be given a more satisfying and productive role in countering violent radicalisation and terrorism? Since they are the most motivated and most legitimate actors, their potential is enormous and governments should tap into that reservoir. From the surviving victims point of view it is fulfilling to play a role that goes beyond merely defending their individual interests. A larger role gives them a better standing in society and can even turn survivors into heroes.

In general, there is a broad harmony of interest between democratic governments and victims of terrorism. There are, however, as pointed out before, three exceptions.

1. In an ongoing kidnapping and hostage situation where governments are facing demands and deadlines by terrorists the authorities have to balance the threatened victims' interest in survival with those of society at large. Concessions made to terrorists – whether in the form of release of imprisoned terrorists, monetary ransoms or giving in to substantive demands that harm large sectors of society – can lead to further victimisation and an erosion of the state's authority. In such situations, painful life-and-death choices will have to be made at times and the outcome might not enhance survival chances of victims in situations of clear and present danger. In such situations the government cannot involve victim associations in the decision-making process.
2. There is a second area where the government cannot allow undue influence by victim associations: in the sentencing of terrorists. Giving the families of victims and victim associations too great a role here might lead to a situation as it existed before the modern rule of law came into existence – a situation close to archaic revenge. However, victims, survivors and victims' associations can and should have a larger role in other elements of the criminal justice process.
3. The third instance where the interests of victims' associations and governments can clash is when governments, unable to beat terrorist organisations, seek a political settlement either directly with the terrorists or, more likely, with a somewhat more "respectable" front organization that shares (some of)

⁶⁶ Alex P. Schmid. *Magnitudes and Focus of Terrorist Victimization*, op. cit., p. 348.

the goals of the terrorists in the underground but (in public) rejects their methods. The government's search for peace can clash with the victims' associations search for justice. However, due to power-constellations in society that stand in the way of achieving a just peace, there is something to be said for an imperfect peace if the killing can thereby be stopped.

Except for (variations of) these three situations, governments can only gain from working more closely with surviving victims and victim associations. Taking their needs and concerns on board can strengthen government actions, giving them greater moral legitimacy based on the social capital that innocent and deserving victims enjoy in society.

One area where governments can profit from victim representatives is in the development of counter-narratives to the propaganda of the terrorists. While terrorists claim to fight for a better society (as *they* define it), fact is that they want to build it over the dead bodies of innocent victims. If they would ever come to power, they would probably continue to use the same terror tactics to repress dissent and stay in power. On the other hand, if victims are given a stronger position and voice in society, the terrible cost of terrorism can be made visible for all to see, the terrorist constituency as well as civil society.

In one strange sense both terrorists and surviving victims want the same – they are solidarity-seekers. The narrative of victimhood is a very powerful one for generating solidarity. Terrorists know that as well and therefore try hard to portray themselves or their side as victims, putting forward their grievances, real or perceived.⁶⁷ In the battle for “true victimhood” the real unarmed victims should be in a better position to win over most target audiences than the victimising terrorists. The voice of civilian victims has a credibility which the terrorists lack and which governments might wish to tap into. It would be wise for governments to use (but not abuse) the voices of victims and victims' associations more fully and associate themselves more closely with the victims' and survivors' needs and concerns which, by and large, are also those of society – the reduction of (popular support for) violence being the principle one.

Terrorists and their supporters flood the public with propaganda videos celebrating suicide bombers as heroic martyrs. Governments have done very little to counter these. Perhaps this should be left primarily to the victims themselves for their voices are authentic and credible like no one else's. To illustrate this: the *Global Survivors Network* has produced a documentary entitled *Killing in the Name*. Tom Parker has summarised part of the story and its effects:

*“Killing in the Name follows Ashraf Al-Khaled, who lost twenty-seven family members in the November 2005 bombing of his wedding party in Amman's Radisson SAS Hotel. Ashraf seeks to engage militants in a conversation about the human cost of terrorism. In a pivotal scene, Ashraf plays a video message from Endang Isnani, who lost her husband in the Bali bombing, to students at the Al-Islam madrasa in Tenggulun, East Java, run by the brother of the Bali bombing mastermind, Huda bin Abdul Haq. The students are visibly affected. The Global Survivors Network has hosted events in Jakarta and Lahore, and hopes to screen an Arab language version of the film throughout the Middle East.”*⁶⁸

The realisation that victims are best placed to fight terrorists in the battle for hearts and minds has reached some policy-makers. Gilles de Kerchove, the EU's counter-terrorism coordinator, stressed it on the occasion of the European Day on Remembrance of Victims of Terrorism, 11 March 2012:

⁶⁷ To illustrate: one of the founders of Hamas, Abdul Aziz Tantsi said: “You think we are the aggressors....That is the number one misunderstanding. We are not: we are the victims”. Cit. Mark Juergensmeyer. *Terror in the Mind of God: The Global Rise of Religious Violence*. 2000, p. 74, as quoted in Tom Parker, op. cit., p. 1133.

⁶⁸ Tom Parker, op. cit., p. 1136.

“Victims have indeed an important role to play in the prevention of violent radicalisation and... many have already engaged in prevention efforts through public outreach events. As living memory of the consequences of terrorist attacks, victims are best placed to “de-glamorise” and “de-legitimise” the terrorist narrative. Only victims can tell us directly about the horror and the pain, and prove that there is nothing glorious or divine about it. All acts of terrorism are criminal and unjustifiable. The de-humanisation of victims in all its manifestations is one of the conditions conducive to the spread of terrorism. We need to give victims names and faces and tell their stories and re-shift the focus from the perpetrators to the victims. The media focuses still too often solely on those who are responsible for the attacks, on who they are and why they did it. Terrorists look for that publicity and rely on the media to amplify the effects of their acts, inflict psychological harm and spread fear for political gain.”⁶⁹

Such statements ought to be welcomed. But it is high time that words are followed up by deeds. While a strong case can be made for giving victims a greater role, careful consideration as to the nature of that role is called for. Countering violent extremism and terrorism covers a broad field of activities. Victims and survivors might be best positioned for some roles but not for others.

This Research Paper will conclude with a number of recommendations on the possible roles of victims and survivors that, in our view, deserve further exploration. These recommendations will be subjects of discussion at a roundtable to be organised by the ICCT which would bring together representatives of victims’ associations, victims and survivors, the media as well as decision-makers in counter-terrorism agencies of governments.

9. Six Recommendations

1. **Greater role of victims in the criminal justice process:** The legal standing of victims in the criminal justice process should be enhanced from its present status as mere witnesses to the crime to one of injured party. Victims should be able to address the defendant and the court, ask questions and make statements. In particular, the growing practice of allowing victims and their families to speak (their) truth to terror by making “victim impact statements” in court should become a regular feature as it can serve to bring home to those accused of terrorism and a wider audience the utter unacceptability of terrorist tactics. Victim impact statements should be carefully crafted and not only reflect the private interests of the victim. Victims should be aware that it is part of a public ritual that seeks to restore violated norms.⁷⁰
2. **Governments should make better use of the credibility and authenticity of victims and victims’ associations when preventing and countering violent radicalisation and terrorism:** It is a fact that in many countries the voices of victims of terrorism carry more moral authority and weight in the public discourse than those of government spokespersons. Governments should therefore team up with victims and victims’ associations and assign them status and roles in countering violent radicalisation and terrorism – allowing them to do those things they can do better than the government itself – reaching out to society, including those sectors who are seen as potentially supporting the terrorists. ICCT Associate Fellow Max Boon is currently exploring ways to effectively and structurally involve victims of terrorist acts in countering violent extremism efforts in Indonesia. The inclusion of victim voices in rehabilitation and reintegration programmes for violent extremist offenders should also be considered.

⁶⁹ Gilles de Kerchove, “The role of victims in preventing violent radicalization: An individual and collective approach to the European contribution”. VIII European Day on Remembrance of Victims of Terrorism, 11 March 2012.

⁷⁰ Bas van Stokkom. Impact statements and victim duties: Pleading as a citizen. An ethical examination. Abstract of presentation given on the occasion of the 14th International Symposium of the World Society of Victimology. The Hague, 21 May 2012. Book of Abstracts, pp. 46-47.

3. **More equal access to the news system for victims of terrorism:** Most terrorists commit acts of violence to get access to the news system. The more atrocious their terrorist attack, the more publicity they tend to get from the media. Part of the publicity goes to the response of the government. The (surviving) victims receive far less publicity. Journalists and editors should be made aware that their present news values and practices of covering acts of terrorism often tend to reward the perpetrators, harm victims and encourage future victimisation. They should be more sensitive to the interests and needs of victims and ask themselves each time whether their story helps the terrorists or hurts the victims so that the outcome of this deliberation is reflected in their media coverage. There should be a more balanced coverage of acts of terrorism in the mass media. Governments might even consider to suggest some affirmative action to bring this about. Victims could thereby be given greater media-exposure so that their voices are better heard. After all, nobody is more entitled to speak truth to terror; their side of the story should not receive less coverage than the one of those who use violence against victims to get into the news. Spokespersons with a background as survivors should be given more opportunities to present their counter-narrative. While terrorists depersonalise victims (which allows them to reduce scruples), any personalisation of victims – depicting them “...as real individuals – with hopes, dreams, families and daily lives that have been shattered and sometimes destroyed through terrorist violence”⁷¹ is likely to have the opposite effect, giving the public a chance to be more empathic towards them.
4. **Enabling victims to use the Internet more effectively:** While terrorists and their supporters have been quick to use all the possibilities of the Internet to their advantage, victims and survivors lag far behind in using this instrument of social influence. Victims should be provided with platforms from which to challenge violent extremists and terrorists and their constituencies on social media networks. We should also look into the suggestion made by Rula Al-Farra, a victim of a terrorist bombing in Iraq (2003): “The most important aspect would be to initiate worldwide flashes, programs, documentaries, movies, reports and columns, to change the mindsets that drive people to violent acts of terror....We need to give victims names and faces. We need to tell their stories....We have to change this culture of violence”⁷²
5. **Strengthening victims’ roles in efforts to enhance public resilience:** When campaigns of terrorism sweep a country, many members of society have a tendency to keep a low profile. Moderates in diasporas often do not dare to speak up and challenge the violent extremists and terrorists in their midst for fear of retribution. However, those who have already been victimised are generally highly motivated and able to raise their voices and organise non-violent resistance in society against those advocating, practicing or supporting in one way or another, political violence. Courageous and capable victims daring to stand up to the terrorists should be supported and protected in their efforts. They should be given a chance to play a leading role in mobilising social resistance to terrorism.⁷³
6. **Strengthening aftercare and support mechanisms for victims.** As described above victims (both direct and indirect) as well as their families should have support mechanisms made available to them. This could be done through bolstering already established victims organisations and, where needed, introducing new assistance mechanisms, as well as by strengthening re-integration and aftercare programmes. Such solidarity with victims of terrorism also serves as an important tool to strengthen the social bonds that are the cement of society.

⁷¹ United Nations. Supporting Victims of Terrorism. New York: UN, 2009, p. 4.

⁷² Ibid., p. 22.

⁷³ See also the “Blue Sky report” from the Center on Global Counterterrorism Cooperation, April 2012; http://www.globalct.org/resources_publications.php

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APPENDIX

Conclusions and Recommendations of the Report of the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism, Ben Emmerson. Framework principles for securing the human rights of victims of terrorism. United Nations. Human Rights Council, Twentieth session. 20 June 2012. - A/HRC/20/14

A. Conclusions

63. The Special Rapporteur considers that the victims of terrorism share certain common characteristics which distinguish them from the victims of other crimes of violence. Those shared characteristics call for international recognition through a specific normative framework developed under the auspices of the United Nations.

64. The Special Rapporteur considers deliberate infliction of lethal or potentially lethal violence by non-State actors in the course of an act of terrorism amounts, in all cases where death or serious physical or psychological injury results, to a grave violation of the human rights of the victim, irrespective of the question of direct or indirect State responsibility. He notes, however, that acceptance of this principle is not essential for acceptance of the recommendations made in this report.

65. The following persons are to be considered as victims of terrorism: (a) natural persons who have been killed or suffered serious physical or psychological injury through the commission of an act of terrorism (direct victims); (b) the next-of-kin or dependants of a direct victim (secondary victims); (c) innocent individuals who have been killed or suffered serious injury indirectly attributable to an act of terrorism (indirect victims); and (d) potential future victims of terrorism.

B. Recommendations

66. The Special Rapporteur recommends that States take effective international action to protect the human victims of terrorism through the adoption of a specific normative framework declaring and protecting their rights. The international community, acting under the auspices of the United Nations, should therefore take steps towards enshrining the human rights set out in this report and the corresponding obligations on States in a specific international instrument.

67. Pending the adoption of such an instrument, States should review their national legislation, procedures and practice and make all necessary amendments to bring them into line with the following Framework principles for securing the human rights of victims of terrorism:

(a) The State's obligation to protect and secure the right to life includes the duty to take appropriate steps to safeguard the lives of individuals within its jurisdiction. Consequently, (i) the State has a duty under international law to put in place effective criminal law provisions to deter the incitement, preparation and commission of terrorist offences, supported by law-enforcement machinery for the prevention, suppression and sanctioning of breaches; (ii) relevant public officials come under a positive operational duty to take preventative action where they know, or ought to know, of the existence, at the relevant time, of a real and immediate risk to the life of an identified individual or group of individuals, and yet fail to take measures, within the scope of their legal powers

and available resources, and in conformity with the State's international obligations, which judged reasonably, might be expected to avoid that risk.

(b) Individuals suspected of having engaged in the incitement, preparation, instigation or commission of acts of terrorism should be duly investigated, and if appropriate, prosecuted, convicted and punished, according to the ordinary rules of criminal law and procedure, or else extradited to face trial in another jurisdiction. This implies a fair and public hearing before an independent and impartial civilian court. States are under a duty to provide mutual legal assistance in the investigation and prosecution of terrorist offences and to cooperate, as far as they consider reasonable, in the exchange of intelligence with other States. These duties, however, take effect subject to the a priori obligation of all States to refuse such assistance where it would entail the commission of, complicity in, or any form of direct or indirect assistance to, an internationally wrongful act, including any violation of international human rights law.

(c) The State is obliged to conduct an effective official investigation whenever individuals have been killed or seriously injured as the direct or indirect result of an act of terrorism, with a view to securing accountability and learning lessons for the future. The key features of such an investigation are that (i) the authorities must act ex officio; (ii) the investigation should always begin promptly and be carried out with reasonable expedition; (iii) the authorities must ensure that the victim or his/her next-of-kin are kept fully informed of the progress of the investigation, and are provided with an adequate opportunity to participate in the process; (iv) investigators must be genuinely impartial; (v) the investigation must be capable of leading to the identification, accountability and, where appropriate, the punishment of those responsible for any act or omission which has caused or contributed to the death or serious physical or psychological injury of a victim of terrorism, including any public official implicated in the events; (vi) there must be a sufficient element of public scrutiny of the investigation and its results to secure accountability; (vii) the authorities must have taken all reasonable steps to secure the relevant evidence; and (viii) any conclusions must be based on a complete, objective and impartial analysis of all relevant elements, including an examination of the authorities' own actions. Where State responsibility is at issue the investigative authorities must be independent from those potentially implicated.

(d) Making due allowance for the differences in national systems, the Special Rapporteur strongly recommends that States which currently have no possibility for a victim of terrorism or his/her next-of-kin to play an active part in criminal proceedings (other than as witnesses of fact) should give serious and urgent consideration to implementing a system for effective victim participation.

(e) The victim or the victim's family must in all cases be provided with the information necessary to exercise any rights they may have in domestic law to participate in judicial proceedings. In this connection, (i) States should establish a support service to assist the victim in the process; (ii) legal aid or assistance should be accorded so as to ensure that victims can participate effectively; (iii) provision should be made, where appropriate, for joint legal presentation; (iv) victims and their families should enjoy the right to free interpretation.

(f) Where a decision is taken not to initiate a criminal prosecution the competent prosecuting authority should give reasons for its decision, and States should allow victims of terrorism the opportunity to challenge the decision before an independent court or tribunal, or other comparable authority.

(g) Where victims of terrorism have given information to the authorities, or are called upon to provide testimony during a prosecution, their rights to life, physical security and privacy must be fully protected, subject to safeguards to ensure that any

protective measures adopted are compatible with the accused person's right to a fair and public hearing under article 14 of the International Covenant on Civil and Political Rights.

(h) Criminal proceedings, including the exhaustion of any ordinary appeal procedures, should be conducted with reasonable expedition.

(i) The right of victims of terrorism to privacy and respect for their family life should be protected against unjustified intrusion by the media. Personal information must also be protected against unnecessary disclosure to the public in the course of judicial proceedings.

(j) Victims of terrorism have the right to form representative organizations whose rights to freedom of association and expression must be fully guaranteed. Where any restriction is imposed, such organizations should have unimpeded access to an independent and impartial court or tribunal with power to overturn the restriction. In addition, States are under a positive duty to secure the rights of such organizations against reprisals or other forms of unlawful interference by non-State actors.

(k) Where a public official is directly or indirectly responsible for a violation of the right to life in the context of an act or threatened act of terrorism, the State is already bound as a matter of international law to make reparation to the victim.

(l) The Special Rapporteur urges all States to recognize an international obligation (already recognized by many States) to provide reparation where death or serious injury results from an act of terrorism committed on their territory. Full and effective reparation should include, as appropriate, restitution, compensation, rehabilitation, satisfaction and guarantees of non-repetition. Reparation schemes should make provision for financial compensation and a considered programme of medical and social rehabilitation.

(m) States should actively consider whether to legislate to prohibit the sale or marketing of life insurance policies that contain an exclusion for deaths resulting from acts of terrorism.

(n) The Special Rapporteur urges States involved in unresolved conflicts in which one or more parties to the conflict are designated as a terrorist organization, and where acts of violence are committed against the civilian population, to make greater use of the United Nations mechanisms for conflict prevention, negotiation, mediation, conciliation, peacekeeping and peace-building.