

Human Rights of Victims of Terrorism

A Compilation of International Sources

August 2019

Composed of 60 eminent judges and lawyers from all regions of the world, the International Commission of Jurists promotes and protects human rights through the Rule of Law, by using its unique legal expertise to develop and strengthen national and international justice systems. Established in 1952 and active on the five continents, the ICJ aims to ensure the progressive development and effective implementation of international human rights and international humanitarian law; secure the realization of civil, cultural, economic, political and social rights; safeguard the separation of powers; and guarantee the independence of the judiciary and legal profession.

® **Human Rights of Victims of Terrorism** - A Compilation of International Sources

© Copyright International Commission of Jurists, 2019

The International Commission of Jurists (ICJ) permits free reproduction of extracts from any of its publications provided that due acknowledgment is given and a copy of the publication carrying the extract is sent to its headquarters at the following address:

International Commission of Jurists
P.O. Box 91
Rue des Bains 33
Geneva
Switzerland

Human Rights of Victims of Terrorism

A Compilation of International Sources

August 2019

This compilation was prepared by Matt Pollard, ICJ Senior Legal Adviser and UN Representative, with the assistance of ICJ legal intern Rodney Kort.

While some earlier sources refer to victims of terrorism (see for instance General Assembly resolution 49/185 and Commission on Human Rights resolution 1995/43, both from 1995), the focus of this compilation is mainly from 2004 onwards.

Footnote references in original texts have been renumbered in the compilation.

For more information, visit <https://www.icj.org/victimsofterrorism2019/> or email un@icj.org.

A further resource is the United Nations Victims of Terrorism Support Portal, accessible at: <https://www.un.org/victimsofterrorism/en>

Foreword

I welcome the initiative of the International Commission of Jurists to bring together this important compilation of legal sources pertaining to victims of terrorism.

Too often while States rhetorically invoke the names and suffering of victims, the language and practice of rights is missing from the discourse and practice of counter-terrorism. Victims of terrorism face multiple and intersecting challenges. This includes the reality that the perpetrators of the violence they have experienced have destroyed and harmed persons with no connection to them—civilians going about their ordinary and daily lives—to advance ideologies with the primary purpose of instilling fear in society. Victims of terrorism often experience violence that is faceless, nameless and entirely indiscriminate. Few have the resources physical, emotional, legal and financial to respond to such violence, and to navigate the complex legal, medical, social and economic consequences that follow. Those who survive are young and old, male and female, of multiple religious faiths and nationalities. They are united by an experience none have sought. They are deserving not only of compassion and empathy but of the recognition and fulfillment of their rights, like other victims, to remedy and reparation,¹ including but not limited to having the crime adequately investigated, prosecuted where possible, and punishment for those responsible in accordance with international law. Victims of terrorism should have equal access to justice and adequate, effective and prompt reparations for the violations and abuses that they have experienced.

Since the appointment of the first Special Rapporteur Martin Scheinin, the rights of victims of terrorism have been a pre-occupation for all holders of the mandate. All previous Special Rapporteurs and the current office holder have been deeply committed to a human-rights-based approach to victims of terrorism. At its essence, a human rights-based approach means that victims of terrorism and their families have a human right to an effective remedy, with the corresponding State obligations including a duty to exclude any possibility of impunity for acts of terrorism.² The obligations of States are well-articulated not only for direct and indirect victims of acts of terrorism but to potential victims.³

A sound and sustainable strategy for combatting terrorism requires paying meaningful attention to and mainstreaming of the rights of victims. As the current Special Rapporteur, I strongly support the emphasis placed in the United Nations Global Counter-Terrorism Strategy on the “need to promote and protect the rights of victims of terrorism”. We do that best not only by respecting the dignity and humanity of victims but by ensuring their legal rights are protected. The first step to that end, is defining and making knowledge of their rights available to all victims.

The International Commission of Jurists has done the international community and all victims of terrorism a tremendous service by bringing these standards into a comprehensive and accessible document. It is an essential first step to ensuring the meaningful access to justice, which is the first step to implementing the rights of victims. I commend their work and this compilation to States and advocates alike.

Professor Fionnuala Ní Aoláin

United Nations Special Rapporteur on the Protection and Promotion of Human Rights and Fundamental Freedoms While Countering Terrorism

¹ Basic Principles and Guidelines on a Right to a Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law, UN General Assembly Resolution 60/147 of 16 December 2005; Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power, UN General Assembly resolution 40/34 of 29 November 1985.

² E/CN.4/2006/98, paras 64-66.

³ A/66/310, paras 20-28.

Introduction

Published on the occasion of the second commemoration of the United Nations' International Day of Remembrance of and Tribute to Victims of Terrorism in August 2019, this ICJ compilation collects relevant UN General Assembly, Human Rights Council, and Security Council resolutions; findings and recommendations of the UN Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism; as well as other UN and regional sources.

Human rights of victims of terrorism are set to receive new attention and focus at the global level. Among important current developments are the following:

- The Human Rights Council's most recent renewal, in March, of the mandate of the UN Special Rapporteur, highlighted and endorsed the ongoing efforts of current Special Rapporteur Fionnuala Ni Aolain to mainstream and highlight the human rights of victims of terrorism in relation to country visits and thematic work carried out by the mandate (see resolution 40/16 at p. 19 of the compilation).
- In June in New York, a group of States led by Afghanistan and Spain launched a "Group of Friends of Victims of Terrorism" with the aim of bringing additional focus and activity at the United Nations to this topic.
- In July the General Assembly adopted for the first time a resolution on "Enhancement of international cooperation to assist victims of terrorism" (see resolution 73/305 at p. 20 of the compilation).
- The UN Office of Counter-Terrorism is preparing to convene a global Congress of Victims of Terrorism in June 2020.

Many governments have long invoked the suffering of victims of terrorism in seeking to justify counter-terrorism measures that do not comply with human rights law, or indeed the rule of law more generally, while failing in practice to adopt and implement concrete measures at the national or global level to respect, protect and fulfil the actual human rights of victims of terrorism.

The gap between rhetoric and practice was highlighted in a Human Rights Council panel discussion in June 2011 (see report at p. 34 of the compilation). In June 2012 then-UN Special Rapporteur Ben Emmerson presented the Council with certain "framework principles for securing the human rights of victims of terrorism", including recommendations on measures each State could immediately take on its own, and also calling for "the international community, acting under the auspices of the United Nations" to "take steps towards enshrining" the human rights of victims of terrorism, and the corresponding obligations on States, "in a specific international instrument" (see report at p. 24 of the compilation).

In response to that landmark 2012 report, while States and civil society took a variety of views on specific elements, considerable support was voiced for further work on the issue. Major non-governmental organizations including Amnesty International and the International Commission of Jurists expressed support both for concrete actions by governments at the national level, and for further discussions towards an international instrument.

Nevertheless, by the time of Ben Emmerson's final report to the Council in February 2017, while a few States had adopted measures at the national level and other initiatives had been undertaken, "No concrete steps have yet been taken to adopt an international instrument enshrining the rights of victims of terrorism" (see report at p. 26 of the compilation).

The ICJ accordingly welcomes the renewed focus and cooperation within the United Nations on concrete measures to ensure that the human rights of victims of terrorism are fully respected, protected and fulfilled. Civil society, including groups that specifically represent victims as well as other organizations with a range of relevant experience and expertise, has

an important role to play, not only in implementing but also in helping to shape those efforts. The ICJ hopes the present publication will be found useful by all engaged in these processes, and looks forward to further engagement and progress towards the better realization of human rights of victims of terrorism in the years to come.

List of Sources

UN General Assembly (GA), Human Rights Council (HRC), and Security Council (SC) resolutions

GA res 40/34 (29 November 1985). Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power

SC res 1566 (8 October 2004). Threats to international peace and security caused by terrorist acts

SC res 1624 (14 September 2005). Threats to international peace and security (Security Council Summit 2005)

GA res 60/147 (16 December 2005). Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law

GA res 60/158 (16 December 2005). Protection of human rights and fundamental freedoms while countering terrorism

GA res 60/288 (8 September 2006). Global Counter-Terrorism Strategy. Annex: Plan of Action

HRC res 10/15 (26 March 2009). Protection of human rights and fundamental freedoms while countering terrorism

SEC res 1963 (20 December 2010). Threats to international peace and security caused by terrorist acts

HRC decision 16/116 (24 March 2011). Panel on the human rights of victims of terrorism

HRC res 19/19 (23 March 2012). Protection of human rights and fundamental freedoms while countering terrorism

GA res 66/282 (29 June 2012). The United Nations Global Counter-Terrorism Strategy Review

SC res 2129 (17 December 2013). Threats to international peace and security caused by terrorist acts

GA res 68/178 (18 December 2013). Protection of human rights and fundamental freedoms while countering terrorism

HRC res 25/7 (27 March 2014). Protection of human rights and fundamental freedoms while countering terrorism

GA res 68/276 (13 June 2014). The United Nations Global Counter-Terrorism Strategy Review

HRC res 29/9 (2 July 2015). Protection of human rights and fundamental freedoms while countering terrorism

HRC res 31/30 (20 April 2016). Effects of terrorism on enjoyment of all human rights

HRC res 34/8 (7 April 2017). Effects of terrorism on the enjoyment of all human rights

HRC res 35/34 (23 June 2017). Protection of human rights and fundamental freedoms while countering terrorism

GA res 72/165 (19 December 2017). Day of Tribute to Victims of Terrorism

GA res 72/180 (19 December 2017). Protection of human rights and fundamental freedoms while countering terrorism

SC res 2395 (21 December 2017). Threats to international peace and security caused by terrorist acts

GA res 72/246 (24 December 2017). Effects of terrorism on the enjoyment of human rights
HRC res 37/27 (23 March 2018). Terrorism and human rights
GA res 72/284 (26 June 2018). UN Global Counter Terrorism Strategy Review
GA res 73/174 (17 December 2018). Terrorism and human rights
HRC res 40/16 (22 March 2019). Mandate of the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism
GA res 73/305 (2 July 2019). Enhancement of international cooperation to assist victims of terrorism

Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism

First Report to the Commission on Human Rights, E/CN.4/2006/98 (28 December 2005)
Ten areas of best practices in countering terrorism, A/HRC/16/51 (22 December 2010)
Framework principles for securing the human rights of victims of terrorism, A/HRC/20/14 (4 June 2012)
Final Report to the Council by Ben Emmerson, A/HRC/34/61 (21 February 2017)
Country Visit: Spain, A/HRC/10/3/Add.2 (16 December 2008)
Country Visit: France, A/HRC/40/52/Add.4 (8 May 2019)
Country Visit: Belgium, A/HRC/40/52/Add.5 (27 February 2019)

Other United Nations Sources

International Convention for the Suppression of the Financing of Terrorism (1999)
Human Rights Committee, General Comment no. 31 (2004): The nature of the general legal obligation imposed on State parties to the International Covenant on Civil and Political Rights
Sub-commission on the Promotion and Protection of Human Rights, Report of the sessional working group to elaborate detailed principles and guidelines, with relevant commentary, concerning the promotion and protection of human rights when combating terrorism, A/HRC/Sub.1/58/26 (25 August 2006).
OHCHR summary of the 1 June 2011 Human Rights Council panel discussion on the issue of human rights of victims of terrorism, A/HRC/19/38 (7 December 2011)
UNODC, The Criminal Justice Response to Support Victims of Acts of Terrorism (2012)
UNODC, Good Practices in supporting victims of terrorism within the Criminal Justice Framework (2015)
Report of UN Conference on Human Rights of Victims of Terrorism (2016)
High Commissioner's report on Negative effects of terrorism on enjoyment of human rights and fundamental freedoms, A/HRC/34/30 (30 December 2016)
Secretary General's report on Protecting and promoting human rights while countering terrorism, A/72/13 (11 August 2017)
Secretary General's report on activities related to victims of terrorism, A/73/599 (28 November 2018)
High Commissioner's report on rights of child victims of terrorism, A/HRC/40/28 (10 January 2019)

Regional and Other Materials

Arab Convention For The Suppression Of Terrorism (1998)

African Union, Protocol to the OAU Convention on the Prevention and Combating of Terrorism (2004)

Council of Europe Convention on the Prevention of Terrorism (CETS No. 196, 2005)

European Union, Directive 2012/29/EU of the European Parliament and of the Council (25 October 2012) establishing minimum standards on the rights, support and protection of victims of crime

Global Counterterrorism Forum, Madrid Memorandum on Good Practices for Assistance to Victims of Terrorism Immediately After the Attack and in Criminal Proceedings (2013)

African Union, Recommendations of the AU Symposium on Victims of Terrorist Acts (October 2014)

African Commission on Human and Peoples' Rights: Principles and Guidelines on Human and Peoples' Rights while Countering Terrorism in Africa (2015)

Council of Europe, Revised Guidelines on the protection of victims of terrorist acts (19 May 2017, replacing initial 2005 version)

UN Counter-terrorism Centre (UNCCT), Good Practices to support victims organizations in Africa & Middle East (2018)

UN General Assembly (GA), Human Rights Council (HRC), and Security Council (SC) resolutions

GA res 40/34 (29 November 1985). Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power

A. Victims of crime

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 or omissions that are in violation of criminal laws operative within Member States, including those laws proscribing criminal abuse of power.

2. A person may be considered a victim, under this Declaration, regardless of whether the perpetrator is identified, apprehended, prosecuted or convicted and regardless of the familial relationship between the perpetrator and the victim. 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.

3. The provisions contained herein shall be applicable to all, without distinction of any kind, such as race, colour, sex, age, language, religion, nationality, political or other opinion, cultural beliefs or practices, property, birth or family status, ethnic or social origin, and disability.

Access to justice and fair treatment

4. Victims should be treated with compassion and respect for their dignity. They are entitled to access to the mechanisms of justice and to prompt redress, as provided for by national legislation, for the harm that they have suffered.

5. Judicial and administrative mechanisms should be established and strengthened where necessary to enable victims to obtain redress through formal or informal procedures that are expeditious, fair, inexpensive and accessible. Victims should be informed of their rights in seeking redress through such mechanisms.

6. The responsiveness of judicial and administrative processes to the needs of victims should be facilitated by:

(a) Informing victims of their role and the scope, timing and progress of the proceedings and of the disposition of their cases, especially where serious crimes are involved and where they have requested such information;

(b) Allowing the views and concerns of victims to be presented and considered at appropriate stages of the proceedings where their personal interests are affected, without prejudice to the accused and consistent with the relevant national criminal justice system;

(c) Providing proper assistance to victims throughout the legal process;

(d) Taking measures to minimize inconvenience to victims, protect their privacy, when necessary, and ensure their safety, as well as that of their families and witnesses on their behalf, from intimidation and retaliation;

(e) Avoiding unnecessary delay in the disposition of cases and the execution of orders or decrees granting awards to victims.

7. Informal mechanisms for the resolution of disputes, including mediation, arbitration and customary justice or indigenous practices, should be utilized where appropriate to facilitate conciliation and redress for victims.

Restitution

8. Offenders or third parties responsible for their behaviour should, where appropriate, make fair restitution to victims, their families or dependants. Such restitution should include the return of property or payment for the harm or loss suffered, reimbursement of expenses incurred as a result of the victimization, the provision of services and the restoration of rights.

9. Governments should review their practices, regulations and laws to consider restitution as an available sentencing option in criminal cases, in addition to other criminal sanctions.

10. In cases of substantial harm to the environment, restitution, if ordered, should include, as far as possible, restoration of the environment, reconstruction of the infrastructure, replacement of community facilities and reimbursement of the expenses of relocation, whenever such harm results in the dislocation of a community.

11. Where public officials or other agents acting in an official or quasi-official capacity have violated national criminal laws, the victims should receive restitution from the State whose officials or agents were responsible for the harm inflicted. In cases where the Government under whose authority the victimizing act or omission occurred is no longer in existence, the State or Government successor in title should provide restitution to the victims.

Compensation

12. When compensation is not fully available from the offender or other sources, States should endeavour to provide financial compensation to:

(a) Victims who have sustained significant bodily injury or impairment of physical or mental health as a result of serious crimes;

(b) The family, in particular dependants of persons who have died or become physically or mentally incapacitated as a result of such victimization.

13. The establishment, strengthening and expansion of national funds for compensation to victims should be encouraged. Where appropriate, other funds may also be established for this purpose, including in those cases where the State of which the victim is a national is not in a position to compensate the victim for the harm.

Assistance

14. Victims should receive the necessary material, medical, psychological and social assistance through governmental, voluntary, community-based and indigenous means.

15. Victims should be informed of the availability of health and social services and other relevant assistance and be readily afforded access to them.

16. Police, justice, health, social service and other personnel concerned should receive training to sensitize them to the needs of victims, and guidelines to ensure proper and prompt aid.

17. In providing services and assistance to victims, attention should be given to those who have special needs because of the nature of the harm inflicted or because of factors such as those mentioned in paragraph 3 above.

B. Victims of abuse of power

18. "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 or omissions that do not yet constitute violations of national criminal laws but of internationally recognized norms relating to human rights.

19. States should consider incorporating into the national law norms proscribing abuses of power and providing remedies to victims of such abuses. In particular, such remedies should include restitution and/or compensation, and necessary material, medical, psychological and social assistance and support.

20. States should consider negotiating multilateral international treaties relating to victims, as defined in paragraph 18.

21. States should periodically review existing legislation and practices to ensure their responsiveness to changing circumstances, should enact and enforce, if necessary, legislation proscribing acts that constitute serious abuses of political or economic power, as well as promoting policies and mechanisms for the prevention of such acts, and should develop and make readily available appropriate rights and remedies for victims of such acts.

SC res 1566 (8 October 2004). Threats to international peace and security caused by terrorist acts

Deeply concerned by the increasing number of victims, including children, caused by acts of terrorism motivated by intolerance or extremism in various regions of the world,

...

Reaffirming its profound solidarity with victims of terrorism and their families,

...

10. *Requests further* the working group, established under paragraph 9 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 sponsors, and submit its recommendations to the Council;

SC res 1624 (14 September 2005). Threats to international peace and security (Security Council Summit 2005)

Deeply concerned by the increasing number of victims, especially among civilians of diverse nationalities and beliefs, caused by terrorism motivated by intolerance or extremism in various regions of the world, reaffirming its profound solidarity with the victims of terrorism and their families, and stressing the importance of assisting victims of terrorism and providing them and their families with support to cope with their loss and grief,

GA res 60/147 (16 December 2005). Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law

Preamble

The General Assembly,

Recalling the provisions providing a right to a remedy for victims of violations of international human rights law found in numerous international instruments, in particular article 8 of the Universal Declaration of Human Rights, article 2 of the International Covenant on Civil and Political Rights, article 6 of the International Convention on the Elimination of All Forms of Racial Discrimination, article 14 of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, and article 39 of the Convention on the Rights of the Child, and of international humanitarian law as found in article 3 of the Hague Convention respecting the Laws and Customs of War on Land of 18 October 1907 (Convention IV), article 91 of the Protocol Additional to the Geneva Conventions of 12 August 1949, and relating to the Protection of Victims of International Armed Conflicts (Protocol I) of 8 June 1977, and articles 68 and 75 of the Rome Statute of the International Criminal Court,

Recalling the provisions providing a right to a remedy for victims of violations of international human rights found in regional conventions, in particular article 7 of the African Charter on Human and Peoples' Rights, article 25 of the American Convention on Human Rights, and article 13 of the Convention for the Protection of Human Rights and Fundamental Freedoms,

Recalling the Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power emanating from the deliberations of the Seventh United Nations Congress on the Prevention of Crime and the Treatment of Offenders and General Assembly resolution 40/34 of 29 November 1985 by which the Assembly adopted the text recommended by the Congress,

Reaffirming the principles enunciated in the Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power, including that victims should be treated with compassion and respect for their dignity, have their right to access to justice and redress mechanisms fully respected, and that the establishment, strengthening and expansion of national funds for compensation to victims should be encouraged, together with the expeditious development of appropriate rights and remedies for victims,

Noting that the Rome Statute of the International Criminal Court requires the establishment of "principles relating to reparations to, or in respect of, victims, including restitution, compensation and rehabilitation", requires the Assembly of States Parties to establish a trust fund for the benefit of victims of crimes within the jurisdiction of the Court, and of the families of such victims, and mandates the Court "to protect the safety, physical and psychological well-being, dignity and privacy of victims" and to permit the participation of victims at all "stages of the proceedings determined to be appropriate by the Court",

Affirming that the Basic Principles and Guidelines contained herein are directed at gross violations of international human rights law and serious violations of international humanitarian law which, by their very grave nature, constitute an affront to human dignity,

Emphasizing that the Basic Principles and Guidelines contained herein do not entail new international or domestic legal obligations but identify mechanisms, modalities,

procedures and methods for the implementation of existing legal obligations under international human rights law and international humanitarian law which are complementary though different as to their norms,

Recalling that international law contains the obligation to prosecute perpetrators of certain international crimes in accordance with international obligations of States and the requirements of national law or as provided for in the applicable statutes of international judicial organs, and that the duty to prosecute reinforces the international legal obligations to be carried out in accordance with national legal requirements and procedures and supports the concept of complementarity,

Noting that contemporary forms of victimization, while essentially directed against persons, may nevertheless also be directed against groups of persons who are targeted collectively,

Recognizing that, in honouring the victims' right to benefit from remedies and reparation, the international community keeps faith with the plight of victims, survivors and future human generations and reaffirms the international legal principles of accountability, justice and the rule of law,

Convinced that, in adopting a victim-oriented perspective, the international community affirms its human solidarity with victims of violations of international law, including violations of international human rights law and international humanitarian law, as well as with humanity at large, in accordance with the following Basic Principles and Guidelines,

Adopts the following Basic Principles and Guidelines:

I. Obligation to respect, ensure respect for and implement international human rights law and international humanitarian law

1. The obligation to respect, ensure respect for and implement international human rights law and international humanitarian law as provided for under the respective bodies of law emanates from:

- (a) Treaties to which a State is a party;
- (b) Customary international law;
- (c) The domestic law of each State.

2. If they have not already done so, States shall, as required under international law, ensure that their domestic law is consistent with their international legal obligations by:

- (a) Incorporating norms of international human rights law and international humanitarian law into their domestic law, or otherwise implementing them in their domestic legal system;
- (b) Adopting appropriate and effective legislative and administrative procedures and other appropriate measures that provide fair, effective and prompt access to justice;
- (c) Making available adequate, effective, prompt and appropriate remedies, including reparation, as defined below;
- (d) Ensuring that their domestic law provides at least the same level of protection for victims as that required by their international obligations.

II. Scope of the obligation

3. The obligation to respect, ensure respect for and implement international human rights law and international humanitarian law as provided for under the respective bodies of law, includes, inter alia, the duty to:

(a) Take appropriate legislative and administrative and other appropriate measures to prevent violations;

(b) Investigate violations effectively, promptly, thoroughly and impartially and, where appropriate, take action against those allegedly responsible in accordance with domestic and international law;

(c) Provide those who claim to be victims of a human rights or humanitarian law violation with equal and effective access to justice, as described below, irrespective of who may ultimately be the bearer of responsibility for the violation; and

(d) Provide effective remedies to victims, including reparation, as described below.

III. Gross violations of international human rights law and serious violations of international humanitarian law that constitute crimes under international law

4. In cases of gross violations of international human rights law and serious violations of international humanitarian law constituting crimes under international law, States have the duty to investigate and, if there is sufficient evidence, the duty to submit to prosecution the person allegedly responsible for the violations and, if found guilty, the duty to punish her or him. Moreover, in these cases, States should, in accordance with international law, cooperate with one another and assist international judicial organs competent in the investigation and prosecution of these violations.

5. To that end, where so provided in an applicable treaty or under other international law obligations, States shall incorporate or otherwise implement within their domestic law appropriate provisions for universal jurisdiction. Moreover, where it is so provided for in an applicable treaty or other international legal obligations, States should facilitate extradition or surrender offenders to other States and to appropriate international judicial bodies and provide judicial assistance and other forms of cooperation in the pursuit of international justice, including assistance to, and protection of, victims and witnesses, consistent with international human rights legal standards and subject to international legal requirements such as those relating to the prohibition of torture and other forms of cruel, inhuman or degrading treatment or punishment.

IV. Statutes of limitations

6. Where so provided for in an applicable treaty or contained in other international legal obligations, statutes of limitations shall not apply to gross violations of international human rights law and serious violations of international humanitarian law which constitute crimes under international law.

7. Domestic statutes of limitations for other types of violations that do not constitute crimes under international law, including those time limitations applicable to civil claims and other procedures, should not be unduly restrictive.

V. Victims of gross violations of international human rights law and serious violations of international humanitarian law

8. For purposes of the present document, victims are persons who individually or collectively suffered harm, including physical or mental injury, emotional suffering,

economic loss or substantial impairment of their fundamental rights, through acts or omissions that constitute gross violations of international human rights law, or serious violations of international humanitarian law. Where appropriate, and in accordance with domestic law, the term "victim" also includes 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.

9. A person shall be considered a victim regardless of whether the perpetrator of the violation is identified, apprehended, prosecuted, or convicted and regardless of the familial relationship between the perpetrator and the victim.

VI. Treatment of victims

10. Victims should be treated with humanity and respect for their dignity and human rights, and appropriate measures should be taken to ensure their safety, physical and psychological well-being and privacy, as well as those of their families. The State should ensure that its domestic laws, to the extent possible, provide that a victim who has suffered violence or trauma should benefit from special consideration and care to avoid his or her re-traumatization in the course of legal and administrative procedures designed to provide justice and reparation.

VII. Victims' right to remedies

11. Remedies for gross violations of international human rights law and serious violations of international humanitarian law include the victim's right to the following as provided for under international law:

- (a) Equal and effective access to justice;
- (b) Adequate, effective and prompt reparation for harm suffered;
- (c) Access to relevant information concerning violations and reparation mechanisms.

VIII. Access to justice

12. A victim of a gross violation of international human rights law or of a serious violation of international humanitarian law shall have equal access to an effective judicial remedy as provided for under international law. Other remedies available to the victim include access to administrative and other bodies, as well as mechanisms, modalities and proceedings conducted in accordance with domestic law. Obligations arising under international law to secure the right to access justice and fair and impartial proceedings shall be reflected in domestic laws. To that end, States should:

- (a) Disseminate, through public and private mechanisms, information about all available remedies for gross violations of international human rights law and serious violations of international humanitarian law;
- (b) Take measures to minimize the inconvenience to victims and their representatives, protect against unlawful interference with their privacy as appropriate and ensure their safety from intimidation and retaliation, as well as that of their families and witnesses, before, during and after judicial, administrative, or other proceedings that affect the interests of victims;
- (c) Provide proper assistance to victims seeking access to justice;
- (d) Make available all appropriate legal, diplomatic and consular means to ensure that victims can exercise their rights to remedy for gross violations of international human rights law or serious violations of international humanitarian law.

13. In addition to individual access to justice, States should endeavour to develop procedures to allow groups of victims to present claims for reparation and to receive reparation, as appropriate.

14. An adequate, effective and prompt remedy for gross violations of international human rights law or serious violations of international humanitarian law should include all available and appropriate international processes in which a person may have legal standing and should be without prejudice to any other domestic remedies.

IX. Reparation for harm suffered

15. Adequate, effective and prompt reparation is intended to promote justice by redressing gross violations of international human rights law or serious violations of international humanitarian law. Reparation should be proportional to the gravity of the violations and the harm suffered. In accordance with its domestic laws and international legal obligations, a State shall provide reparation to victims for acts or omissions which can be attributed to the State and constitute gross violations of international human rights law or serious violations of international humanitarian law. In cases where a person, a legal person, or other entity is found liable for reparation to a victim, such party should provide reparation to the victim or compensate the State if the State has already provided reparation to the victim.

16. States should endeavour to establish national programmes for reparation and other assistance to victims in the event that the parties liable for the harm suffered are unable or unwilling to meet their obligations.

17. States shall, with respect to claims by victims, enforce domestic judgements for reparation against individuals or entities liable for the harm suffered and endeavour to enforce valid foreign legal judgements for reparation in accordance with domestic law and international legal obligations. To that end, States should provide under their domestic laws effective mechanisms for the enforcement of reparation judgements.

18. In accordance with domestic law and international law, and taking account of individual circumstances, victims of gross violations of international human rights law and serious violations of international humanitarian law should, as appropriate and proportional to the gravity of the violation and the circumstances of each case, be provided with full and effective reparation, as laid out in principles 19 to 23, which include the following forms: restitution, compensation, rehabilitation, satisfaction and guarantees of non-repetition.

19. Restitution should, whenever possible, restore the victim to the original situation before the gross violations of international human rights law or serious violations of international humanitarian law occurred. Restitution includes, as appropriate: restoration of liberty, enjoyment of human rights, identity, family life and citizenship, return to one's place of residence, restoration of employment and return of property.

20. Compensation should be provided for any economically assessable damage, as appropriate and proportional to the gravity of the violation and the circumstances of each case, resulting from gross violations of international human rights law and serious violations of international humanitarian law, such as:

- (a) Physical or mental harm;
- (b) Lost opportunities, including employment, education and social benefits;
- (c) Material damages and loss of earnings, including loss of earning potential;
- (d) Moral damage;

(e) Costs required for legal or expert assistance, medicine and medical services, and psychological and social services.

21. Rehabilitation should include medical and psychological care as well as legal and social services.

22. Satisfaction should include, where applicable, any or all of the following:

(a) Effective measures aimed at the cessation of continuing violations;

(b) Verification of the facts and full and public disclosure of the truth to the extent that such disclosure does not cause further harm or threaten the safety and interests of the victim, the victim's relatives, witnesses, or persons who have intervened to assist the victim or prevent the occurrence of further violations;

(c) The search for the whereabouts of the disappeared, for the identities of the children abducted, and for the bodies of those killed, and assistance in the recovery, identification and reburial of the bodies in accordance with the expressed or presumed wish of the victims, or the cultural practices of the families and communities;

(d) An official declaration or a judicial decision restoring the dignity, the reputation and the rights of the victim and of persons closely connected with the victim;

(e) Public apology, including acknowledgement of the facts and acceptance of responsibility;

(f) Judicial and administrative sanctions against persons liable for the violations;

(g) Commemorations and tributes to the victims;

(h) Inclusion of an accurate account of the violations that occurred in international human rights law and international humanitarian law training and in educational material at all levels.

23. Guarantees of non-repetition should include, where applicable, any or all of the following measures, which will also contribute to prevention:

(a) Ensuring effective civilian control of military and security forces;

(b) Ensuring that all civilian and military proceedings abide by international standards of due process, fairness and impartiality;

(c) Strengthening the independence of the judiciary;

(d) Protecting persons in the legal, medical and health-care professions, the media and other related professions, and human rights defenders;

(e) Providing, on a priority and continued basis, human rights and international humanitarian law education to all sectors of society and training for law enforcement officials as well as military and security forces;

(f) Promoting the observance of codes of conduct and ethical norms, in particular international standards, by public servants, including law enforcement, correctional, media, medical, psychological, social service and military personnel, as well as by economic enterprises;

(g) Promoting mechanisms for preventing and monitoring social conflicts and their resolution;

(h) Reviewing and reforming laws contributing to or allowing gross violations of international human rights law and serious violations of international humanitarian law.

X. Access to relevant information concerning violations and reparation mechanisms

24. States should develop means of informing the general public and, in particular, victims of gross violations of international human rights law and serious violations of international humanitarian law of the rights and remedies addressed by these Basic Principles and Guidelines and of all available legal, medical, psychological, social, administrative and all other services to which victims may have a right of access. Moreover, victims and their representatives should be entitled to seek and obtain information on the causes leading to their victimization and on the causes and conditions pertaining to the gross violations of international human rights law and serious violations of international humanitarian law and to learn the truth in regard to these violations.

XI. Non-discrimination

25. The application and interpretation of these Basic Principles and Guidelines must be consistent with international human rights law and international humanitarian law and be without any discrimination of any kind or on any ground, without exception.

XII. Non-derogation

26. Nothing in these Basic Principles and Guidelines shall be construed as restricting or derogating from any rights or obligations arising under domestic and international law. In particular, it is understood that the present Basic Principles and Guidelines are without prejudice to the right to a remedy and reparation for victims of all violations of international human rights law and international humanitarian law. It is further understood that these Basic Principles and Guidelines are without prejudice to special rules of international law.

XIII. Rights of others

27. Nothing in this document is to be construed as derogating from internationally or nationally protected rights of others, in particular the right of an accused person to benefit from applicable standards of due process.

GA res 60/158 (16 December 2005). Protection of human rights and fundamental freedoms while countering terrorism

2. *Deplores* the suffering caused by terrorism to the victims and their families, and expresses its profound solidarity with them;

GA res 60/288 (8 September 2006). Global Counter-Terrorism Strategy. Annex: Plan of Action

I. Measures to address the conditions conducive to the spread of terrorism

We resolve to undertake the following measures aimed at addressing the conditions conducive to the spread of terrorism, including but not limited to prolonged unresolved conflicts, dehumanization of victims of terrorism in all its forms and manifestations, lack of the rule of law and violations of human rights, ethnic, national and religious discrimination, political exclusion, socio-economic marginalization and lack of good governance, while recognizing that none of these conditions can excuse or justify acts of terrorism.

...

8. 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 to provide assistance to victims.

...

IV. Measures to ensure respect for human rights for all and the rule of law as the fundamental basis of the fight against terrorism

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, recognizing that effective counter-terrorism measures and the protection of human rights are not conflicting goals, but complementary and mutually reinforcing, and stressing the need to promote and protect the rights of victims of terrorism...

HRC res 10/15 (26 March 2009). Protection of human rights and fundamental freedoms while countering terrorism

3. *Deeply deplores* the suffering caused by terrorism to the victims and their families and expresses its profound solidarity with them, and stresses the importance of providing them with proper assistance;

SC res 1963 (20 December 2010). Threats to international peace and security caused by terrorist acts

Expressing its profound solidarity with the victims of terrorism and their families, stresses the importance of assisting victims of terrorism, and providing them and their families with support to cope with their loss and grief, recognizes the important role that victims and survivor networks play in countering terrorism, including by bravely speaking out against violent and extremist ideologies, and in this regard, welcomes and encourages the efforts and activities of Member States and the UN system, including the Counter-Terrorism Implementation Task Force (CTITF) in this field”...

HRC decision 16/116 (24 March 2011). Panel on the human rights of victims of terrorism

Deplores the suffering caused by terrorism to the victims and their families, expressing its profound solidarity with them, and stressing the importance of providing them with assistance,

Recognizing the work of the Working Group on Supporting and Highlighting Victims of Terrorism of the Counter-Terrorism Implementation Task Force, including its workshop in Siracusa, Italy, held on 2 and 3 December 2010, on best practices on supporting victims of acts of terrorism, and taking note of other efforts made by the United Nations in this field, including the meetings of the Expert Group of the United Nations Office on Drugs and Crime, held on 26 and 27 May 2010, in Vienna, and on 26 and 27 January 2011, in Bogotá, on the criminal justice response to victims of terrorism,

Taking note of the work on victims of terrorism of the Special Rapporteur on Terrorism and Human Rights of the Subcommission for the Promotion and Protection of Human Rights,

Recognizing, therefore, the need to reflect on the question of human rights of victims of terrorist acts,

1. *Decides* to convene, within existing resources, at its seventeenth session, a panel discussion on the issue of the human rights of victims of terrorism, taking into account, inter alia, the recommendations of the Secretary-General's Symposium on Supporting Victims of Terrorism, held on 9 September 2008, in New York;
2. *Requests* the Office of the United Nations High Commissioner for Human Rights to liaise with the Special Rapporteur on the promotion and protection of human rights while countering terrorism and all concerned parties and stakeholders, including relevant United Nations bodies and agencies, with a view to ensuring their participation in the panel discussion;
3. *Also requests* the Office of the High Commissioner to prepare a report on the outcome of the panel discussion in the form of a summary.

HRC res 19/19 (23 March 2012). Protection of human rights and fundamental freedoms while countering terrorism

4. *Deeply deplores* the suffering caused by terrorism to the victims and their families, and expresses its profound solidarity with them, and stresses the importance of providing them with proper support and assistance;

5. *Welcomes* the holding, on 1 June 2011 and pursuant to decision 16/116 of the Human Rights Council, of a panel discussion on the issue of human rights of victims of terrorism, which raised awareness of the importance of addressing the human rights of victims of terrorism in the determined effort by the international community to deal with the scourge of terrorism and as part of a comprehensive counter-terrorism policy that respects human rights and fundamental freedoms...

GA res 66/282 (29 June 2012). The United Nations Global Counter-Terrorism Strategy Review

Recognizing the role that victims of terrorism in all its forms and manifestations can play, including in countering the appeal of terrorism, and emphasizing the need to promote international solidarity in support of victims of terrorism and to ensure that victims of terrorism are treated with dignity and respect,

...

10. *Recognizes* the work done and efforts made by the relevant United Nations bodies and entities and other international, regional, and subregional organizations aimed at supporting, recognizing and protecting the rights of victims of terrorism in all its forms and manifestations, and urges them to step up their efforts to provide, upon request, technical assistance for building the capacity of Member States in the development and implementation of programmes of assistance and support for victims of terrorism;

SC res 2129 (17 December 2013). Threats to international peace and security caused by terrorist acts

Noting the work of the Global Counterterrorism Forum (GCTF), in particular its publication of several framework documents and good practices, including in the areas of countering violent extremism, criminal justice, kidnapping for ransom, providing support to victims of terrorism, and community-oriented policing, to complement the work of the relevant United Nations counterterrorism entities in these areas, and encouraging CTED to continue its interaction with GCTF, in its work with Member States to promote the full implementation of resolutions 1373 (2001) and 1624 (2005),

...

Expressing its profound solidarity with the victims of terrorism and their families, stresses the importance of assisting victims of terrorism, and providing them and their families with support to cope with their loss and grief, recognizes the important role that victims and survivor networks play in countering terrorism, including by bravely speaking out against violent and extremist ideologies, and in this regard, welcomes and encourages the efforts and activities of Member States and the United Nations system, including the Counter-Terrorism Implementation Task Force (CTITF) in this field,

...

16. *Expresses* its profound solidarity with the victims of terrorism and their families, and encourages CTED to take into account the important role that victims and survivor networks can play in countering terrorism, in close cooperation with CTITF and its relevant Working Groups...

GA res 68/178 (18 December 2013). Protection of human rights and fundamental freedoms while countering terrorism

2. *Deeply deplores* the suffering caused by terrorism to the victims and their families, expresses its profound solidarity with them, and stresses the importance of providing them with assistance and other appropriate measures to protect, respect and promote their human rights...

HRC res 25/7 (27 March 2014). Protection of human rights and fundamental freedoms while countering terrorism

4. *Deeply deplores* the suffering caused by terrorism to the victims and their families, and expresses its profound solidarity with them, and stresses the importance of providing them with proper support and assistance;

5. *Recalls* the panel discussion held by the Human Rights Council, pursuant to Council decision 16/116 of 24 March 2011, on 1 June 2011, which raised awareness of the importance of addressing the human rights of victims of terrorism in the determined effort by the international community to deal with the scourge of terrorism and as part of a comprehensive counter-terrorism policy that respects human rights and fundamental freedoms;

GA res 68/276 (13 June 2014). The United Nations Global Counter-Terrorism Strategy Review

Recognizing also the role that victims of terrorism in all its forms and manifestations can play, including in countering the appeal of terrorism, and emphasizing the need to promote international solidarity in support of victims of terrorism and to ensure that victims of terrorism are treated with dignity and respect,

...

Reaffirming the commitment of Member States to take measures aimed at addressing the conditions conducive to the spread of terrorism, including but not limited to prolonged unresolved conflicts, dehumanization of victims of terrorism in all its forms and manifestations, lack of the rule of law and violations of human rights, ethnic, national and religious discrimination, political exclusion, socioeconomic marginalization and lack of good governance, while recognizing that none of these conditions can excuse or justify acts of terrorism,

...

14. *Recognizes* the work done and efforts made by the relevant United Nations bodies and entities and other international, regional and subregional organizations aimed at supporting, recognizing and protecting the rights of victims of terrorism in all its forms and manifestations, and urges them to step up their efforts to provide, upon request, technical assistance for building the capacity of Member States in the development and implementation of programmes of assistance and support for victims of terrorism;

15. *Deeply deplores* the suffering caused by terrorism to the victims of terrorism in all its forms and manifestations and to their families, expresses its profound solidarity with them, encourages Member States to provide them with proper support and assistance while taking into account, inter alia, when appropriate, considerations regarding remembrance, dignity, respect, justice and truth, in accordance with international law;

HRC res 29/9 (2 July 2015). Protection of human rights and fundamental freedoms while countering terrorism

6. *Deeply deplores* the suffering caused by terrorism to the victims and their families, expresses its profound solidarity with them, and stresses the importance of providing them with proper support and assistance;

HRC res 31/30 (20 April 2016). Effects of terrorism on enjoyment of all human rights

13. *Expresses* its solidarity with the victims of terrorism and their families, and acknowledges the importance of protecting their rights and of providing them with proper support and assistance, while taking into account, when appropriate, considerations regarding remembrance, dignity, respect, justice and truth in such a way that promotes accountability and ends impunity, in accordance with international law, and encourages the enhancement of international cooperation and the exchange of expertise in that respect, in accordance with international law;

14. *Encourages* States to provide appropriate assistance and rehabilitation for victims of terrorism in accordance with relevant national laws from within available resources;

...

17. *Requests* the High Commissioner to prepare a report on the negative effects of terrorism on the enjoyment of all human rights and fundamental freedoms, particularly the right to life, liberty and security of person, while paying particular attention to best practices and major challenges in this regard, and to present the report to the Human Rights Council at its thirty-fourth session.

HRC res 34/8 (7 April 2017). Effects of terrorism on the enjoyment of all human rights

3. *Expresses* concern at the alarming number of victims caused by the escalating level of terrorist attacks throughout the globe, resulting in numerous casualties and destruction;

...

16. *Reaffirms* its profound solidarity with the victims of terrorism and their families, and acknowledges the importance of protecting their rights and of providing them with proper support and assistance, while taking into account, when appropriate, considerations regarding remembrance, dignity, respect, justice and truth in such a way that promotes accountability and ends impunity, in accordance with international law, and encourages the enhancement of international cooperation and the exchange of expertise in that respect, in accordance with international law;

...

17. *Encourages* States to provide appropriate assistance and rehabilitation for victims of terrorism in accordance with relevant national laws from within available resources;

HRC res 35/34 (23 June 2017). Protection of human rights and fundamental freedoms while countering terrorism

6. *Deeply deplores* the suffering caused by terrorism to the victims and their families and, while stressing the need to promote and protect the rights of victims of terrorism, in particular women and children, reaffirms its profound solidarity with them, and stresses the importance of providing them with proper support and assistance while respecting, inter alia, considerations regarding remembrance, dignity, respect, accountability, truth and justice, in accordance with international law;

7. *Emphasizes* the need to ensure that victims of terrorism are treated with dignity and respect, stresses the need to promote international solidarity in support of the victims of terrorism, and recognizes the role that victims of terrorism can play, including in countering the appeal of terrorism;

...

9. *Stresses* the importance of ensuring access to justice and accountability, including by developing and maintaining effective, fair, humane, transparent and accountable criminal justice systems, in accordance with applicable international law, as a fundamental basis of any strategy to counter terrorism and violent extremism conducive to terrorism;

...

19. *Reiterates* that, given their potential status as victims of terrorism and of other violations of international law, all children alleged as, accused of or recognized as having infringed the law, particularly those who are deprived of their liberty, as well as child victims and witnesses of crimes, should be treated in a manner consistent with his or her rights, dignity and needs, in accordance with applicable international law, in particular the obligations set out under the Convention on the Rights of the Child, and, bearing in mind relevant international standards on human rights in the administration of justice in this regard, urges Member States to take relevant measures to effectively reintegrate children formerly associated with armed groups, including terrorist groups

GA res 72/165 (19 December 2017). Day of Tribute to Victims of Terrorism

1. *Decides* to proclaim 21 August the International Day of Remembrance of and Tribute to the Victims of Terrorism, in order to honour and support the victims and survivors of terrorism and to promote and protect the full enjoyment of their human rights and fundamental freedoms;

2. *Invites* all Member States, organizations of the United Nations system, within existing resources, as well as other international organizations, and civil society entities, including non-governmental organizations and individuals, to observe the International Day in an appropriate manner;

...

4. *Requests* the Secretary-General to report to the General Assembly at its seventy-third session on the implementation of the present resolution.

GA res 72/180 (19 December 2017). Protection of human rights and fundamental freedoms while countering terrorism

Recalling also its resolution 60/288 of 8 September 2006, by which it adopted the United Nations Global Counter-Terrorism Strategy, and its resolution 70/291 of 1 July 2016 on the review of the United Nations Global Counter-Terrorism Strategy, in which it called upon Member States and the United Nations entities involved in supporting counter-terrorism efforts to continue to facilitate the promotion and protection of human rights and fundamental freedoms, as well as due process and the rule of law, while countering terrorism, reaffirming that the promotion and protection of human rights for all and the rule of law are essential to preventing and combating terrorism, recognizing that effective counter-terrorism measures and the protection of human rights are not conflicting goals but are complementary and mutually reinforcing, and stressing the need to promote and protect the rights of victims of terrorism,

...

2. *Deeply deplores* the suffering caused by terrorism to the victims and their families, expresses its profound solidarity with them, and stresses the importance of providing them with assistance and other appropriate measures to protect, respect and promote their human rights;

...

6. *Calls upon* States to protect the human rights of victims of terrorism, including with regard to their access to justice;

SC res 2395 (21 December 2017). Threats to international peace and security caused by terrorist acts

Reaffirming that the promotion and protection of human rights for all and the rule of law are essential components of counterterrorism, and recognizing that effective counterterrorism measures and the protection of human rights are not conflicting goals, but complementary and mutually reinforcing, and stressing the need to promote and protect the rights of victims of terrorism,

...

24. *Expresses* its profound solidarity with the victims of terrorism and their families, and encourages CTED, in close cooperation with UNOCT, to take into account the important roles victims and their networks can play, including through the credibility of their voices, in countering terrorism;

GA res 72/246 (24 December 2017). Effects of terrorism on the enjoyment of human rights

Reaffirming also that the promotion and the protection of human rights for all and the rule of law are essential to the fight against terrorism, recognizing that effective counter-terrorism measures and the protection of human rights are not conflicting goals, but are complementary and mutually reinforcing, and stressing the need to promote and protect the rights of victims of terrorism,

...

4. *Deeply deplores* the suffering caused by terrorism to the victims of terrorism in all its forms and manifestations and to their families, expresses its profound solidarity with them, and encourages Member States to provide them with proper support and assistance while taking into account, inter alia, when appropriate, considerations regarding remembrance, dignity, respect, justice and truth, in accordance with international law;

...

10. *Reaffirms* its profound solidarity with the victims of terrorism and their families, and acknowledges the importance of protecting their rights and providing them with proper support, assistance and rehabilitation, while taking into account, when appropriate, considerations regarding remembrance, dignity, respect, justice and truth in such a way that promotes accountability and ends impunity, and encourages the enhancement of international cooperation and the exchange of expertise in that respect, in accordance with international law;

HRC res 37/27 (23 March 2018). Terrorism and human rights

Deeply deploring the suffering caused by terrorism to the victims and their families and, while stressing the need to promote and protect the rights of victims of terrorism, in particular women and children, reaffirming its profound solidarity with them and stressing the importance of providing them with proper support and assistance while respecting, inter alia, considerations regarding remembrance, dignity, respect, accountability, truth and justice, in accordance with international law,

...

5. *Reaffirms* its profound solidarity with the victims of terrorism and their families, and acknowledges the importance of protecting their rights and providing them with proper support, assistance and rehabilitation while taking into account, when appropriate, considerations regarding remembrance, dignity, respect, justice and truth in such a way that promotes accountability and ends impunity, and encourages the enhancement of international cooperation and the exchange of expertise in that respect, in accordance with international law;

6. *Stresses* the importance of ensuring access to justice and accountability, and calls upon States to ensure that any person who alleges that his or her human rights or fundamental freedoms have been violated by measures taken or means employed to counter terrorism or violent extremism conducive to terrorism has access to justice, due process and an effective remedy, and that victims of human rights violations and abuses receive adequate, effective and prompt remedy and reparations, which should include, as appropriate, restitution, compensation, rehabilitation and guarantees of non-repetition as a fundamental basis of any strategy to counter terrorism and violent extremism conducive to terrorism;

GA res 72/284 (26 June 2018). UN Global Counter Terrorism Strategy Review

Recognizing the role that victims of terrorism in all its forms and manifestations can play, including in countering the appeal of terrorism, and emphasizing the need to promote international solidarity in support of victims of terrorism and to ensure that victims of terrorism are treated with dignity and respect,

Recalling, in this regard, its proclamation of 21 August as the International Day of Remembrance of and Tribute to the Victims of Terrorism, in order to honour and support the victims and survivors of terrorism and to promote and protect the full enjoyment of their human rights and fundamental freedoms,

...
Reaffirming also the commitment of Member States to take measures aimed at addressing the conditions conducive to the spread of terrorism, including but not limited to prolonged unresolved conflicts, dehumanization of victims of terrorism in all its forms and manifestations, lack of the rule of law and violations of human rights, ethnic, national and religious discrimination, political exclusion, socioeconomic marginalization and lack of good governance, while recognizing that none of these conditions can excuse or justify acts of terrorism,

...
13. *Deeply deplores* the suffering caused by terrorism to the victims of terrorism in all its forms and manifestations and to their families, expresses its profound solidarity with them, and encourages Member States to provide them with proper support and assistance while taking into account, inter alia, when appropriate, considerations regarding remembrance, dignity, respect, justice and truth, in accordance with international law;

14. *Acknowledges* the importance of building the resilience of victims and their families as an integral part of a counter-terrorism strategy, and encourages Member States to include this aspect in their national counter-terrorism strategies, including by providing victims and their families with proper support and assistance immediately after an attack and in the long term and sharing on a voluntary basis best practices and lessons learned related to the protection of victims of terrorism, including regarding the provision of legal, medical, psychosocial or financial support;

...
60. *Recognizes* the work done and efforts made by the relevant United Nations bodies and entities and other international, regional and subregional organizations aimed at supporting, recognizing and protecting the rights of victims of terrorism in all its forms and manifestations, and urges them to step up their efforts to provide, upon request, technical assistance for building the capacity of Member States in the development and implementation of programmes of assistance and support for victims of terrorism;

...
77. *Reiterates* that, given their potential status as victims of terrorism as well as of other violations of international law, all children alleged to have, accused of having or recognized as having infringed the law, particularly those who are deprived of their liberty, as well as child victims and witnesses of crimes, should be treated in a

manner consistent with their rights, dignity and needs, in accordance with applicable international law, in particular obligations under the Convention on the Rights of the Child, and, bearing in mind relevant international standards on human rights in the administration of justice in this regard, urges Member States to take relevant measures to effectively reintegrate children formerly associated with armed groups, including terrorist groups;

GA res 73/174 (17 December 2018). Terrorism and human rights

Deeply deploring the suffering caused by terrorism to the victims and their families, and, while stressing the need to promote and protect the rights of victims of terrorism, in particular women and children, reaffirming its profound solidarity with them and stressing the importance of providing them with proper support and assistance while respecting, inter alia, considerations regarding remembrance, dignity, respect, accountability, truth and justice, in accordance with international law,

Expressing deep concern that acts of sexual and gender-based violence are known to be part of the strategic objectives and ideology of certain terrorist groups and are used as an instrument to increase their power through supporting financing and recruitment and through the destruction of communities,

...

7. *Also reaffirms* its profound solidarity with the victims of terrorism and their families, acknowledges the importance of protecting their rights and providing them with proper support, assistance and rehabilitation while taking into account, when appropriate, considerations regarding remembrance, dignity, respect, justice and truth in such a way that promotes accountability and ends impunity, and encourages the enhancement of international cooperation and the exchange of expertise in that respect, in accordance with international law and the Charter of the United Nations;

8. *Stresses* the importance of ensuring access to justice and accountability, and calls upon States to ensure that any person who alleges that his or her human rights or fundamental freedoms have been violated by measures taken or means employed to counter terrorism or violent extremism conducive to terrorism has access to justice, due process and an effective remedy, and that victims of human rights violations and abuses receive adequate, effective and prompt remedy and reparations, which should include, as appropriate, restitution, compensation, rehabilitation and guarantees of non-repetition as a fundamental basis of any strategy to counterterrorism and violent extremism conducive to terrorism;

HRC res 40/16 (22 March 2019). Mandate of the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism

Expressing deep concern at the perpetration of violations of human rights and fundamental freedoms in the context of the fight against terrorism and at the effects of terrorism on the enjoyment of human rights and fundamental freedoms, notably in respect of victims;

...

2. *Recognizes* the work of the Special Rapporteur in addressing the human rights and fundamental freedoms of victims of terrorism, and encourages the Special Rapporteur to continue to address this issue, in consultation with Governments, the individuals concerned, their families, their representatives and civil society organizations;

GA res 73/305 (2 July 2019). Enhancement of international cooperation to assist victims of terrorism

...

Recalling also the United Nations Global Counter-Terrorism Strategy and the consecutive General Assembly resolutions on the reviews of the Strategy, including their provisions related to victims of terrorism,

Reaffirming the commitment of Member States to taking measures aimed at addressing the dehumanization of victims of terrorism in all its forms and manifestations,

Recognizing the role that victims of terrorism in all its forms and manifestations can play, including in countering the appeal of terrorism, and emphasizing the need to promote international solidarity in support of victims of terrorism and to ensure that victims of terrorism are treated with dignity and respect,

...

Recognizing that victims of terrorism should be treated with compassion and respect for their dignity and have their right to access to justice and redress mechanisms, as provided for in applicable domestic law, fully respected, and that the establishment, strengthening and expansion of funds, as permitted under domestic law, for compensation or reimbursement to victims should be encouraged,

...

Strongly condemning all forms of sexual and gender-based violence, abductions, trafficking in persons, rape, forced marriage, enslavement and other forms of violence perpetrated by terrorist groups, and stressing the importance of bringing perpetrators to justice and addressing the needs of victims, in particular women and children, in this regard,

Deeply deploring the suffering caused by terrorism to the victims and their families, and, while stressing the need to promote and protect the rights of victims of terrorism, in particular women and children, reaffirming its profound solidarity with them and stressing the importance of providing them with proper support and assistance, while respecting, inter alia, considerations regarding remembrance, dignity, respect, accountability, truth and justice, in accordance with international law,

Recognizing the importance of respecting the human rights of victims of terrorism and their families and of providing them with appropriate support and assistance in accordance with applicable law,

Recalling the adoption of its resolution 72/165 of 19 December 2017, entitled "International Day of Remembrance of and Tribute to the Victims of Terrorism", as an important step,

Taking note of the report of the Secretary-General on the International Day of Remembrance of and Tribute to the Victims of Terrorism,

Underlining that victims of terrorism play an important role in the criminal justice process, highlighting the importance of the sharing of good practices in addressing victims' needs after a terrorist attack and during the criminal justice process, and in this regard taking note of the United Nations Office on Drugs and Crime handbook entitled "The Criminal Justice Response to Support Victims of Acts of Terrorism" and publication entitled "Good Practices in Supporting Victims of Terrorism within the Criminal Justice Framework",

Welcoming the United Nations Counter-Terrorism Centre support programme for victims of terrorism for the period 2018–2020, which is focused on raising awareness of victims' issues and strengthening their voices,

Highlighting the importance of effective coordination among relevant governmental offices and agencies and cooperation with civil society organizations providing support and assistance to victims and their families,

1. *Calls upon* all Member States to develop comprehensive assistance plans for victims of terrorism, consistent with domestic law, taking into account a gender perspective, to address the immediate, short-term and long-term needs of victims of terrorism and their families with regard to their relief and rehabilitation, ensuring that they are provided with proper support and assistance, both immediately after an attack and in the long term, including through the sharing of best practices and lessons learned related to the protection of and assistance to victims of terrorism;
2. *Urges* Member States to establish systems of assistance, consistent with domestic law, that would address the needs of victims of terrorism *and* their families and promote and protect their rights, including by partnering with health professionals, emergency planning managers and members of law enforcement, prosecutors' offices and civil society, where applicable, to institutionalize the provision of assistance to victims;
3. *Calls upon* all Member States to consider the impacts of terrorism on women and children and to seek greater consultations, as appropriate, with women and women's organizations when developing their victim assistance plans;
4. *Emphasizes* that the granting of such assistance should be provided, in accordance with domestic law, to victims of terrorist acts regardless of whether the perpetrator of the terrorist act is identified, apprehended, prosecuted or convicted;
5. *Underlines* that, if a victim does not normally reside in the territory of the State in which the terrorist act occurred, that State should cooperate and coordinate with the victim's State of residence in ensuring that the victim receives assistance, in accordance with domestic law;
6. *Stresses* the importance of effective, fair, humane, transparent and accountable criminal justice systems, in accordance with applicable domestic and international law, in supporting victims of terrorism, and encourages Member States to consider victims of terrorism in this regard, including when developing and maintaining appropriate strategies for prosecution, rehabilitation and reintegration and addressing conditions conducive to the spread of terrorism;
7. *Calls upon* the United Nations Office of Counter-Terrorism to further enhance coordination and coherence across the United Nations Global Counter- Terrorism Coordination Compact entities on raising awareness of victims' issues and the delivery of United Nations capacity-building assistance to requesting Member States;
8. *Also calls upon* the United Nations Office of Counter-Terrorism, in particular the United Nations Counter-Terrorism Centre, within *their* respective mandates, to assist requesting Member States in developing their comprehensive assistance plans for victims of terrorism and in building their capacity to assist victims of terrorism;
9. *Reaffirms* the role of the United Nations Office on Drugs and Crime in providing technical assistance for building the capacity of requesting Member States in the development and implementation of programmes of assistance and support for victims of terrorism, in accordance with relevant national legislation, and requests the Office, within its mandate, to continue to enhance its support to Member States, at their request, to improve the criminal justice system response to support victims of acts of terrorism by continuing and enhancing its assistance relating to international legal and judicial cooperation pertaining to countering terrorism and by fostering the development of strong and effective central authorities for international cooperation in criminal matters;

10. *Encourages* the United Nations Global Counter-Terrorism Coordination Compact working group on promoting and protecting human rights and the rule of law while countering terrorism and supporting victims of terrorism to continue to raise awareness of victims' issues and the promotion and protection of victims' rights, including in the criminal justice process, and urges the working group to increase the attention paid to strengthening efforts to build the capacity of requesting Member States and to engagement with relevant civil society organizations to assist and support victims of terrorism in protecting their rights and needs, including the need to have public recognition and to keep their memory alive;

11. *Recognizes* the valuable roles that civil society and the private sector play in supporting victims of terrorism, including by assisting with the provision of assistance and medical, legal and psychosocial support services, by advocating on behalf of victims and by helping victims to bring public awareness to the human impact of terrorist acts, which can also contribute to the prevention of terrorism and the building of resilience and social cohesion;

12. *Also recognizes* the need to continue to provide tangible capacity-building assistance to requesting Member States in building sustainable national systems to assist victims of terrorism, and in this regard stresses the need to contribute more resources for capacity-building projects;

13. *Calls upon* Member States to respect the dignity and legal rights of victims of terrorism, as provided for in domestic law, in criminal litigation and in gaining access to justice, including the right to be considered for witness protection measures and appropriate assistance and support during criminal proceedings, awareness of court proceedings and charges, the right to be treated with fairness and with respect for their dignity and privacy and for their safety from intimidation and retaliation, in particular where they appear as witnesses, the right to full and timely restitution and the ability to address the court and consult with prosecutors;

14. *Takes note* of the United Nations support portal for victims of terrorism, and urges the United Nations to provide relevant information for victims, their families and communities, including but not limited to psychosocial support and access to national criminal justice systems or rehabilitation opportunities offered by Member States;

15. *Requests* the Secretary-General to submit to the General Assembly at its seventy-fourth session a report on the progress made in the implementation of the present resolution, containing an evaluation of the existing United Nations activities regarding victims of terrorism, with a focus on concrete recommendations and, as appropriate, detailed options, including for a voluntarily funded comprehensive programme to support Member States, at their request, in assisting victims of terrorism through national systems.

Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism

First Report to the Commission on Human Rights, E/CN.4/2006/98 (28 December 2005)

64. As a reflection on the full title of his mandate, the Special Rapporteur wishes to point out that the notion of the "promotion and protection of human rights and fundamental freedoms while countering terrorism" does not merely refer to the risk of human rights violations as a side effect of concrete action in the fight against terrorism. The comprehensive remit of his mandate also includes issues such as sustainable strategies to prevent acts of terrorism, inter alia through addressing the "root causes" of terrorism - or, more appropriately, "conditions conducive to terrorism" - and calling for effective protection for the human rights of victims of terrorism and their families

...

66. As to victims of terrorism, the Special Rapporteur wishes to promote a human-rights-based approach to the issue and will return to the matter in his subsequent reports. In his view, victims of terrorism and their families have a human right to an effective remedy, and the corresponding State obligations include a duty to exclude any possibility of impunity for acts of terrorism.

Ten areas of best practices in countering terrorism, A/HRC/16/51 (22 December 2010)

24. Addressing the rights of the victims of terrorism represents a best practice not just because it assists the victims of terrorism to rebuild their lives, but can also help to reduce tensions in society that might themselves result in conditions conducive to recruitment to terrorism. States are recognizing the need for victims of terrorism to be provided with legal status and with protection of their human rights at all times, including their rights to health, legal assistance, justice, truth and adequate, effective and prompt reparation. Some countries allow for the proceeds of sale of terrorist property forfeited to the State to be used to compensate victims of terrorism. Supporting the victims of terrorism who have suffered serious violations of their basic rights includes the provision of material, legal and psychological assistance. Bringing the perpetrators of terrorist acts to justice is also vitally important. With the aim of building bridges between adversely affected groups, compensation to victims of counter-terrorism measures, as a potential remedy under practice 5, should be provided equally and through the same institutions and programmes as compensation to victims of terrorism.

25. The Special Rapporteur formulates the template provisions below as a best practice in the fight against terrorism:

Practice 6. Model provisions on reparations and assistance to victims

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

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

Framework principles for securing the human rights of victims of terrorism, A/HRC/20/14 (4 June 2012)

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 peacebuilding.

Final Report to the Council by Ben Emmerson, A/HRC/34/61 (21 February 2017)

B. Victims of terrorism

13. The Special Rapporteur welcomes some positive developments on this issue since his 2012 report (A/HRC/20/14), in particular the calls from the Human Rights Council to States to ensure that while countering terrorism any person who alleges that his or her human rights or fundamental freedoms have been violated has access to justice, due process and an effective remedy, and that victims of human rights violations receive adequate, effective and prompt reparations, which should include, as appropriate, restitution, compensation, rehabilitation and guarantees of non-recurrence.

14. In 2016, the Counter-Terrorism Implementation Task Force organized a high-level conference on the promotion and protection of the human rights of victims of terrorism. This conference, which took place on 11 February and at which the Special Rapporteur was a keynote speaker, made a significant contribution towards fostering a better understanding of the human rights of victims of terrorism and the ways in which States can better protect and support victims. The formulation by the United Nations Office on Drugs and Crime of “good practices in supporting victims of terrorism within the criminal justice framework” and the Madrid Memorandum on Good Practices for Assistance to Victims of Terrorism Immediately after the Attack and in Criminal Proceedings, adopted by the Global Counterterrorism Forum, are further positive steps in this area. Taken together with the Special Rapporteur’s framework principles, these documents provide comprehensive guidance on the rights of victims of terrorism.

15. Serious challenges nonetheless remain. Perhaps the most significant is the continuing opposition of some States and prominent non-governmental organizations (NGOs) to accepting that non-State armed groups are subject to international human rights obligations. In the current global context, many of the gravest and most widespread human rights violations are perpetrated by or on behalf of non-State armed groups. It is time for anachronistic classifications of the subjects of human rights law to be updated to reflect this reality.⁴

16. No concrete steps have yet been taken to adopt an international instrument enshrining the rights of victims of terrorism. Such an instrument would contribute to a comprehensive and coordinated global counter-terrorism strategy and would ensure that victims of terrorism are not exploited by States for essentially political purposes. An example of this phenomenon is Human Rights Council resolution 31/30, titled “Effects of terrorism on the enjoyment of all human rights”. The resolution was presented as a victim-centred initiative, but many commentators have seen this

⁴ [Editorial note, added by ICJ in this compilation] For counter-arguments on this point, see among other sources: ICJ oral statement on the report on victims of terrorism, <https://www.icj.org/wp-content/uploads/2012/11/ICJ-HRC20-statement-victims-of-terrorism.pdf>, Amnesty International public response to the report on victims of terrorism <https://www.amnesty.org/download/Documents/24000/ior400122012en.pdf> (footnote 7), Amnesty International Written Statement on the report on victims of terrorism, UN Doc A/HRC/20/NGO/103 (19 June 2012), and the Special Rapporteur’s First Report to the Commission on Human Rights, E/CN.4/2006/98 (28 December 2005) paras 68-70.

emphasis as pretextual. As one prominent NGO observed, the resolution “fails to respond to the needs of victims of terrorism, instead instrumentalizing them to weaken the international human rights system that is designed for their protection”.

Country Visit: Spain, A/HRC/10/3/Add.2 (16 December 2008)

44. The Spanish authorities have taken a number of legislative and administrative measures in order to properly address, through material, legal and psychological assistance, the situation experienced by victims of terrorism. Such measures are directed at those who have suffered violent attacks carried out by any terrorist organization in Spain, but also at persons who have been victimized as a result of activities conducted in the name of countering terrorism by GAL in the 1980s. Apart from direct economic support to those personally affected by terrorist attacks, the Spanish Government provides financial subsidies amounting to 1 million EUR per year to associations working in this field.

45. The Special Rapporteur notes, as an element of best practice, that the Spanish authorities regard proper consideration for victims of terrorism as an essential element of the whole framework of counter-terrorism. In addition to financial compensation, much significance is given to moral support for victims of terrorism. The Special Rapporteur was informed of, inter alia, annual ceremonies in honour and in memory of the victims of the Madrid bombings in March 2004. Furthermore, persons affected by terrorism have the possibility to follow court proceedings from a separate room at the Audiencia Nacional, thereby avoiding additional victimization through direct contact with the accused.

46. As a possible element of the work with victims of terrorism, the Special Rapporteur also raised the question of building good community relations between victims of terrorism and those strata of society where there might still exist a degree of sympathy towards those resorting to acts of terrorism. While acknowledging in principle the importance of such measures the Spanish authorities, however, expressed the view that the situation, in particular in the Basque country, was highly sensitive as a consequence of the ongoing threat of violent attacks and killings. Mindful of the unavoidable difficulties met by efforts to prevent polarization and to bridge gaps within societies faced with terrorism, the Special Rapporteur recalls that counteracting any breeding grounds for and recruitment to terrorism is essential in the fight against terrorism.

Country Visit: France, A/HRC/40/52/Add.4 (8 May 2019)

20. The Special Rapporteur particularly acknowledges the exceptional work undertaken and refined by France in respect of victims of terrorism and the legal framework supporting legal protection of and compensation to victims. France provides a model of outstanding positive practice in respect of victims of terrorism. Beginning in the 1980s, France has maintained a comprehensive and robust victims' compensation programme. The Guarantee Fund for Victims of Terrorism and Other Offences is a public service provider with a legal personality. It embodies the principle of national solidarity, supports the legal capacities and autonomy of victims and provides responsive measures to meet the immediate and long-term needs of victims. The robustness of the country's system in respect of victims is enabled by a compulsory levy on property insurance policies. The legal structure and implementing institutions are to be commended for their commitment to compensate all victims regardless of nationality, based on the principle of full reparations. Compensation procedures are generally accessible, transparent and victim-centred. France

compensates both direct and indirect victims of terrorism and recognizes both pecuniary and nonpecuniary harms. The Special Rapporteur notes the organizational pressures that multiple attacks with multiple victims have posed in recent years, and the specificity of responding to younger, millennial victims who were disproportionately affected by the Paris attacks of 2015. She encourages innovation and new tactics to address contemporary needs. The Government has taken proactive steps to memorialize and honour the victims of terrorism, providing important symbolic affirmation to the families of those who have lost their lives. Civil society organizations are well organized and included in planning and responding to victims' needs on a regular basis.

Country Visit: Belgium, A/HRC/40/52/Add.5 (27 February 2019)

D. Victims of terrorism

46. On 22 March 2016 thirty-two persons were killed and over 300 were injured and were direct victims of terrorism. Many others were deeply affected by the attacks, including first responders, family members of those killed and injured, and persons caught up in but not physically injured by the attacks (secondary and indirect victims). The federal government has acknowledged the plight of victims in many ways, including through symbolic affirmation as well as legal and administrative reforms.

47. Despite these efforts, the Special Rapporteur finds that the rights and needs of victims still require significant legal and policy attention. Comprehensively addressing the rights of the victims of terrorism represents best practice not just because it assists victims and survivors to rebuild their lives but can also help reduce polarization in society through building national solidarity.⁵ It is essential that victims of terrorism be provided with legal status and protection of their human rights, including their rights to health, legal assistance, justice, truth and adequate, effective and prompt compensation and other forms of reparation, commemoration and memorialization. Supporting victims of terrorism includes the provision of material, legal, social and psychological assistance. While bringing the Government's attention to the international standards of restitution, compensation, rehabilitation and satisfaction,⁶ the Special Rapporteur voices her concern about ongoing gaps in the framework applicable to victims of terrorism in Belgium. She is deeply concerned about the day-to-day experiences of victims in healthcare, employment, and administrative settings which raise the specter of secondary violations including direct and indirect discrimination.

48. In meetings with victims and survivors, the Special Rapporteur was deeply affected by their reports of a lack of responsiveness to medical, psychological and other needs by the Government in the aftermath of the attacks. Victims felt abandoned and struggled to locate medical and other support while experiencing overwhelming loss, pain and trauma. They faced fragmentation of service provision, discriminations in access to services and support, insufficient training and sensitivity by frontline administrators and service providers, failure of the privatized insurance sector to meet the complexity of victims' needs, as well as stigma and re-traumatization in accessing health, employment and other services. These deficits

⁵ United Nations, *Handbook of Good Practices to Support Victims' Associations in Africa and the Middle East* (2018).

⁶ As affirmed in the 1985 UN Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power; the 2005 Updated Set of principles for the protection and promotion of human rights through action to combat impunity (E/CN.4/2005/102/Add.1); the 2006 UN Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law (A/RES/60/147); and the 2005 Council of Europe Guidelines on the Protection of Victims of Terrorist Acts.

have been acknowledged by the Government, but the Special Rapporteur finds that victims have continued to struggle to access essential entitlements particularly in respect of health and psycho-social needs.

49. The Special Rapporteur notes that a set of laws relating to victims of terrorism have gone through Parliament. These laws aim to bring improvements in some areas relating to assistance and support to victims of terrorism, including by abrogating provisions discriminating between residents and non-residents in respect of victim status and entitlements, and by extending compensation schemes to include citizens and residents of Belgium who have been victims of terrorist attacks abroad. Amendments aim at improving aid schemes available to victims, formally according the State the right of subrogation in favour of victims in relation to insurance companies and improving the procedure before the Commission for Financial Aid to Victims by setting up a specialized department in charge of terrorism-related matters.

50. Notwithstanding these planned improvements, concerns remain, among others in relation to the high level of complexity of the system, including the unrelentingly cumbersome insurance payment scheme that requires constant negotiation and processes of ongoing evaluation for victims (falling particularly harshly on victims of lesser economic means and those with long-term injuries). Furthermore, a series of other persistent barriers to the realization of victims' human rights exist, including the lack of explicit recognition for PTSD as a direct medical consequence of the terrorist attacks and its reported exclusion from insurance compensation; lack of sufficiently specialized medical and psycho-social expertise readily and equally available to all victims; the lack of consistency in provision for health and psycho-social needs; the provision of "one-stop" information without "one-stop services"; and insensitive communications with and a lack of consistent respect for victims in administrative processes by professionals and assessors.

51. The Special Rapporteur welcomes the Government's commitment to implement the recommendations of the Parliamentary Commission of Enquiry into the 22/3 attacks and emphasizes the need to make victims of terrorism an absolute priority in addressing the consequences of terrorist attacks. This includes but is not limited to regulation of insurance entities with consideration to a national guarantee fund administered by the Government to address the short, medium and long-term financial needs of victims. Other priority legal measures may include differences in inheritance rights between regions, parity of legal aid regimes for victims of terrorism across regions and enabling the standing of victims' associations as civil party in criminal proceedings. Working with all established victims' representative organizations will advance this priority. Victims of terrorism bear the deepest hurts and the greatest burdens of terrorist attacks and the Special Rapporteur encourages the greatest efforts to be made on their behalf. The Special Rapporteur is convinced of the broad good will of all political parties to make meaningful reform in this area a priority.

...

86. With a view to ensuring improved compliance with Belgium's human rights obligations in the context of countering terrorism, the Special Rapporteur makes the following recommendations. She recommends that the Government:

...

- (d) Make victims of terrorism an absolute priority in addressing the consequences of terrorist attacks and continue working towards the elimination of persistent barriers to the realization of victims' human rights. The Special Rapporteur emphasizes the importance of meaningful cooperation with established victims' representative organizations in this regard;

Other United Nations Sources

International Convention for the Suppression of the Financing of Terrorism (1999)

2.(1) Any person commits an offence within the meaning of this Convention if that person by any means, directly or indirectly, unlawfully and wilfully, provides or collects funds with the intention that they should be used or in the knowledge that they are to be used, in full or in part, in order to carry out:

(a) An act which constitutes an offence within the scope of and as defined in one of the treaties listed in the annex; or

(b) Any other act intended to cause death or serious bodily injury to a civilian, or to any other person not taking an active part in the hostilities in a situation of armed conflict, when the purpose of such act, by its nature or context, is to intimidate a population, or to compel a government or an international organization to do or to abstain from doing any act.

...

3. This Convention shall not apply where the offence is committed within a single State, the alleged offender is a national of that State and is present in the territory of that State and no other State has a basis under article 7, paragraph 1, or article 7, paragraph 2, to exercise jurisdiction, except that the provisions of articles 12 to 18 shall, as appropriate, apply in those cases.

...

8.(1) Each State Party shall take appropriate measures, in accordance with its domestic legal principles, for the identification, detection and freezing or seizure of any funds used or allocated for the purpose of committing the offences set forth in article 2 as well as the proceeds derived from such offences, for purposes of possible forfeiture.

2. Each State Party shall take appropriate measures, in accordance with its domestic legal principles, for the forfeiture of funds used or allocated for the purpose of committing the offences set forth in article 2 and the proceeds derived from such offences.

...

4. Each State Party shall consider establishing mechanisms whereby the funds derived from the forfeitures referred to in this article are utilized to compensate the victims of offences referred to in article 2, paragraph 1, subparagraph (a) or (b), or their families.

Human Rights Committee, General Comment no. 31 (2004): The nature of the general legal obligation imposed on State parties to the International Covenant on Civil and Political Rights

8. The article 2, paragraph 1, obligations are binding on States [Parties] and do not, as such, have direct horizontal effect as a matter of international law. The Covenant cannot be viewed as a substitute for domestic criminal or civil law. However the positive obligations on States Parties to ensure Covenant rights will only be fully discharged if individuals are protected by the State, not just against violations of Covenant rights by its agents, but also against acts committed by private persons or entities that would impair the enjoyment of Covenant rights in so far as they are amenable to application between private persons or entities. There may be circumstances in which a failure to ensure Covenant rights as required by article 2 would give rise to violations by States Parties of those rights, as a result of States Parties' permitting or failing to take appropriate measures or to exercise due diligence to prevent, punish, investigate or redress the harm caused by such acts by private persons or entities. States are reminded of the interrelationship between the positive obligations imposed under article 2 and the need to provide effective remedies in the event of breach under article 2, paragraph 3. ...

...

15. Article 2, paragraph 3, requires that in addition to effective protection of Covenant rights States Parties must ensure that individuals also have accessible and effective remedies to vindicate those rights. ...A failure by a State Party to investigate allegations of violations could in and of itself give rise to a separate breach of the Covenant. Cessation of an ongoing violation is an essential element of the right to an effective remedy.

16. Article 2, paragraph 3, requires that States Parties make reparation to individuals whose Covenant rights have been violated. Without reparation to individuals whose Covenant rights have been violated, the obligation to provide an effective remedy, which is central to the efficacy of article 2, paragraph 3, is not discharged. In addition to the explicit reparation required by articles 9, paragraph 5, and 14, paragraph 6, the Committee considers that the Covenant generally entails appropriate compensation. The Committee notes that, where appropriate, reparation can involve restitution, rehabilitation and measures of satisfaction, such as public apologies, public memorials, guarantees of non-repetition and changes in relevant laws and practices, as well as bringing to justice the perpetrators of human rights violations.

....

18. Where the investigations referred to in paragraph 15 reveal violations of certain Covenant rights, States Parties must ensure that those responsible are brought to justice. As with failure to investigate, failure to bring to justice perpetrators of such violations could in and of itself give rise to a separate breach of the Covenant. These obligations arise notably in respect of those violations recognized as criminal under either domestic or international law, such as torture and similar cruel, inhuman and degrading treatment (article 7), summary and arbitrary killing (article 6) and enforced disappearance (articles 7 and 9 and, frequently, 6). Indeed, the problem of impunity for these violations, a matter of sustained concern by the Committee, may well be an important contributing element in the recurrence of the violations. When committed as part of a widespread or systematic attack on a civilian population, these violations of the Covenant are crimes against humanity (see Rome Statute of the International Criminal Court, article 7).

**Sub-commission on the Promotion and Protection of Human Rights,
Report of the sessional working group to elaborate detailed principles
and guidelines, with relevant commentary, concerning the promotion
and protection of human rights when combating terrorism,
A/HRC/Sub.1/58/26 (25 August 2006).**

B. Rights of the victims of terrorist acts

22. Mr. Decaux introduced his working paper on the rights of victims of terrorist acts (A/HCR/Sub.1/58/CRP.11), noting that this issue has not been addressed adequately to date. The rights of victims first have been denied by the terrorists who have targeted them, and secondly by States which have been unable to prevent terrorist acts. In his working paper, Mr. Decaux identified a number of issues to be resolved in order to adequately address the rights of victims, such as problems related to the definition of victim and the notion of reparation. Mr. Decaux noted the need for a broad conception of indemnity and suggested that the entire framework for assisting victims required examination, including all forms of reparation. Victims need to be represented by lawyers during criminal proceedings, a problem which raises the issue of discrimination among victims, many of whom may not be in a position to afford legal representation. Mr. Decaux further noted that it may be discriminatory to require victims to obtain reparations from the perpetrators and cited examples of national solidarity funds. He pointed out that assistance could be financial, psychological, medical or spiritual in nature, and that such assistance should be considered on a long-term basis. He noted the importance, above all, of respecting the dignity of victims.

23. Mr. Decaux suggested that the Sub-Commission should develop a compilation of national and regional practices on compensation for victims and proposed a draft questionnaire in this regard. He also noted the Council of Europe's recently adopted recommendation on victims of terrorism. In his working paper, Mr. Decaux noted a number of elements to be explored in addressing the rights of victims, in addition to the question of reparations. These include urgent assistance for the material and psychiatric needs of victims, as well as "spiritual assistance"; long-term assistance including medical and psychological follow-up; the definition of a status for victims; respect for privacy and family life of victims; effective access to justice for victims and the need to ensure that "State secrecy" is not an obstacle to transparency in the conduct of investigations; the role of victims and victims' associations in criminal justice; with regard to reparations, the need to ensure equality and non-discrimination among victims; and the right to justice and to truth.

24. Mr. Decaux also drew attention to a questionnaire that he prepared and attached to his working paper. The questionnaire was directed to States to enable them to focus more on the shortcomings in domestic action to provide civil redress to victims of terrorist acts. This reinforces his goal that these guidelines, as well as State action, fully recognized the rights of the victims as victims.

25. Mr. Salama agreed that victims' rights are often overlooked. He questioned the possibility of introducing a uniform standard, at the international level, on the treatment of individuals, given the variety of legal regimes and definitions of terrorism at national level. He further questioned whether the notion of victims should include victims of grave violations of international humanitarian law. He thought that perhaps the category of victims should be broadened to include them, to ensure equality between victims, and to ensure a balance of power where powerful countries are in a stronger position to bargain. This would also be an indirect deterrent to States promoting terrorism. In any case, the ultimate goal should be to restore dignity to victims. Mr. Salama also noted that only an international fund for victims would allow for equal and non-discriminatory treatment of victims.

26. Mr. Chen commented on the difficulties in defining the notion of victims of terrorism and pointed to the lack of an agreed definition within the United Nations system, suggesting that the Sub-Commission should take this up. He referred to two situations: the first involving direct victims of terrorist acts, including those who have suffered a loss of life, psychological or physical injury, material damage, or loss of wealth; and the second involving indirect victims, for example, companies, such as the ones in the World Trade Center, or tourist agencies whose rights were also violated and are also victims. Then there are other types of victims resulting from large-scale armed attacks and wars to combat terrorism. These acts also violate human rights, and the number and scale of these new victims are greater than the subjects of the original attack. If infrastructure is destroyed, such as roads, schools and hospitals, the entire population in a region has had their economic rights violated, as well as their rights to health and education. So the definition of victim is a very sensitive issue. He also raised the question of the types of actions which would give rise to reparations and stated that the question of reparations was an even more difficult and complex issue than the definition issue and that it needed an in-depth study.

27. Ms. Hampson raised concerns related to the position of the victims of terrorism vis-à-vis other victims of criminal acts, and suggested that there is a potential for discrimination when special funds are established for specific terrorist acts. She questioned whether the source of funding would be from the perpetrators of terrorist acts, or from another source such as the State. While there may be a need for an international system for reparations, there would still be questions related to situations where terrorist acts occur within the territory of one State, or where it is the State itself that is conducting the terrorist activities. With regard to the different legal systems, she suggested that criteria could be identified and then each State could adapt the criteria to its own legal system. She noted that international humanitarian law does identify a situation where a civil claim may be brought against a perpetrator, however it does not require a State to provide access to its own courts by individuals. Moreover, where a foreign State is sued in a local court, the foreign Government can claim sovereign immunity.

28. An observer from Pax Romana highlighted the need to address who pays for immediate emergency care for victims of terrorist acts, including to foreigners and tourists, and to consider victims who suffer as a result of counter-terrorism measures.

29. Ms. Sardenberg Zelner Gonçalves raised a question related to the role of the family in relation to emergency assistance, financial assistance, psychological assistance, rehabilitation and spiritual assistance, as well as how this role might evolve over time.

30. Mr. Decaux said that it is difficult to define the notion of a victim of terrorist acts if there is no agreed definition of terrorism. Mr. Decaux further referred to the important distinction made by Mr. Chen between companies, which normally have insurance, and individuals, who may not. Mr. Decaux also raised the question of whether victims of counter-terrorism measures would be taken into consideration and what would happen in a situation, for example, where instructions are given to shoot down a plane that had been hijacked.

31. With regard to compensation, Mr. Decaux noted that some families may wish to see an investigation that identifies the truth and holds those responsible to account, rather than focusing on monetary compensation. He noted that issues of moral and monetary compensation raise very difficult questions including, for example, issues of discrimination in relation to financial issues. Referring to the point raised by Mr. Salama, he agreed that it would be difficult to have detailed international standards and noted that an international fund would not be realistic, suggesting instead that the focus should be at national level. On the other hand Mr. Decaux referred to the Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and Serious Violations of

International Humanitarian Law (A/RES/60/147), and the Principles for the protection and promotion of human rights through action to combat impunity (E/CN.4/Sub.2/1997/20/Rev.1 and E/CN.4/2005/102/Add.1), and noted the possibility of developing human rights principles and guidelines that would be applicable in very different situations. He suggested the need to identify issues relating to investigation and the right to truth, which are related to principles on impunity.

OHCHR summary of the 1 June 2011 Human Rights Council panel discussion on the issue of human rights of victims of terrorism, A/HRC/19/38 (7 December 2011)

4. In her opening statement, the High Commissioner stressed that the Global Counter-Terrorism Strategy, adopted by the General Assembly in 2006, recognized the need to promote and protect the rights of victims of terrorism. She emphasized that the Symposium on Supporting Victims of Terrorism convened by the Secretary-General in 2008 offered a first occasion for victims of terrorism from around the world to discuss their loss and suggest ways of addressing their needs. The High Commissioner welcomed the fact that the Human Rights Council had requested that the panel discussion seek to build on the recommendations of the Symposium, and pointed out that it was an opportunity for States to share good practices and experience relating to national legislation and policies in responding to the multiple challenges involved when protecting the human rights of victims of terrorism. She highlighted the fact that terrorist acts caused a high number of direct and indirect victims who required immediate assistance and long-term medical and psycho-social support, as well as financial aid. As a point of departure for designing policies and mechanisms to support victims, she referred to the importance of the right to effective remedies and reparation for the harm suffered by them, as embodied in international human rights standards, including the Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power and the Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law. The High Commissioner emphasized that victims of terrorist acts should be provided with information, in a timely, truthful and transparent manner, about the facts and circumstances of the terrorist act and any ensuing investigations and judicial proceedings. The victims should be given the opportunity to effectively participate in judicial proceedings and other mechanisms with the appropriate protection against intimidation, retaliation and arbitrary interference with their right to privacy; victims should also be provided with equal access to justice and appropriate assistance throughout the legal proceedings. Concluding her presentation, the High Commissioner called upon States to put in place comprehensive policies and mechanisms to prevent further terrorist attacks, emphasizing that such measures should address effectively human rights violations, including discrimination, enhance respect for the rule of law and tackle the underlying causes of terrorism, such as the obstacles to the enjoyment of economic, social and cultural rights.

...

6. The Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism, Mr. Scheinin, emphasized the importance of a victim's perspective in a comprehensive and holistic approach to his mandate. He pointed to the responsibility of States in implementing human rights and called for the creation of mechanisms for the effective implementation of human rights obligations, including with respect to non-State actors. The Special Rapporteur referred to his country visits and stated that there was no contradiction between defending the human rights of victims of terrorism and the human rights of persons affected by counter-terrorism measures. It appeared that those Governments ignorant of the human rights violations resulting from their counter-terrorism measures are often also ignorant about the human rights of victims of terrorism. The

Special Rapporteur referred to his report submitted to the Human Rights Council (A/HRC/16/51) on 10 areas of best practice in countering terrorism, in particular practice 6, which stipulates that "damage to natural and legal persons and their property resulting from an act of terrorism or acts committed in the name of countering terrorism shall be compensated through funds from the State budget, in accordance with international human rights law." The practice further provides that "natural persons who have suffered physical or other damage or have suffered violations of their human rights as a result of an act of terrorism or acts committed in the name of countering terrorism shall be provided with additional legal, medical, psychological and other assistance required for their social rehabilitation through funds from the State budget." The Special Rapporteur emphasized that the work undertaken in the field of remedies for gross violations of human rights was applicable and presented best practices in relation to the promotion of the human rights of victims of terrorism, and referred in particular to the Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law. Furthermore, he discussed his country visits to Turkey and Peru, where he found valuable examples for effective collective and individual reparation programmes addressing the needs of both the victims of terrorism and the victims of abusive counter-terrorism measures by State authorities. The Special Rapporteur concluded his presentation by emphasizing that the strategy to bring together victims of terrorism and victims of counter-terrorism measures would help build bridges across political, geographical, religious and ethnic lines to achieve effective and sustainable results in combatting terrorism.

7. The President of the Foundation for Victims of Terrorism of Spain, Ms. Pagazaurtundúa, stated that counter-terrorism policies must scrupulously respect the rule of law. She emphasized that victims of terrorism and the analysis of their human rights were not considered a priority. As a consequence, she called upon the Human Rights Council, supported by OHCHR, to establish the necessary mechanisms to address this shortcoming. She referred to the 1993 Vienna Declaration and Programme of Action, which states that "the acts, methods and practices of terrorism in all its forms and manifestations are activities aimed at the destruction of human rights, fundamental freedoms and democracy." Ms. Pagazaurtundúa called for the adoption of provisions at the international level establishing a legal status for victims of terrorism, encompassing a catalogue of human rights and obligations for States regarding the provision of reparation, access to justice, the prohibition of impunity and victims' participation in judicial proceedings. Such a step was necessary to avoid discrimination of the victims of terrorism vis-à-vis other categories of victims. Highlighting the need for the United Nations and Member States to increase their efforts in the protection of the human rights of victims of terrorism, she called upon the Council to continue its work to developing new standards in that field. The Foundation for Victims of Terrorism would support a resolution of the Council to ensure that the issue of the human rights of victims of terrorism is considered by United Nations human rights mechanisms and procedures. In particular, she called for the establishment of a special procedures mandate to examine the consequences of terrorist acts, the methods and practices of the strategies of terrorist groups and the situation of the human rights of victims of terrorism. In addition, she suggested that the international community fully recognize a universal right to be free of terrorists and terrorist acts of all kinds, and requested States to assess national practices that lead to impunity for terrorist acts and create obstacles for victims of terrorism to obtain reparation.

...

A. Need for a strengthened focus on the human rights of victims of terrorism

11. ... many delegations welcomed the fact that the panel discussion was specifically dedicated to the issue of human rights of victims of terrorism. ...

12. ... Delegations also emphasized the importance of strengthening international cooperation to protect the human rights of victims of terrorism and recalled the provisions of relevant resolutions adopted by the General Assembly, the Commission on Human Rights and the Human Rights Council. In particular, they pointed to the Global Counter-Terrorism Strategy that recognized the need to promote and protect the rights of victims of terrorism.

...

B. Regional and domestic practices for the protection of the human rights of victims of terrorism

14. During the panel discussion, many delegations emphasized that reparation to victims of terrorism was a fundamental aspect of protecting and promoting their human rights, and referred to practices at the regional and national levels.

...

C. Proposals to enhance the protection of the human rights of victims of terrorism

28. Several States and non-governmental organizations supported the idea of a compilation of good practices to strengthen the human rights protection of victims of terrorism. One delegation referred in particular to reparation, compensation, protection of dignity, security, privacy, assistance in criminal proceedings and the rights to justice, truth and memory as areas in which the sharing of good practices was specifically needed.

29. There was also a need for more practical and concrete measures to be taken, especially with regard to compensation-related measures. In this connection, the importance of the creation of a voluntary fund to assist victims of terrorism was underlined by non-governmental organizations. Furthermore, it was emphasized that support at national level should take various forms and go beyond reparation; reference was also made to the importance of material, legal and psychological assistance.

...

30. Some States and non-governmental organizations recommended broadening the scope of the current mandate of the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism to include the issue of the human rights of victims of terrorism. One State called for the establishment of a separate mandate on the promotion and protection of human rights and fundamental freedoms of victims of terrorism. It also suggested that the Human Rights Council adopt, at an upcoming session, a catalogue of the human rights of victims of terrorism. One non-governmental organization proposed that specific legal status be granted to victims of terrorism.

31. The importance of awareness-raising and remembrance initiatives was highlighted throughout the panel discussion. ...

IV. Comments and replies by the panellists

...

33. The Special Rapporteur suggested that the Human Rights Council request the mandate of Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism to prepare a thematic report on the issue of the human rights of victims of terrorism. Mr. Scheinin pointed out that greater support was needed in general from the Council to ensure that the recommendations of special procedures mandate holders were implemented, adding that, instead of creating new mandates, the Council should empower existing ones and strengthen them with follow-up mechanisms.

34. The President of the Foundation for Victims of Terrorism of Spain referred to the complex nature human rights violations resulting from terrorist acts and pointed out that the damage caused by terrorists was both public and private. Ms. Pagazaurtundúa emphasized that Terrorist acts left behind not only private but also public mourning; it was therefore the responsibility of the entire democratic society to stand up to terrorism and face its effects. ...

35. Professor Letschert acknowledged and welcomed the requests of States and non-governmental organizations for concrete recommendations regarding the follow-up. She pointed out that setting up a voluntary fund at the international level would be a concrete step towards addressing the needs of victims of terrorism and urged States to take necessary measures in this regard.

36. The Chief of the Specialized Terrorism Prevention Unit of the Terrorism Prevention Branch of the United Nations Office on Drugs and Crime welcomed the proposal of participants to receive specific guidance and to collect good practices, and referred to the Office's collection of legislative and operational modalities in the field of criminal justice and in supporting victims of terrorism. As an example of a good practice, Mr. Miedico referred to the right to information, which had been addressed in the case of terrorist incidents with a large number of victims through the creation of a webpage for victims of those acts so that they could obtain information about the status of relevant criminal proceedings.

37. The member of the Committee on the Prevention of Torture of the Council of Europe and former Special Rapporteur on violence against women, its causes and consequences pointed to the necessary distinction between random victimization and targeted victimization by terrorist acts, which required different strategies with regard to the protection of victims. Ms. Ertürk endorsed the call of the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism for greater support by the Human Rights Council in relation to the implementation of recommendations made by special procedures mandate holders, rather than creating new mandates.

V. Concluding remarks by the moderator

38. The President of the Human Rights Council concluded that the discussion had been enlightening and had raise the awareness of participants of the fact that, in the determined effort to deal with the scourge of terrorism, addressing the human rights of victims of terrorism must be an essential component.

UNODC, The Criminal Justice Response to Support Victims of Acts of Terrorism (2012)

The [handbook](#) provides an overview of international and regional declarations and legislation related to addressing the needs of victims of terrorism or other serious crimes in criminal justice proceedings, and gives guidance on:

- Incorporation of rights of victims of acts of terrorism in the criminal justice system at the national level, particularly:
 - Recognition of the status of victims within the criminal justice system;
 - Access to justice for victims of acts of terrorism;
 - Protection during criminal proceedings;
 - Integral Reparation.
- Improving the criminal justice system's response to support victims of acts of terrorism.

UNODC, Good Practices in supporting victims of terrorism within the Criminal Justice Framework (2015)

[Pursuant to GA Res 68/187 of 18 December 2013, the UNODC hosted an expert meeting, 24 – 25 November 2014, and subsequently issued this [publication](#). Among recommended practices in the document are the following:]

Legal framework, institutional capacity and coordination.

- States should develop, in consultation with victims, civil society, victims' associations and relevant experts, government strategies, policies and legislation for providing effective responses to support victims of terrorism within the criminal justice framework.
- States should establish victim support specialists, focal points or liaison persons within criminal justice agencies.
- States should establish procedures and practices, such as for identifying the immediate actions to be taken and designating the agencies to take charge of each intervention, to be followed by law enforcement and criminal justice agencies when responding to acts of terrorism, particularly with regard to potential victims.
- The use of multidisciplinary crisis response teams can help promote a victim-centred approach. States should be prepared, from a wide professional perspective, to deal with the needs of victims and their families immediately after a terrorist attack.
- States should ensure that victims, in accordance with their needs, have access to confidential victim support services free of charge, before, during and for an appropriate time after criminal proceedings.
- Victims of terrorism should be provided, free of charge, access to translation or interpretation services necessary for effective interaction with responsible agencies from another State.

Assistance and support for victims of terrorism during criminal investigations and prosecutions.

The need for a victim-centred approach to the investigation and prosecution of acts of terrorism.

- States should ensure that victim support professionals are assigned to victims at an early stage of the investigation to inform them of all available support services, identify their needs and, if necessary, facilitate referrals or initial contact with service providers.
- States should ensure that investigators, prosecutors and other specialists (e.g., medical practitioners) limit, as much as possible, the number of interviews with victims and the number of medical examinations undergone by victims.
- States should ensure that prosecutors trained in dealing with victims of terrorism are included in multidisciplinary teams, in which all members have been vetted for security purposes, to work with investigators, in order to increase the likelihood of successful prosecution outcomes and improved outcomes for victims.
- States should ensure that trained victim and witness coordinators or advocates serve as the primary contact point for victims, in order to answer victims' questions and provide information pertaining to the case, or to arrange referrals to support services.
- States should ensure that investigators, prosecutors and any other professionals dealing with victims receive specific victim-sensitive training on

the needs of victims, strategies for appropriately dealing with them and the need to prevent secondary victimization.

Access to justice, legal advice, representation and participation.

- States should establish mechanisms for the early identification and registration of, and contact with, victims in a manner consistent with international law and national data protection laws.
- States should ensure that criminal investigations into alleged acts of terrorism are commenced promptly and carried out expeditiously, thoroughly and in a manner that ensures public accountability. Victims should be provided with accurate and timely information pertaining to the investigation and its likely outcomes.
- States should ensure that victims are promptly informed of their right to access to justice, the avenues available to them and related services (e.g., interpretation, legal advice). Such services should be provided at no cost to the victim.
- States should ensure that criminal proceedings, including appeals, are conducted expeditiously.
- States should ensure that victims are contacted and provided with updated and detailed information prior to and during the criminal proceedings.
- Victim safety is paramount. Risks to the safety of victims should be assessed throughout the investigation and prosecution, and, where necessary, States should take measures to protect victims during their participation in the criminal justice system.
- Where victims are required or wish to attend court hearings, States should take measures to prevent or reduce the risk of their having personal contact with defendants and their families or supporters.
- Where necessary, States should provide interpretation of court proceedings at no cost to victims or their next of kin.
- States should ensure that, under national laws, victims have a clear legal right to participate actively in criminal proceedings. Such a right may entail their being separately represented or having their interests fully considered and represented in court by the prosecutor.
- In States where the direct participation of victims is not foreseen, existing mechanisms for their representation within the national prosecuting authority and legal system may be available or considered.
- States should develop a procedure in their own national laws or criminal procedural codes whereby victims are entitled to ask for a review of a decision not to prosecute.
- Victims or their next of kin should be provided with legal aid at no cost to facilitate their representation in court proceedings.

Information, personal privacy and dealing with the media.

- States should ensure that victims have the right to protection from unreasonable intrusions into their personal privacy by the media or public.
- States should provide remedies for victims against the media for breaches of privacy, when necessary, through cessation, rectification actions or sanctions.
- States should encourage the media to adopt self-regulatory measures to ensure victim-sensitive coverage (e.g., media guidelines or standards developed by the industry in consultation with the Government, civil society

and victim support professionals).

- States should involve the media in other specific tasks aimed at raising awareness of the vulnerability of victims, their needs and the potential risk of secondary victimization.
- States should ensure that victims are provided with information when dealing with the media.
- States should ensure that officials dealing with or providing information to victims are given specific training on victim-sensitive approaches.

Restitution, reparation and financial compensation.

- States should ensure that victims have the right to timely and fair restitution, reparation and compensation.
- States should ensure that judges are under a mandatory obligation to order a report on the financial means of a defendant after a criminal conviction, and that they have the right to make an order for reparation or restitution to the victims.
- States should ensure that financial intelligence units and investigators are trained on the need to investigate, trace and present to judges reports on the defendant's financial means and ability to pay restitution or reparation.
- States should consider providing forms of indirect financial assistance to victims (e.g., free or subsidized education, medical care or housing assistance; employment training and opportunities; and tax reductions).
- States should consider establishing national victims' funds, resourced by proceeds derived from assets seized in accordance with legislative provisions from persons convicted of serious crimes related to terrorism or legal entities that have been restrained and forfeited, having been found civilly liable for financing terrorist activities.
- States should consider other means of resourcing a publicly administered fund for victims of terrorism (e.g., levies on life insurance policies or fines assessed or imposed by the courts when sentencing for criminal convictions).
- States should consider prohibiting the sale or marketing of life insurance policies that exclude coverage for acts of terrorism.
- States should ensure that victims receive equal treatment in their status as beneficiaries of a compensation scheme, according to the harm suffered, regardless of their individual circumstances and nationality.

The role of victims' associations and civil society.

- States should work closely with civil society organizations, including recognized and active non-governmental organizations working with victims of crime, in particular in policymaking initiatives, information and awareness-raising campaigns, research and education programmes, and training, as well as in monitoring and evaluating the impact of measures to support and protect victims of terrorism.
- States should promote and support civil society and non-governmental organizations involved in providing support to victims of terrorism within the criminal justice system.
- In order to increase transparency, States should review the basis and implementation of grants awarded to non-governmental organizations providing support to victims, in order to monitor and evaluate the technical quality of the support offered, as well as to enhance mutual collaboration, coordination and communication between Governments and non-

governmental actors.

- States should encourage government agencies to coordinate with suitable civil society and non-governmental organizations in order to improve the coordination and delivery of justice-related services to support victims of terrorism.
- States should support the actions of victims' associations and civil society to highlight the human cost of terrorism, for example through public displays.

International Cooperation.

- States should have measures in place to ensure that victims of terrorism who are foreign nationals have the same entitlements to assistance and support as local nationals and can access all relevant support services.
- When facilitating international cooperation requests, States should pay due regard to the status, role and rights of victims of terrorism, including those who are foreign nationals, within the criminal justice framework.
- States should ensure that their embassies, consulates and other international diplomatic posts are able to provide effective assistance and support to their nationals who might become victims of terrorism abroad, and have the capacity to cooperate with key government and private sector counterparts and actors.

Report of the UN Conference on Human Rights of Victims of Terrorism (2016)

[The UN CTC and CTITF Working Group on Supporting and Highlighting Victims of Terrorism, in collaboration with the Special Rapporteur, hosted a global conference on the human rights of victims of terrorism, with the aim of contributing to policy and legal developments in this area. The conference, held 11 February 2016, was guided by the. The conference was organized into four major thematic areas: (I) Obligations of national authorities to prevent and respond to terrorist acts, (II) Rights of victims of terrorism within the criminal justice process, (III) Reparation to victims of terrorism for acts of terrorism, (IV) The role of victims in preventing violent extremism. The conference put forward 14 [recommendations](#) for Member States to uphold their international obligations, based on Special Rapporteur's *Framework Principles for securing the human rights of victims of terrorism*:]

Global

1. Accord victims of terrorism special status, preferably through an international instrument, that recognises their needs and rights.
2. Support associations of victims of terrorism, including through supporting women victims associations, to ensure their full participation in international, regional and national efforts to prevent the spread of violent extremism and to ensure their rights and voices are respected.
3. Develop good practices in supporting victims of terrorism in the criminal justice process and share them with States, regional, and international organisations.
4. Establish mechanisms for compensation and restitution to help victims of terrorism in the short, medium and long term, including access to basic social needs, employment, etc.
5. Support should be provided to States who do not have fully functioning structures in place to establish appropriate reparation systems, including the establishment of proper, fully functioning, well-resourced rehabilitation programmes.

Regional

6. Develop guidelines to support victims of terrorism who wish to be part of the counternarrative to ensure that their safety and recovery are not undermined.
7. Develop and strengthen, through training and capacity building assistance, the counternarrative messaging skills of victims and to develop effective long-term communication strategies in this area.
8. Undertake research involving victims of terrorism, civil society groups, and NGOs that support victims of terrorism, to compile data on specific victims' needs, especially taking into account the needs of women and girls, and in particular victims of sexual violence by terrorist groups, in order to develop and establish restitution mechanisms and formulate proper policy recommendations that are relevant to their needs over the short, medium and long term.

National

9. Recognise and mainstream victims' rights into States' counter-terrorism measures and ensure that all efforts and approaches of Member States to this effect remain centred on victims.
10. Develop and establish resource kits for communities impacted by terrorism and violent extremism that include information on how to deal with terrorist attacks as well as provide guidance on good practices to communities on establishing resilient measures after a terrorist attack.
11. Provide all forms of protection, including physical and psychological, by Member States to victims of terrorism and witnesses when testifying during trial proceedings.
12. Ensure that there are independent, prompt, impartial and effective investigations by States into all acts of terrorism with the full participation of victims of terrorism in all stages of the criminal justice process.

High Commissioner's report on Negative effects of terrorism on enjoyment of human rights and fundamental freedoms, A/HRC/34/30 (30 December 2016)

B. Ensuring respect for the human rights of victims

48. In its 2016 review of the United Nations Global Counter-Terrorism Strategy, the General Assembly deeply deplored the suffering caused by terrorism in all its forms and manifestations to the victims and to their families. It expressed its profound solidarity with them and encouraged Member States to provide them with proper support and assistance while taking into account, *inter alia*, when appropriate, considerations regarding remembrance, dignity, respect, justice and truth, in accordance with international law.⁷ In their contributions to the present report, several States referred to the human rights of victims, including the importance of victim support and protection as provided for in Constitutions, national laws and regional directives.

49. The Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power defines "victims" as:

'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 or omissions that are in

⁷ See UNGA resolution 70/291, para 24.

violation of criminal laws operative within Member States, including those laws proscribing criminal abuse of power.⁸

A person may be considered a victim "regardless of whether the perpetrator is identified, apprehended, prosecuted or convicted and regardless of the familial relationship between the perpetrator and the victim". The term "victim" may also include "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".⁹

50. The Declaration outlines the minimum standards for the fair treatment of victims according to the basic principles of justice. Victims should be treated with compassion and respect for their dignity; be informed of their rights in seeking redress; have their views and concerns presented in legal proceedings; receive proper assistance throughout the legal process; be protected against intimidation and retaliation; have their privacy protected; be offered the opportunity to participate in informal mechanisms for the resolution of disputes, including mediation; enjoy restitution and compensation, as appropriate; and receive the necessary material, medical, psychological and social assistance.

51. Furthermore, the Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law underscore the need for victims to be treated with humanity and respect for their dignity and their human rights, and emphasize that appropriate measures should be taken to protect their safety, physical and psychological well-being and privacy, as well as those of their families. The remedies to be made available to victims of violations of international human rights and humanitarian law are also outlined. These include the victim's right to equal and effective access to justice, effective and prompt reparation for harm suffered, and access to relevant information concerning the violations and reparation mechanisms. More specifically, the Basic Principles and Guidelines outline States' obligations to provide reparation to victims for acts or omissions that may be attributed to the State and that constitute gross violations of international human rights law or serious violations of international humanitarian law. Furthermore, States should endeavour to establish national programmes for reparation and other assistance to victims, if the parties liable for the harm suffered are unable or unwilling to meet their obligations.¹⁰

52. In her opening statement to a Human Rights Council panel discussion, held on 1 June 2011, the former High Commissioner for Human Rights highlighted that victims of terrorist acts required immediate assistance and long-term medical and psychosocial support, as well as financial aid. She emphasized that victims of terrorist acts should be provided with information, in a timely, truthful and transparent manner, about the facts and circumstances of the terrorist act and any ensuing investigations and judicial proceedings. Victims should be given the opportunity to effectively participate in judicial proceedings and other mechanisms with the appropriate protection against intimidation, retaliation and arbitrary interference with their right to privacy. Victims should also be provided with equal access to justice and appropriate assistance throughout the legal proceedings.¹¹

53. Wherever there is credible evidence to suggest that there have been violations of human rights in the context of counter-terrorism, States must conduct prompt, independent, impartial and thorough investigations. Where these investigations result in establishing that a violation has occurred, victims must be afforded effective redress, including payment of compensation to individuals who have been denied due process, particularly in cases of excessive pretrial detention, which would also prevent

⁸ UNGA resolution 40/34, annex, para 1.

⁹ *Ibid*, para 2.

¹⁰ UNGA resolution 60/147, annex, para. 16.

¹¹ See A/HRC/19/38, para 4.

the fostering of resentment among aggrieved individuals and their families as a result of unfair or even illegal practices. In addition to providing a concrete form of remedy, payment of compensation could also serve as an investment in future stability by recognizing State fault.

54. Alongside such payments, care should also be taken to ensure that necessary legal reforms to avoid repeat cases of breaches of due process are also implemented in a timely fashion and seen as an essential element of the guarantee of non-recurrence. Oversight processes, adequate checks and balances, and effective complaints mechanisms are essential to ensuring that the use of counter-terrorism powers is narrowly and appropriately tailored to achieve specific ends and is not deployed in an over-broad or oppressive fashion. While non-judicial mechanisms may have potential value, there should always be the possibility for victims to have recourse to judicial remedies.¹²

IV. Conclusions and recommendations

...

58. The human rights of victims of terrorism need to be respected, including their rights to reparation, truth and justice as well as their right to live free from fear and be provided with the support they require. Victims need immediate assistance but also long-term medical and psychosocial support, as well as financial support to compensate the destruction of their property or loss of their livelihood and jobs. Victims should be provided with equal access to justice and an effective remedy, through which they can benefit from adequate and prompt reparation for the harm suffered. With regard to alleged human rights violations in the counter-terrorism context, States must conduct prompt, independent, impartial and thorough investigations. If it is established that a violation has occurred, victims must be afforded effective redress, including payment of compensation to individuals who have been denied due process.

Secretary General's report on Protecting and promoting human rights while countering terrorism, A/72/13 (11 August 2017)

B. Ensuring respect for the human rights of victims

22. Member States have highlighted the importance of ensuring respect for the human rights of victims of terrorism to reparation, truth and justice, as well as their right to live free from fear and be provided with the support they require. The General Assembly, in its resolution 70/291, expressed its profound solidarity with victims and their families and encouraged Member States to provide them with proper support and assistance; and, the Human Rights Council, in its resolution 35/34, underscored that protecting the rights of victims of terrorism required providing them with proper support and assistance, while respecting, inter alia, considerations regarding remembrance, dignity, respect, accountability, justice and truth, in accordance with international law.

23. The Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power (General Assembly resolution 40/34, annex) outlines the minimum standards for the fair treatment of victims according to the basic principles of justice. Victims should be treated with compassion and respect for their dignity; be informed of their rights in seeking redress; have their views and concerns presented in legal proceedings; receive proper assistance throughout the legal process; be protected against intimidation and retaliation; have their privacy protected; be offered the opportunity to participate in informal mechanisms for the resolution of disputes, including mediation; enjoy restitution and compensation, as appropriate; and receive the necessary material, medical, psychological and social assistance. Those elements

¹² See A/HRC/22/26, paras 47-49.

are crucial to ensuring respect for their dignity, whether the abuse to which they have been subjected is at the hands of a State or non-State actor.

24. The Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law (General Assembly resolution 60/147, annex) also underscore that victims should be treated with humanity and respect for their dignity and human rights, and emphasize that appropriate measures should be taken to protect their safety, physical and psychological well-being and privacy, as well as those of their families.

25. States should consider sharing lessons learned and good practices in this regard, including with respect to national legislation, compensation, rehabilitation and assistance schemes and studies in order to better protect and promote the human rights of victims. In February 2016, the United Nations Counter-Terrorism Centre, under the auspices of the Task Force Working Group on Supporting and Highlighting Victims of Terrorism, organized a high-level conference to examine how States could strengthen their national legislation, procedures and practices to better respect the human rights of victims of terrorism, drawing upon the framework principles for securing the human rights of victims of terrorism, developed by the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism. The Task Force Working Group on Promoting and Protecting Human Rights and the Rule of Law while Countering Terrorism has highlighted the need for States to establish national systems of assistance to promote the needs of victims of terrorism and their families, stressing that victims of terrorism who have suffered violations of their rights are entitled to material, legal and psychological assistance.

Secretary General's report on activities related to victims of terrorism, A/73/599 (28 November 2018)

4. Since 2006, the threat of terrorism has spread to an increasing number of regions, with a shift towards attacks against softer targets. While today an increasing number of countries are affected by acts of terrorism, the number of victims has largely been concentrated in a small number of Member States. According to the 2017 Global Terrorism Index published by the Institute for Economics and Peace, Afghanistan, Iraq, Nigeria, Pakistan and the Syrian Arab Republic have accounted for three quarters of all deaths from acts of terrorism since 2013. Meeting the needs and protecting and promoting the rights of victims has become increasingly challenging as terrorists exploit conflict zones and ungoverned territories, seeking to exert control over regions that already suffer from a lack of stability and the absence of the rule of law.

5. The impact of terrorism is most starkly felt at the individual level: terrorist attacks cause death and injury through the use of improvised explosive devices, suicide attacks and, in the most rudimentary fashion, using vehicles, guns and bladed weapons. Many attacks occur in places with a heavy civilian presence, resulting in maximum casualties and instilling widespread fear. Such acts also have a ripple effect on the economic and social rights of the families of victims and survivors, leading to the further marginalization of vulnerable groups and separating communities.

6. Victims of terrorism continue to struggle to have their voices heard and their needs met. Their rights have seldom been upheld, in particular in countries where terrorism has had an adverse effect on State institutions, where basic social services and criminal justice institutions are weak or undermined and where national leaders and key actors are preoccupied in handling the terrorist threat rather than focusing on the victims.

7. The primary responsibility for supporting victims of terrorism and upholding their rights rests with Member States. The United Nations has an important role in supporting Member States in the implementation of pillars I and IV of the United Nations Global Counter-Terrorism Strategy by standing in solidarity with, and providing support to, victims of terrorism and upholding human rights and the rule of law in all counter-terrorism efforts. United Nations entities carry out this mandate to assist Member States by: providing capacity-building and other forms of technical assistance; encouraging their efforts to promote, protect and respect the rights of victims; establishing associations and networks of victims of terrorism; and offering support through coordination with civil society organizations and other actors on the ground.

High Commissioner's report on rights of child victims of terrorism, A/HRC/40/28 (10 January 2019)

V. Conclusions and recommendations

67. The full range of the impacts of terrorism and counter-terrorism on children cannot be addressed in a single report. In addition to the harms examined in the present report, terrorist groups may engage in trafficking, hostage-taking for ransom, harmful traditional practices and other forms of exploitation and abuse of children. Children whose caregivers are accused of terrorist crimes or traumatized by terrorist violence face particular risks. In all cases, international human rights law provides an essential framework for identifying, implementing and evaluating the most effective interventions to protect children and gender considerations should be integrated at all levels.

68. Children have been largely ignored in the counter-terrorism discourse. There is a need for further research on the short- and long-term impacts of terrorism on children and the drivers of terrorist exploitation of children. Counter-terrorism policies and programmes should, however, be grounded in the available empirical evidence, rather than untested theories, such as the narrative of radicalization.

69. States have different legal obligations towards children who are direct victims or witnesses of a terrorist attack, children at risk of association and children associated with terrorist groups. However, children in all of those categories are victims of terrorism. States should ensure that their laws, policies and practices recognise the primary status of children as victims, incorporate the best interests of the child as a primary consideration, ensure the protection of children and fully respect their right to express their views in all matters affecting them.

70. States should ensure that reparation programmes for victims and witnesses of terrorist acts are age- and gender-sensitive. Child victims and witnesses should have access as early as possible to any necessary rehabilitative health care based on their individual needs, including psychosocial and sexual and reproductive health-care services. Reparation programmes should account for the fact that the impact of terrorism on child victims and witnesses may include lost opportunities and ensure that the children affected have access to special educational programmes and skills training. Caregivers of child victims and witnesses should also have access to appropriate support.

Regional and Other Materials

Arab Convention For The Suppression Of Terrorism (1998)

3. Contracting States undertake not to organise, finance or commit terrorist acts or to be accessories thereto in any manner whatsoever. In their commitment to the prevention and suppression of terrorist offence in accordance with their domestic laws and procedures, they shall endeavour:

II.(4) To extend necessary assistance to victims of terrorism;

African Union, Protocol to the OAU Convention on the Prevention and Combating of Terrorism (2004)

3(1). States Parties commit themselves to implement fully the provisions of the Convention. They also undertake, among other things, to:

...

c) identify, detect, confiscate and freeze or seize any funds and any other assets used or allocated for the purpose of committing a terrorist act, and to establish a mechanism to use such funds to compensate victims of terrorist acts or their families.

Council of Europe Convention on the Prevention of Terrorism (CETS No. 196, 2005)

... *Aware of the precarious situation faced by those who suffer from terrorism, and in this connection reaffirming their profound solidarity with the victims of terrorism and their families;*

...

Article 13 – Protection, compensation and support for victims of terrorism

Each Party shall adopt such measures as may be necessary to protect and support the victims of terrorism that has been committed within its own territory. These measures may include, through the appropriate national schemes and subject to domestic legislation, inter alia, financial assistance and compensation for victims of terrorism and their close family members.

European Union, Directive 2012/29/EU of the European Parliament and of the Council (25 October 2012) establishing minimum standards on the rights, support and protection of victims of crime

[Preamble]

(9) Crime is a wrong against society as well as a violation of the individual rights of victims. As such, victims of crime should be recognised and treated in a respectful, sensitive and professional manner without discrimination of any kind based on any ground such as race, colour, ethnic or social origin, genetic features, language, religion or belief, political or any other opinion, membership of a national minority, property, birth, disability, age, gender, gender expression, gender identity, sexual orientation, residence status or health. In all contacts with a competent authority

operating within the context of criminal proceedings, and any service coming into contact with victims, such as victim support or restorative justice services, the personal situation and immediate needs, age, gender, possible disability and maturity of victims of crime should be taken into account while fully respecting their physical, mental and moral integrity. Victims of crime should be protected from secondary and repeat victimisation, from intimidation and from retaliation, should receive appropriate support to facilitate their recovery and should be provided with sufficient access to justice.

...

(12) The rights set out in this Directive are without prejudice to the rights of the offender. The term 'offender' refers to a person who has been convicted of a crime. However, for the purposes of this Directive, it also refers to a suspected or accused person before any acknowledgement of guilt or conviction, and it is without prejudice to the presumption of innocence.

...

(14) In applying this Directive, children's best interests must be a primary consideration, in accordance with the Charter of Fundamental Rights of the European Union and the United Nations Convention on the Rights of the Child adopted on 20 November 1989. Child victims should be considered and treated as the full bearers of rights set out in this Directive and should be entitled to exercise those rights in a manner that takes into account their capacity to form their own views.

...

(16) Victims of terrorism have suffered attacks that are intended ultimately to harm society. They may therefore need special attention, support and protection due to the particular nature of the crime that has been committed against them. Victims of terrorism can be under significant public scrutiny and often need social recognition and respectful treatment by society. Member States should therefore take particular account of the needs of victims of terrorism, and should seek to protect their dignity and security.

(17) Violence that is directed against a person because of that person's gender, gender identity or gender expression or that affects persons of a particular gender disproportionately, is understood as gender-based violence. It may result in physical, sexual, emotional or psychological harm, or economic loss, to the victim. Gender-based violence is understood to be a form of discrimination and a violation of the fundamental freedoms of the victim and includes violence in close relationships, sexual violence (including rape, sexual assault and harassment), trafficking in human beings, slavery, and different forms of harmful practices, such as forced marriages, female genital mutilation and so-called 'honour crimes'. Women victims of gender-based violence and their children often require special support and protection because of the high risk of secondary and repeat victimisation, of intimidation and of retaliation connected with such violence.

...

(19) A person should be considered to be a victim regardless of whether an offender is identified, apprehended, prosecuted or convicted and regardless of the familial relationship between them. It is possible that family members of victims are also harmed as a result of the crime. In particular, family members of a person whose death has been directly caused by a criminal offence could be harmed as a result of the crime. Such family members, who are indirect victims of the crime, should therefore also benefit from protection under this Directive. However, Member States should be able to establish procedures to limit the number of family members who can benefit from the rights set out in this Directive. In the case of a child, the child or, unless this is not in the best interests of the child, the holder of parental responsibility on behalf of the child, should be entitled to exercise the rights set out in this Directive. This Directive is without prejudice to any national administrative procedures required to establish that a person is a victim.

(20) The role of victims in the criminal justice system and whether they can participate actively in criminal proceedings vary across Member States, depending on the national system, and is determined by one or more of the following criteria: whether the national system provides for a legal status as a party to criminal proceedings; whether the victim is under a legal requirement or is requested to participate actively in criminal proceedings, for example as a witness; and/or whether the victim has a legal entitlement under national law to participate actively in criminal proceedings and is seeking to do so, where the national system does not provide that victims have the legal status of a party to the criminal proceedings. Member States should determine which of those criteria apply to determine the scope of rights set out in this Directive where there are references to the role of the victim in the relevant criminal justice system.

(21) Information and advice provided by competent authorities, victim support services and restorative justice services should, as far as possible, be given by means of a range of media and in a manner which can be understood by the victim. Such information and advice should be provided in simple and accessible language. It should also be ensured that the victim can be understood during proceedings. In this respect, the victim's knowledge of the language used to provide information, age, maturity, intellectual and emotional capacity, literacy and any mental or physical impairment should be taken into account. Particular account should be taken of difficulties in understanding or communicating which may be due to a disability of some kind, such as hearing or speech impediments. Equally, limitations on a victim's ability to communicate information should be taken into account during criminal proceedings.

...

(26) When providing information, sufficient detail should be given to ensure that victims are treated in a respectful manner and to enable them to make informed decisions about their participation in proceedings. In this respect, information allowing the victim to know about the current status of any proceedings is particularly important. This is equally relevant for information to enable a victim to decide whether to request a review of a decision not to prosecute. Unless otherwise required, it should be possible to provide the information communicated to the victim orally or in writing, including through electronic means.

...

(28) Member States should not be obliged to provide information where disclosure of that information could affect the proper handling of a case or harm a given case or person, or if they consider it contrary to the essential interests of their security.

(29) Competent authorities should ensure that victims receive updated contact details for communication about their case unless the victim has expressed a wish not to receive such information.

(30) A reference to a 'decision' in the context of the right to information, interpretation and translation, should be understood only as a reference to the finding of guilt or otherwise ending criminal proceedings. The reasons for that decision should be provided to the victim through a copy of the document which contains that decision or through a brief summary of them.

(31) The right to information about the time and place of a trial resulting from the complaint with regard to a criminal offence suffered by the victim should also apply to information about the time and place of a hearing related to an appeal of a judgment in the case.

(32) Specific information about the release or the escape of the offender should be given to victims, upon request, at least in cases where there might be a danger or an identified risk of harm to the victims, unless there is an identified risk of harm to the

offender which would result from the notification. Where there is an identified risk of harm to the offender which would result from the notification, the competent authority should take into account all other risks when determining an appropriate action. The reference to 'identified risk of harm to the victims' should cover such factors as the nature and severity of the crime and the risk of retaliation. Therefore, it should not be applied to those situations where minor offences were committed and thus where there is only a slight risk of harm to the victim.

(33) Victims should receive information about any right to appeal of a decision to release the offender, if such a right exists in national law.

(34) Justice cannot be effectively achieved unless victims can properly explain the circumstances of the crime and provide their evidence in a manner understandable to the competent authorities. It is equally important to ensure that victims are treated in a respectful manner and that they are able to access their rights. Interpretation should therefore be made available, free of charge, during questioning of the victim and in order to enable them to participate actively in court hearings, in accordance with the role of the victim in the relevant criminal justice system. For other aspects of criminal proceedings, the need for interpretation and translation can vary depending on specific issues, the role of the victim in the relevant criminal justice system and his or her involvement in proceedings and any specific rights they have. As such, interpretation and translation for these other cases need only be provided to the extent necessary for victims to exercise their rights.

(35) The victim should have the right to challenge a decision finding that there is no need for interpretation or translation, in accordance with procedures in national law. That right does not entail the obligation for Member States to provide for a separate mechanism or complaint procedure in which such decision may be challenged and should not unreasonably prolong the criminal proceedings. An internal review of the decision in accordance with existing national procedures would suffice.

(36) The fact that a victim speaks a language which is not widely spoken should not, in itself, be grounds to decide that interpretation or translation would unreasonably prolong the criminal proceedings.

(37) Support should be available from the moment the competent authorities are aware of the victim and throughout criminal proceedings and for an appropriate time after such proceedings in accordance with the needs of the victim and the rights set out in this Directive. Support should be provided through a variety of means, without excessive formalities and through a sufficient geographical distribution across the Member State to allow all victims the opportunity to access such services. Victims who have suffered considerable harm due to the severity of the crime could require specialist support services.

(38) Persons who are particularly vulnerable or who find themselves in situations that expose them to a particularly high risk of harm, such as persons subjected to repeat violence in close relationships, victims of gender-based violence, or persons who fall victim to other types of crime in a Member State of which they are not nationals or residents, should be provided with specialist support and legal protection. Specialist support services should be based on an integrated and targeted approach which should, in particular, take into account the specific needs of victims, the severity of the harm suffered as a result of a criminal offence, as well as the relationship between victims, offenders, children and their wider social environment. A main task of these services and their staff, which play an important role in supporting the victim to recover from and overcome potential harm or trauma as a result of a criminal offence, should be to inform victims about the rights set out in this Directive so that they can take decisions in a supportive environment that treats them with dignity, respect and sensitivity. The types of support that such specialist support services should offer could include providing shelter and safe accommodation, immediate medical support, referral to medical and forensic examination for evidence in cases of

rape or sexual assault, short and long-term psychological counselling, trauma care, legal advice, advocacy and specific services for children as direct or indirect victims.

(39) Victim support services are not required to provide extensive specialist and professional expertise themselves. If necessary, victim support services should assist victims in calling on existing professional support, such as psychologists.

(40) Although the provision of support should not be dependent on victims making a complaint with regard to a criminal offence to a competent authority such as the police, such authorities are often best placed to inform victims of the possibility of support. Member States are therefore encouraged to establish appropriate conditions to enable the referral of victims to victim support services, including by ensuring that data protection requirements can be and are adhered to. Repeat referrals should be avoided.

(41) The right of victims to be heard should be considered to have been fulfilled where victims are permitted to make statements or explanations in writing.

(42) The right of child victims to be heard in criminal proceedings should not be precluded solely on the basis that the victim is a child or on the basis of that victim's age.

(43) The right to a review of a decision not to prosecute should be understood as referring to decisions taken by prosecutors and investigative judges or law enforcement authorities such as police officers, but not to the decisions taken by courts. Any review of a decision not to prosecute should be carried out by a different person or authority to that which made the original decision, unless the initial decision not to prosecute was taken by the highest prosecuting authority, against whose decision no review can be made, in which case the review may be carried out by that same authority. The right to a review of a decision not to prosecute does not concern special procedures, such as proceedings against members of parliament or government, in relation to the exercise of their official position.

(44) A decision ending criminal proceedings should include situations where a prosecutor decides to withdraw charges or discontinue proceedings.

(45) A decision of the prosecutor resulting in an out-of-court settlement and thus ending criminal proceedings, excludes victims from the right to a review of a decision of the prosecutor not to prosecute, only if the settlement imposes a warning or an obligation.

(46) Restorative justice services, including for example victim-offender mediation, family group conferencing and sentencing circles, can be of great benefit to the victim, but require safeguards to prevent secondary and repeat victimisation, intimidation and retaliation. Such services should therefore have as a primary consideration the interests and needs of the victim, repairing the harm done to the victim and avoiding further harm. Factors such as the nature and severity of the crime, the ensuing degree of trauma, the repeat violation of a victim's physical, sexual, or psychological integrity, power imbalances, and the age, maturity or intellectual capacity of the victim, which could limit or reduce the victim's ability to make an informed choice or could prejudice a positive outcome for the victim, should be taken into consideration in referring a case to the restorative justice services and in conducting a restorative justice process. Restorative justice processes should, in principle, be confidential, unless agreed otherwise by the parties, or as required by national law due to an overriding public interest. Factors such as threats made or any forms of violence committed during the process may be considered as requiring disclosure in the public interest.

(47) Victims should not be expected to incur expenses in relation to their participation in criminal proceedings. Member States should be required to reimburse

only necessary expenses of victims in relation to their participation in criminal proceedings and should not be required to reimburse victims' legal fees. Member States should be able to impose conditions in regard to the reimbursement of expenses in national law, such as time limits for claiming reimbursement, standard rates for subsistence and travel costs and maximum daily amounts for loss of earnings. The right to reimbursement of expenses in criminal proceedings should not arise in a situation where a victim makes a statement on a criminal offence. Expenses should only be covered to the extent that the victim is obliged or requested by the competent authorities to be present and actively participate in the criminal proceedings.

...

(52) Measures should be available to protect the safety and dignity of victims and their family members from secondary and repeat victimisation, from intimidation and from retaliation, such as interim injunctions or protection or restraining orders.

(53) The risk of secondary and repeat victimisation, of intimidation and of retaliation by the offender or as a result of participation in criminal proceedings should be limited by carrying out proceedings in a coordinated and respectful manner, enabling victims to establish trust in authorities. Interaction with competent authorities should be as easy as possible whilst limiting the number of unnecessary interactions the victim has with them through, for example, video recording of interviews and allowing its use in court proceedings. As wide a range of measures as possible should be made available to practitioners to prevent distress to the victim during court proceedings in particular as a result of visual contact with the offender, his or her family, associates or members of the public. To that end, Member States should be encouraged to introduce, especially in relation to court buildings and police stations, feasible and practical measures enabling the facilities to include amenities such as separate entrances and waiting areas for victims. In addition, Member States should, to the extent possible, plan the criminal proceedings so that contacts between victims and their family members and offenders are avoided, such as by summoning victims and offenders to hearings at different times.

(54) Protecting the privacy of the victim can be an important means of preventing secondary and repeat victimisation, intimidation and retaliation and can be achieved through a range of measures including non-disclosure or limitations on the disclosure of information concerning the identity and whereabouts of the victim. Such protection is particularly important for child victims, and includes non-disclosure of the name of the child. However, there might be cases where, exceptionally, the child can benefit from the disclosure or even widespread publication of information, for example where a child has been abducted. Measures to protect the privacy and images of victims and of their family members should always be consistent with the right to a fair trial and freedom of expression, as recognised in Articles 6 and 10, respectively, of the European Convention for the Protection of Human Rights and Fundamental Freedoms.

(55) Some victims are particularly at risk of secondary and repeat victimisation, of intimidation and of retaliation by the offender during criminal proceedings. It is possible that such a risk derives from the personal characteristics of the victim or the type, nature or circumstances of the crime. Only through individual assessments, carried out at the earliest opportunity, can such a risk be effectively identified. Such assessments should be carried out for all victims to determine whether they are at risk of secondary and repeat victimisation, of intimidation and of retaliation and what special protection measures they require.

(56) Individual assessments should take into account the personal characteristics of the victim such as his or her age, gender and gender identity or expression, ethnicity, race, religion, sexual orientation, health, disability, residence status, communication difficulties, relationship to or dependence on the offender and previous experience of crime. They should also take into account the type or nature and the circumstances of the crime such as whether it is a hate crime, a bias crime or a crime committed with a

discriminatory motive, sexual violence, violence in a close relationship, whether the offender was in a position of control, whether the victim's residence is in a high crime or gang dominated area, or whether the victim's country of origin is not the Member State where the crime was committed.

(57) Victims of human trafficking, terrorism, organised crime, violence in close relationships, sexual violence or exploitation, gender-based violence, hate crime, and victims with disabilities and child victims tend to experience a high rate of secondary and repeat victimisation, of intimidation and of retaliation. Particular care should be taken when assessing whether such victims are at risk of such victimisation, intimidation and of retaliation and there should be a strong presumption that those victims will benefit from special protection measures.

(58) Victims who have been identified as vulnerable to secondary and repeat victimisation, to intimidation and to retaliation should be offered appropriate measures to protect them during criminal proceedings. The exact nature of such measures should be determined through the individual assessment, taking into account the wish of the victim. The extent of any such measure should be determined without prejudice to the rights of the defence and in accordance with rules of judicial discretion. The victims' concerns and fears in relation to proceedings should be a key factor in determining whether they need any particular measure.

(59) Immediate operational needs and constraints may make it impossible to ensure, for example, that the same police officer consistently interview the victim; illness, maternity or parental leave are examples of such constraints. Furthermore, premises specially designed for interviews with victims may not be available due, for example, to renovation. In the event of such operational or practical constraints, a special measure envisaged following an individual assessment may not be possible to provide on a case-by-case basis.

...

(61) Any officials involved in criminal proceedings who are likely to come into personal contact with victims should be able to access and receive appropriate initial and ongoing training, to a level appropriate to their contact with victims, so that they are able to identify victims and their needs and deal with them in a respectful, sensitive, professional and non-discriminatory manner. Persons who are likely to be involved in the individual assessment to identify victims' specific protection needs and to determine their need for special protection measures should receive specific training on how to carry out such an assessment. Member States should ensure such training for police services and court staff. Equally, training should be promoted for lawyers, prosecutors and judges and for practitioners who provide victim support or restorative justice services. This requirement should include training on the specific support services to which victims should be referred or specialist training where their work focuses on victims with specific needs and specific psychological training, as appropriate. Where relevant, such training should be gender sensitive. Member States' actions on training should be complemented by guidelines, recommendations and exchange of best practices in accordance with the Budapest roadmap.

(62) Member States should encourage and work closely with civil society organisations, including recognised and active non-governmental organisations working with victims of crime, in particular in policymaking initiatives, information and awareness-raising campaigns, research and education programmes and in training, as well as in monitoring and evaluating the impact of measures to support and protect victims of crime. For victims of crime to receive the proper degree of assistance, support and protection, public services should work in a coordinated manner and should be involved at all administrative levels — at Union level, and at national, regional and local level. Victims should be assisted in finding and addressing the competent authorities in order to avoid repeat referrals. Member States should consider developing 'sole points of access' or 'one-stop shops', that address victims'

multiple needs when involved in criminal proceedings, including the need to receive information, assistance, support, protection and compensation.

(63) In order to encourage and facilitate reporting of crimes and to allow victims to break the cycle of repeat victimisation, it is essential that reliable support services are available to victims and that competent authorities are prepared to respond to victims' reports in a respectful, sensitive, professional and non-discriminatory manner. This could increase victims' confidence in the criminal justice systems of Member States and reduce the number of unreported crimes. Practitioners who are likely to receive complaints from victims with regard to criminal offences should be appropriately trained to facilitate reporting of crimes, and measures should be put in place to enable third-party reporting, including by civil society organisations. It should be possible to make use of communication technology, such as e-mail, video recordings or online electronic forms for making complaints.

...

(66) This Directive respects fundamental rights and observes the principles recognised by the Charter of Fundamental Rights of the European Union. In particular, it seeks to promote the right to dignity, life, physical and mental integrity, liberty and security, respect for private and family life, the right to property, the principle of non-discrimination, the principle of equality between women and men, the rights of the child, the elderly and persons with disabilities, and the right to a fair trial.

...

CHAPTER 1: GENERAL PROVISIONS

Article 1: Objectives

1. The purpose of this Directive is to ensure that victims of crime receive appropriate information, support and protection and are able to participate in criminal proceedings.

Member States shall ensure that victims are recognised and treated in a respectful, sensitive, tailored, professional and non-discriminatory manner, in all contacts with victim support or restorative justice services or a competent authority, operating within the context of criminal proceedings. The rights set out in this Directive shall apply to victims in a non-discriminatory manner, including with respect to their residence status.

2. Member States shall ensure that in the application of this Directive, where the victim is a child, the child's best interests shall be a primary consideration and shall be assessed on an individual basis. A child-sensitive approach, taking due account of the child's age, maturity, views, needs and concerns, shall prevail. The child and the holder of parental responsibility or other legal representative, if any, shall be informed of any measures or rights specifically focused on the child.

Article 2: Definitions

1. For the purposes of this Directive the following definitions shall apply:

(a) 'victim' means:

(i) a natural person who has suffered harm, including physical, mental or emotional harm or economic loss which was directly caused by a criminal offence;

(ii) family members of a person whose death was directly caused by a criminal offence and who have suffered harm as a result of that person's death;

(b) 'family members' means the spouse, the person who is living with the victim in a committed intimate relationship, in a joint household and on a stable and continuous basis, the relatives in direct line, the siblings and the dependants of the victim;

(c) 'child' means any person below 18 years of age;

(d) 'restorative justice' means any process whereby the victim and the offender are enabled, if they freely consent, to participate actively in the resolution of matters arising from the criminal offence through the help of an impartial third party.

2. Member States may establish procedures:

(a) to limit the number of family members who may benefit from the rights set out in this Directive taking into account the individual circumstances of each case; and

(b) in relation to paragraph (1)(a)(ii), to determine which family members have priority in relation to the exercise of the rights set out in this Directive.

CHAPTER 2: PROVISION OF INFORMATION AND SUPPORT

Article 3: Right to understand and to be understood

1. Member States shall take appropriate measures to assist victims to understand and to be understood from the first contact and during any further necessary interaction they have with a competent authority in the context of criminal proceedings, including where information is provided by that authority.

2. Member States shall ensure that communications with victims are given in simple and accessible language, orally or in writing. Such communications shall take into account the personal characteristics of the victim including any disability which may affect the ability to understand or to be understood.

3. Unless contrary to the interests of the victim or unless the course of proceedings would be prejudiced, Member States shall allow victims to be accompanied by a person of their choice in the first contact with a competent authority where, due to the impact of the crime, the victim requires assistance to understand or to be understood.

Article 4: Right to receive information from the first contact with a competent authority

1. Member States shall ensure that victims are offered the following information, without unnecessary delay, from their first contact with a competent authority in order to enable them to access the rights set out in this Directive:

(a) the type of support they can obtain and from whom, including, where relevant, basic information about access to medical support, any specialist support, including psychological support, and alternative accommodation;

(b) the procedures for making complaints with regard to a criminal offence and their role in connection with such procedures;

(c) how and under what conditions they can obtain protection, including protection measures;

- (d) how and under what conditions they can access legal advice, legal aid and any other sort of advice;
- (e) how and under what conditions they can access compensation;
- (f) how and under what conditions they are entitled to interpretation and translation;
- (g) if they are resident in a Member State other than that where the criminal offence was committed, any special measures, procedures or arrangements, which are available to protect their interests in the Member State where the first contact with the competent authority is made;
- (h) the available procedures for making complaints where their rights are not respected by the competent authority operating within the context of criminal proceedings;
- (i) the contact details for communications about their case;
- (j) the available restorative justice services;
- (k) how and under what conditions expenses incurred as a result of their participation in the criminal proceedings can be reimbursed.

2. The extent or detail of information referred to in paragraph 1 may vary depending on the specific needs and personal circumstances of the victim and the type or nature of the crime. Additional details may also be provided at later stages depending on the needs of the victim and the relevance, at each stage of proceedings, of such details.

Article 5: Right of victims when making a complaint

1. Member States shall ensure that victims receive written acknowledgement of their formal complaint made by them to the competent authority of a Member State, stating the basic elements of the criminal offence concerned.
2. Member States shall ensure that victims who wish to make a complaint with regard to a criminal offence and who do not understand or speak the language of the competent authority be enabled to make the complaint in a language that they understand or by receiving the necessary linguistic assistance.
3. Member States shall ensure that victims who do not understand or speak the language of the competent authority, receive translation, free of charge, of the written acknowledgement of their complaint provided for in paragraph 1, if they so request, in a language that they understand.

Article 6: Right to receive information about their case

1. Member States shall ensure that victims are notified without unnecessary delay of their right to receive the following information about the criminal proceedings instituted as a result of the complaint with regard to a criminal offence suffered by the victim and that, upon request, they receive such information:
 - (a) any decision not to proceed with or to end an investigation or not to prosecute the offender;
 - (b) the time and place of the trial, and the nature of the charges against the offender.

2. Member States shall ensure that, in accordance with their role in the relevant criminal justice system, victims are notified without unnecessary delay of their right to receive the following information about the criminal proceedings instituted as a result of the complaint with regard to a criminal offence suffered by them and that, upon request, they receive such information:

(a) any final judgment in a trial;

(b) information enabling the victim to know about the state of the criminal proceedings, unless in exceptional cases the proper handling of the case may be adversely affected by such notification.

3. Information provided for under paragraph 1(a) and paragraph 2(a) shall include reasons or a brief summary of reasons for the decision concerned, except in the case of a jury decision or a decision where the reasons are confidential in which cases the reasons are not provided as a matter of national law.

4. The wish of victims as to whether or not to receive information shall bind the competent authority, unless that information must be provided due to the entitlement of the victim to active participation in the criminal proceedings. Member States shall allow victims to modify their wish at any moment, and shall take such modification into account.

5. Member States shall ensure that victims are offered the opportunity to be notified, without unnecessary delay, when the person remanded in custody, prosecuted or sentenced for criminal offences concerning them is released from or has escaped detention. Furthermore, Member States shall ensure that victims are informed of any relevant measures issued for their protection in case of release or escape of the offender.

6. Victims shall, upon request, receive the information provided for in paragraph 5 at least in cases where there is a danger or an identified risk of harm to them, unless there is an identified risk of harm to the offender which would result from the notification.

Article 7: Right to interpretation and translation

1. Member States shall ensure that victims who do not understand or speak the language of the criminal proceedings concerned are provided, upon request, with interpretation in accordance with their role in the relevant criminal justice system in criminal proceedings, free of charge, at least during any interviews or questioning of the victim during criminal proceedings before investigative and judicial authorities, including during police questioning, and interpretation for their active participation in court hearings and any necessary interim hearings.

2. Without prejudice to the rights of the defence and in accordance with rules of judicial discretion, communication technology such as videoconferencing, telephone or internet may be used, unless the physical presence of the interpreter is required in order for the victims to properly exercise their rights or to understand the proceedings.

3. Member States shall ensure that victims who do not understand or speak the language of the criminal proceedings concerned are provided, in accordance with their role in the relevant criminal justice system in criminal proceedings, upon request, with translations of information essential to the exercise of their rights in criminal proceedings in a language that they understand, free of charge, to the extent that such information is made available to the victims. Translations of such information shall include at least any decision ending the criminal proceedings related to the criminal offence suffered by the victim, and upon the victim's request, reasons or a

brief summary of reasons for such decision, except in the case of a jury decision or a decision where the reasons are confidential in which cases the reasons are not provided as a matter of national law.

4. Member States shall ensure that victims who are entitled to information about the time and place of the trial in accordance with Article 6(1)(b) and who do not understand the language of the competent authority, are provided with a translation of the information to which they are entitled, upon request.

5. Victims may submit a reasoned request to consider a document as essential. There shall be no requirement to translate passages of essential documents which are not relevant for the purpose of enabling victims to actively participate in the criminal proceedings.

6. Notwithstanding paragraphs 1 and 3, an oral translation or oral summary of essential documents may be provided instead of a written translation on condition that such oral translation or oral summary does not prejudice the fairness of the proceedings.

7. Member States shall ensure that the competent authority assesses whether victims need interpretation or translation as provided for under paragraphs 1 and 3. Victims may challenge a decision not to provide interpretation or translation. The procedural rules for such a challenge shall be determined by national law.

8. Interpretation and translation and any consideration of a challenge of a decision not to provide interpretation or translation under this Article shall not unreasonably prolong the criminal proceedings.

Article 8: Right to access victim support services

1. Member States shall ensure that victims, in accordance with their needs, have access to confidential victim support services, free of charge, acting in the interests of the victims before, during and for an appropriate time after criminal proceedings. Family members shall have access to victim support services in accordance with their needs and the degree of harm suffered as a result of the criminal offence committed against the victim.

2. Member States shall facilitate the referral of victims, by the competent authority that received the complaint and by other relevant entities, to victim support services.

3. Member States shall take measures to establish free of charge and confidential specialist support services in addition to, or as an integrated part of, general victim support services, or to enable victim support organisations to call on existing specialised entities providing such specialist support. Victims, in accordance with their specific needs, shall have access to such services and family members shall have access in accordance with their specific needs and the degree of harm suffered as a result of the criminal offence committed against the victim.

4. Victim support services and any specialist support services may be set up as public or non-governmental organisations and may be organised on a professional or voluntary basis.

5. Member States shall ensure that access to any victim support services is not dependent on a victim making a formal complaint with regard to a criminal offence to a competent authority.

Article 9: Support from victim support services

1. Victim support services, as referred to in Article 8(1), shall, as a minimum, provide:
 - (a) information, advice and support relevant to the rights of victims including on accessing national compensation schemes for criminal injuries, and on their role in criminal proceedings including preparation for attendance at the trial;
 - (b) information about or direct referral to any relevant specialist support services in place;
 - (c) emotional and, where available, psychological support;
 - (d) advice relating to financial and practical issues arising from the crime;
 - (e) unless otherwise provided by other public or private services, advice relating to the risk and prevention of secondary and repeat victimisation, of intimidation and of retaliation.
2. Member States shall encourage victim support services to pay particular attention to the specific needs of victims who have suffered considerable harm due to the severity of the crime.
3. Unless otherwise provided by other public or private services, specialist support services referred to in Article 8(3), shall, as a minimum, develop and provide:
 - (a) shelters or any other appropriate interim accommodation for victims in need of a safe place due to an imminent risk of secondary and repeat victimisation, of intimidation and of retaliation;
 - (b) targeted and integrated support for victims with specific needs, such as victims of sexual violence, victims of gender-based violence and victims of violence in close relationships, including trauma support and counselling.

CHAPTER 3: PARTICIPATION IN CRIMINAL PROCEEDINGS

Article 10: Right to be heard

1. Member States shall ensure that victims may be heard during criminal proceedings and may provide evidence. Where a child victim is to be heard, due account shall be taken of the child's age and maturity.
2. The procedural rules under which victims may be heard during criminal proceedings and may provide evidence shall be determined by national law.

Article 11: Rights in the event of a decision not to prosecute

1. Member States shall ensure that victims, in accordance with their role in the relevant criminal justice system, have the right to a review of a decision not to prosecute. The procedural rules for such a review shall be determined by national law.
2. Where, in accordance with national law, the role of the victim in the relevant criminal justice system will be established only after a decision to prosecute the offender has been taken, Member States shall ensure that at least the victims of serious crimes have the right to a review of a decision not to prosecute. The procedural rules for such a review shall be determined by national law.

3. Member States shall ensure that victims are notified without unnecessary delay of their right to receive, and that they receive sufficient information to decide whether to request a review of any decision not to prosecute upon request.
4. Where the decision not to prosecute is taken by the highest prosecuting authority against whose decision no review may be carried out under national law, the review may be carried out by the same authority.
5. Paragraphs 1, 3 and 4 shall not apply to a decision of the prosecutor not to prosecute, if such a decision results in an out-of-court settlement, in so far as national law makes such provision.

Article 12: Right to safeguards in the context of restorative justice services

1. Member States shall take measures to safeguard the victim from secondary and repeat victimisation, from intimidation and from retaliation, to be applied when providing any restorative justice services. Such measures shall ensure that victims who choose to participate in restorative justice processes have access to safe and competent restorative justice services, subject to at least the following conditions:
 - (a) the restorative justice services are used only if they are in the interest of the victim, subject to any safety considerations, and are based on the victim's free and informed consent, which may be withdrawn at any time;
 - (b) before agreeing to participate in the restorative justice process, the victim is provided with full and unbiased information about that process and the potential outcomes as well as information about the procedures for supervising the implementation of any agreement;
 - (c) the offender has acknowledged the basic facts of the case;
 - (d) any agreement is arrived at voluntarily and may be taken into account in any further criminal proceedings;
 - (e) discussions in restorative justice processes that are not conducted in public are confidential and are not subsequently disclosed, except with the agreement of the parties or as required by national law due to an overriding public interest.
2. Member States shall facilitate the referral of cases, as appropriate to restorative justice services, including through the establishment of procedures or guidelines on the conditions for such referral.

Article 13: Right to legal aid

Member States shall ensure that victims have access to legal aid, where they have the status of parties to criminal proceedings. The conditions or procedural rules under which victims have access to legal aid shall be determined by national law.

Article 14: Right to reimbursement of expenses

Member States shall afford victims who participate in criminal proceedings, the possibility of reimbursement of expenses incurred as a result of their active participation in criminal proceedings, in accordance with their role in the relevant criminal justice system. The conditions or procedural rules under which victims may be reimbursed shall be determined by national law.

Article 15: Right to the return of property

Member States shall ensure that, following a decision by a competent authority, recoverable property which is seized in the course of criminal proceedings is returned to victims without delay, unless required for the purposes of criminal proceedings. The conditions or procedural rules under which such property is returned to the victims shall be determined by national law.

Article 16: Right to decision on compensation from the offender in the course of criminal proceedings

1. Member States shall ensure that, in the course of criminal proceedings, victims are entitled to obtain a decision on compensation by the offender, within a reasonable time, except where national law provides for such a decision to be made in other legal proceedings.
2. Member States shall promote measures to encourage offenders to provide adequate compensation to victims.

Article 17: Rights of victims resident in another Member State

1. Member States shall ensure that their competent authorities can take appropriate measures to minimise the difficulties faced where the victim is a resident of a Member State other than that where the criminal offence was committed, particularly with regard to the organisation of the proceedings. For this purpose, the authorities of the Member State where the criminal offence was committed shall, in particular, be in a position:
 - (a) to take a statement from the victim immediately after the complaint with regard to the criminal offence is made to the competent authority;
 - (b) to have recourse to the extent possible to the provisions on video conferencing and telephone conference calls laid down in the Convention on Mutual Assistance in Criminal Matters between the Member States of the European Union of 29 May 2000 (17) for the purpose of hearing victims who are resident abroad.
2. Member States shall ensure that victims of a criminal offence committed in Member States other than that where they reside may make a complaint to the competent authorities of the Member State of residence, if they are unable to do so in the Member State where the criminal offence was committed or, in the event of a serious offence, as determined by national law of that Member State, if they do not wish to do so.
3. Member States shall ensure that the competent authority to which the victim makes a complaint transmits it without delay to the competent authority of the Member State in which the criminal offence was committed, if the competence to institute the proceedings has not been exercised by the Member State in which the complaint was made.

CHAPTER 4: PROTECTION OF VICTIMS AND RECOGNITION OF VICTIMS WITH SPECIFIC PROTECTION NEEDS

Article 18: Right to protection

Without prejudice to the rights of the defence, Member States shall ensure that measures are available to protect victims and their family members from secondary and repeat victimisation, from intimidation and from retaliation, including against the risk of emotional or psychological harm, and to protect the dignity of victims during questioning and when testifying. When necessary, such measures shall also include procedures established under national law for the physical protection of victims and their family members.

Article 19: Right to avoid contact between victim and offender

1. Member States shall establish the necessary conditions to enable avoidance of contact between victims and their family members, where necessary, and the offender within premises where criminal proceedings are conducted, unless the criminal proceedings require such contact.
2. Member States shall ensure that new court premises have separate waiting areas for victims.

Article 20: Right to protection of victims during criminal investigations

Without prejudice to the rights of the defence and in accordance with rules of judicial discretion, Member States shall ensure that during criminal investigations:

- (a) interviews of victims are conducted without unjustified delay after the complaint with regard to a criminal offence has been made to the competent authority;
- (b) the number of interviews of victims is kept to a minimum and interviews are carried out only where strictly necessary for the purposes of the criminal investigation;
- (c) victims may be accompanied by their legal representative and a person of their choice, unless a reasoned decision has been made to the contrary;
- (d) medical examinations are kept to a minimum and are carried out only where strictly necessary for the purposes of the criminal proceedings.

Article 21: Right to protection of privacy

1. Member States shall ensure that competent authorities may take during the criminal proceedings appropriate measures to protect the privacy, including personal characteristics of the victim taken into account in the individual assessment provided for under Article 22, and images of victims and of their family members. Furthermore, Member States shall ensure that competent authorities may take all lawful measures to prevent public dissemination of any information that could lead to the identification of a child victim.
2. In order to protect the privacy, personal integrity and personal data of victims, Member States shall, with respect for freedom of expression and information and freedom and pluralism of the media, encourage the media to take self-regulatory measures.

Article 22: Individual assessment of victims to identify specific protection needs

1. Member States shall ensure that victims receive a timely and individual assessment, in accordance with national procedures, to identify specific protection needs and to determine whether and to what extent they would benefit from special measures in the course of criminal proceedings, as provided for under Articles 23 and 24, due to their particular vulnerability to secondary and repeat victimisation, to intimidation and to retaliation.
2. The individual assessment shall, in particular, take into account:
 - (a) the personal characteristics of the victim;
 - (b) the type or nature of the crime; and
 - (c) the circumstances of the crime.
3. In the context of the individual assessment, particular attention shall be paid to victims who have suffered considerable harm due to the severity of the crime; victims who have suffered a crime committed with a bias or discriminatory motive which could, in particular, be related to their personal characteristics; victims whose relationship to and dependence on the offender make them particularly vulnerable. In this regard, victims of terrorism, organised crime, human trafficking, gender-based violence, violence in a close relationship, sexual violence, exploitation or hate crime, and victims with disabilities shall be duly considered.
4. For the purposes of this Directive, child victims shall be presumed to have specific protection needs due to their vulnerability to secondary and repeat victimisation, to intimidation and to retaliation. To determine whether and to what extent they would benefit from special measures as provided for under Articles 23 and 24, child victims shall be subject to an individual assessment as provided for in paragraph 1 of this Article.
5. The extent of the individual assessment may be adapted according to the severity of the crime and the degree of apparent harm suffered by the victim.
6. Individual assessments shall be carried out with the close involvement of the victim and shall take into account their wishes including where they do not wish to benefit from special measures as provided for in Articles 23 and 24.
7. If the elements that form the basis of the individual assessment have changed significantly, Member States shall ensure that it is updated throughout the criminal proceedings.

Article 23: Right to protection of victims with specific protection needs during criminal proceedings

1. Without prejudice to the rights of the defence and in accordance with rules of judicial discretion, Member States shall ensure that victims with specific protection needs who benefit from special measures identified as a result of an individual assessment provided for in Article 22(1), may benefit from the measures provided for in paragraphs 2 and 3 of this Article. A special measure envisaged following the individual assessment shall not be made available if operational or practical constraints make this impossible, or where there is an urgent need to interview the victim and failure to do so could harm the victim or another person or could prejudice the course of the proceedings.

2. The following measures shall be available during criminal investigations to victims with specific protection needs identified in accordance with Article 22(1):

- (a) interviews with the victim being carried out in premises designed or adapted for that purpose;
- (b) interviews with the victim being carried out by or through professionals trained for that purpose;
- (c) all interviews with the victim being conducted by the same persons unless this is contrary to the good administration of justice;
- (d) all interviews with victims of sexual violence, gender-based violence or violence in close relationships, unless conducted by a prosecutor or a judge, being conducted by a person of the same sex as the victim, if the victim so wishes, provided that the course of the criminal proceedings will not be prejudiced.

3. The following measures shall be available for victims with specific protection needs identified in accordance with Article 22(1) during court proceedings:

- (a) measures to avoid visual contact between victims and offenders including during the giving of evidence, by appropriate means including the use of communication technology;
- (b) measures to ensure that the victim may be heard in the courtroom without being present, in particular through the use of appropriate communication technology;
- (c) measures to avoid unnecessary questioning concerning the victim's private life not related to the criminal offence; and
- (d) measures allowing a hearing to take place without the presence of the public.

Article 24: Right to protection of child victims during criminal proceedings

1. In addition to the measures provided for in Article 23, Member States shall ensure that where the victim is a child:

- (a) in criminal investigations, all interviews with the child victim may be audiovisually recorded and such recorded interviews may be used as evidence in criminal proceedings;
- (b) in criminal investigations and proceedings, in accordance with the role of victims in the relevant criminal justice system, competent authorities appoint a special representative for child victims where, according to national law, the holders of parental responsibility are precluded from representing the child victim as a result of a conflict of interest between them and the child victim, or where the child victim is unaccompanied or separated from the family;
- (c) where the child victim has the right to a lawyer, he or she has the right to legal advice and representation, in his or her own name, in proceedings where there is, or there could be, a conflict of interest between the child victim and the holders of parental responsibility.

The procedural rules for the audiovisual recordings referred to in point (a) of the first subparagraph and the use thereof shall be determined by national law.

2. Where the age of a victim is uncertain and there are reasons to believe that the victim is a child, the victim shall, for the purposes of this Directive, be presumed to be a child.

CHAPTER 5: OTHER PROVISIONS

Article 25: Training of practitioners

1. Member States shall ensure that officials likely to come into contact with victims, such as police officers and court staff, receive both general and specialist training to a level appropriate to their contact with victims to increase their awareness of the needs of victims and to enable them to deal with victims in an impartial, respectful and professional manner.
2. Without prejudice to judicial independence and differences in the organisation of the judiciary across the Union, Member States shall request that those responsible for the training of judges and prosecutors involved in criminal proceedings make available both general and specialist training to increase the awareness of judges and prosecutors of the needs of victims.
3. With due respect for the independence of the legal profession, Member States shall recommend that those responsible for the training of lawyers make available both general and specialist training to increase the awareness of lawyers of the needs of victims.
4. Through their public services or by funding victim support organisations, Member States shall encourage initiatives enabling those providing victim support and restorative justice services to receive adequate training to a level appropriate to their contact with victims and observe professional standards to ensure such services are provided in an impartial, respectful and professional manner.
5. In accordance with the duties involved, and the nature and level of contact the practitioner has with victims, training shall aim to enable the practitioner to recognise victims and to treat them in a respectful, professional and non-discriminatory manner.

Article 26: Cooperation and coordination of services

1. Member States shall take appropriate action to facilitate cooperation between Member States to improve the access of victims to the rights set out in this Directive and under national law. Such cooperation shall be aimed at least at:
 - (a) the exchange of best practices;
 - (b) consultation in individual cases; and
 - (c) assistance to European networks working on matters directly relevant to victims' rights.
2. Member States shall take appropriate action, including through the internet, aimed at raising awareness of the rights set out in this Directive, reducing the risk of victimisation, and minimising the negative impact of crime and the risks of secondary and repeat victimisation, of intimidation and of retaliation, in particular by targeting groups at risk such as children, victims of gender-based violence and violence in close relationships. Such action may include information and awareness raising campaigns and research and education programmes, where appropriate in cooperation with relevant civil society organisations and other stakeholders.

Global Counterterrorism Forum, Madrid Memorandum on Good Practices for Assistance to Victims of Terrorism Immediately After the Attack and in Criminal Proceedings (2013)

[The Global Counterterrorism Forum (GCTF) is an international Forum of 29 countries and the European Union, independent of the UN. The Madrid Memorandum was drafted by Spain and refined by experts from other member States. It has been referred to by subsequent UNODC and other publications. The [full memorandum](#) contains additional guidance.]

A. General Approach

Good Practice 1: Ensure effective and appropriate coordination among concerned bodies responsible for the provision of direct assistance to victims and their families.

Good Practice 2: Encourage State actions that are focused on victim needs and consistent with a set of guidelines.

Good Practice 3: Enact a legal framework for provision of victim services and rights.

Good Practice 3b: States may also consider providing financial assistance and other forms of reparation, including financial compensation, for victims of terrorism.

Good Practice 3c: States may consider, on request, technical as well as financial support to states dealing with the challenges of providing multi-disciplinary assistance to victims of terrorism.

B. Actions Immediately after the Terrorist Attack

Good Practice 4: Develop a multidisciplinary crisis response team that includes victim assistance professionals.

Good Practice 5: Develop a victim list containing identity and contact information.

Good Practice 6: Protect victims' privacy and confidentiality.

Good Practice 7: Establish accessible crisis services.

Good Practice 8: Provide information about and support in dealing with the media.

C. Actions during the criminal justice process

Good Practice 9: Protect victims in counterterrorism investigations and criminal proceedings.

Good Practice 10: Coordinate assistance to victims.

Good Practice 11: Provide victims with access to justice, including legal aid at no cost, as well as information, as appropriate, about the criminal justice process and the case.

Good Practice 12: Provide victims, when appropriate and in accordance with the relevant national law, with the opportunity to meet directly with the lawyers prosecuting the case.

Good Practice 13: Provide victims with the opportunity to attend court proceedings and, as appropriate, to be accompanied by a victim services professional.

Good Practice 14: Enable participation by victims at appropriate stages of criminal proceedings.

Good Practice 15: Prevent secondary and repeat victimization within the criminal justice process by providing sensitivity training to judges and other participants in the criminal justice system.

Good Practice 16: Provide victims timely, accurate, and complete information about rulings, verdicts, appeals, and the availability of compensation programs.

Good Practice 17: Provide victims with appropriate information when no court hearings are held.

African Union, Recommendations of the AU Symposium on Victims of Terrorist Acts (October 2014)

a) Support and assistance to the victims of terrorist acts

7. Participants emphasized that response measures undertaken by Member States should take into consideration the immediate, medium and long term needs of the victims to ensure their timely and sustainable rehabilitation.

8. Participants called for adequate training to members of the police and first responders including in psychological first aid, essential trauma care, protection of the privacy of the victims, and procedures and measures to identify loss of life as well as identify damage to, and loss of, property. Participants also called for medium and long term responses in the area of physical and psychological rehabilitation, livelihoods support and re-integration.

9. Participants expressed concern that terrorist acts severely impacts women and children, who are often the direct target of terrorist acts or are left without support or guardian as a result thereof. Participants therefore encouraged response mechanisms that are tailored to the needs of the different affected groups.

10. Moreover, the psychological well-being of victims featured as an issue of concern. In this respect, participants recognized the long-term trauma that could result from terrorist acts and which requires sufficient attention and response to mitigate its effects on individual health and reintegration into social and professional life. Moreover, Participants expressed concern over the negative effects of terrorist acts in weaving mistrust among communities and undermining social cohesion. They highlighted the need for justice and inclusive national peace-building processes that takes into consideration the views and contribution of the victims and which also focuses on nation-wide healing in order to ensure sustainable peace and reconciliation.

11. Participants commended the AU Commission for highlighting the plight of victims of terrorist acts, including within the context of the reports presented by the Chairperson of the Commission to the Peace and Security Council, as well as for the convening of the present Symposium. They encouraged the AU Commission to continue with such efforts.

b) Criminal Justice Response to Support Victims of Terrorist Acts

12. Participants noted with satisfaction that a number of Member States have in place laws and practices that guarantee the right of victims to access the criminal justice system and seek redress. This is in addition to good practices in the protection of witnesses and compensation for damages. The discussion also highlighted the need

for Member States to adopt adequate counter-terrorism legislation that clearly defines terrorist acts in line with the 1999 OAU Convention on the Prevention and Combating of Terrorism and the international instruments adopted under the auspices of the UN that deal with terrorism and related crimes.

13. Participants also welcomed the entry into force of the 2004 AU Protocol on the Prevention and Combating of Terrorism, which, inter alia, commits States Parties to identify, detect, freeze and confiscate or seize any funds and any other assets used or allocated for the purpose of committing a terrorist act, and to establish a mechanism to use such funds to compensate the victims or their families. In this regard, Participants also stressed the need for effective national mechanisms to detect such financial flows, including through the establishment of financial intelligence units and other measures to counter the financing of terrorism and money laundering.

14. Furthermore, Participants stressed that criminal proceedings must be conducted with reasonable speed, in line with the African Charter on Human and People's Rights, to guarantee not only the right of the accused, but also to avoid prolonging the suffering of the victims and give them closure and the sense of justice they seek.

15. Participants further encouraged the AU Commission to develop and deliver capacity-building activities to Member States on the international best practices in enhancing the criminal justice response to victims, including on the basis of the AU Model Law on Counter Terrorism.

c) Role of the Media

16. Participants called for an active role for the media in de-legitimizing terrorism through highlighting the plight of victims, while respecting their privacy, and for more responsible media reporting that avoid the glorification of perpetrators. In this regard, Participants encouraged an active role by NetPeace—the network established with AU assistance to facilitate reporting on peace and security issues and African-led efforts by African media -towards promoting such an approach among the media and journalists in Africa.

17. Participants also noted that civil society have effectively deployed the media as a preventative tool, through encouraging reporting and sharing of information on terrorist acts, as well as in promoting peace and tolerance through engaging religious leaders and the wider public.

18. Participants further noted with concern that social media remains a key tool used by terrorist groups for radicalization and recruitment. Participants therefore stressed the urgent need for civil society, including community and religious leaders and authorities, to utilize the media in reaching out to the population and in countering extremist ideology, as well as for preaching peace and tolerance and promoting human rights.

d) Role of the victims of terrorist acts in Countering Violent Extremism

19. Participants recognized that victims have an important role to play in providing a powerful counter-narrative against terrorism and serving as credible messengers against the ideology of violence and hatred. In this regard, Participants commended the initiatives and activities undertaken by associations, including through the media production to ensure that the voices of victims are heard and working with communities and religious leaders and authorities to promote dialogue and peaceful coexistence.

e) Establishment of a Network of African Associations of Victims of Terrorist Acts

20. The victims of terrorist acts and their associations deliberated on, and exchanged, proposals on the objectives, participation and modalities of work of the envisaged network. They were thus encouraged to join efforts towards its establishment.

21. Participants requested the AU Commission to provide the necessary advisory support, as well as to continue to provide a forum for interaction and consultation among the victims of terrorist acts and their associations, Member States, the relevant UN agencies and the international partners.

African Commission on Human and Peoples' Rights: Principles and Guidelines on Human and Peoples' Rights while Countering Terrorism in Africa (2015)

1(F). Obligation to Provide Reparation

States shall provide full and effective reparation to individuals who have suffered physical or other damage or who have suffered violations of their human rights as a result of an act of terrorism or acts committed in the name of countering terrorism. Full and effective reparation should include, where applicable and in light of the damages, restitution, compensation, rehabilitation, satisfaction and guarantees of non-repetition. To facilitate this responsibility, States are encouraged to, in accordance with regional and international human rights standards, establish a funding mechanism to compensate victims of terrorist acts. (See, Principle 10(D), Definition of Terrorism Victim.)

...

10(B): Protection by the State

States shall ensure that witnesses and victims of terrorism and counterterrorism-related human rights abuses; others who provide information to authorities; those conducting any investigation into human rights abuses; judicial officers; journalists and media practitioners; other human rights defenders; and their family members, in particular women and children, are protected from violence, threats of violence, or any other form of intimidation or reprisal from a State agent, suspected terrorist or terrorist group, or other private individual. Where victims of terrorism or counterterrorism-related harm have provided information to the authorities, or are called upon to provide testimony during legal proceedings, 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. This may require States to institute robust systems for witness protection

10(C). Duties to Victims

States shall, in addition to their other duties to victims set out in these Principles and Guidelines, seek out justice for the victims of terrorism through effective official investigations 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. States shall also ensure that victims of terrorism have the right to form representative organizations whose rights to freedom of association and expression must be fully guaranteed.

10(D). Definition of Terrorism Victim

The following persons are to be considered as victims of terrorism: (a) individuals 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.

Council of Europe, Revised Guidelines on the protection of victims of terrorist acts (19 May 2017, replacing initial 2005 version)

- [c] Recognising the suffering endured by the victims of terrorist acts and their close family and considering that these persons must be shown national and international solidarity and support;
- ...
- [g] Underlining that the effects of terrorism on victims and their close family members require at national level the implementation of an efficient protection policy, financial assistance and compensation for victims in light particularly of Article 13 of the Council of Europe Convention on the Prevention of Terrorism, including, in an appropriate way, the societal recognition of the suffering of victims and the maintenance of the duty of remembrance;
- [h] Recalling the Guidelines on the Protection of Victims of Terrorist Acts, adopted on 2nd March 2005 at the 917th meeting of the Ministers' Deputies and wishing to revise them as a response to all forms of terrorism;
- [i] Recalling the United Nations Office on Drugs and Crime handbook of 2012 The Criminal Justice Response to Support Victims of Acts of Terrorism;
- [j] Recognising the important role of associations for the protection of victims;
- ...
- [l] Adopts the following revised Guidelines on the protection of victims of terrorist acts which shall replace the ones adopted on the same subject-matter on 2 March 2005, and invites member States to use them as a practical tool in order to address the above challenges in the light of all forms of terrorism and towards ensuring better protection of human rights and fundamental freedoms;
- [m] Invites the governments of the member States to ensure that the revised guidelines are widely translated and disseminated among all authorities responsible for the fight against terrorism and for the protection of the victims, as well as among representatives of civil society.

I. Purpose of the Guidelines on the protection of victims of terrorist acts

The present Guidelines aim at recalling the measures to be taken by the member States in order to support and protect the fundamental rights of any person who has suffered direct physical or psychological harm as a result of a terrorist act, and, inappropriate circumstances, of their close family. These persons are considered victims for the purposes of these Guidelines.

II. Principles

1. States should have an appropriate legal and administrative framework including suitable internal structures, in order for victims of terrorist acts (hereafter "the victims") to benefit from the services and measures prescribed by these Guidelines.
2. The granting of these services and measures should exclude all forms of arbitrariness, as well as any discriminatory treatment and should not depend on the identification, arrest, prosecution or conviction of the perpetrator of the terrorist act.
3. States must respect the dignity and the private and family life of victims.

III. Emergency assistance

In order to cover the immediate needs of victims, States should ensure that appropriate (medical, psychological, social and material) emergency assistance is available free of charge to them; they should also facilitate access to spiritual assistance for victims at their request.

IV. Information

1. States should give information to victims relating to the act from which they have suffered, except where victims indicate that they do not wish to receive such information.
2. For this purpose, States should:
 - a. set up appropriate information contact points for the victims, concerning in particular their rights, the existence of support bodies, and the possibility of obtaining assistance, practical and legal advice as well as redress or compensation;
 - b. ensure that victims are provided with appropriate information in particular about the investigations, the final decision concerning prosecution, the date and place of the hearings, any opportunity in that context to introduce an action for damages, and the conditions under which they may acquaint themselves with the decisions handed down.

V. Continuing assistance

1. States should provide for appropriate continuing medical, psychological, social and material assistance for victims. This assistance should ensure that victims are able, as far as is practicable, to resume the normal course of their activities and lives which they enjoyed before the terrorist act.
2. If the victim does not normally reside on the territory of the State where the terrorist act occurred, that State should co-operate with the State of residence in ensuring that the victim receives such assistance.

VI. Investigation and prosecution

1. States must effectively investigate terrorist acts without delay, particularly where there have been victims.
2. In this framework, special attention should be paid to victims without it being necessary for them to have made a formal complaint.

3. States should ensure that their investigators receive specific victim-sensitive training on the needs of victims.
4. States should, in accordance with their national legislation, strive to bring individuals suspected of terrorist acts to justice and obtain a decision from a competent, independent and impartial tribunal within a reasonable time.
5. In cases where, as a result of an investigation, it is decided not to take action to prosecute a suspected perpetrator of a terrorist act, States should ensure that victims are able to ask for a review of this decision by a competent authority.
6. States should ensure that the position of victims is adequately recognised in criminal proceedings.

VII. Effective access to the law and to justice

States must provide effective access to the law and to justice for victims by providing the right of access to competent courts in order to bring a civil action in support of their rights, including legal assistance and interpretation as required to this end.

VIII. Compensation

1. Victims should receive fair, appropriate and timely compensation for the damages which they suffered. When compensation is not available from other sources, in particular through the confiscation of the property of the perpetrators, organisers and sponsors of terrorist acts, the State on the territory of which the terrorist act happened should contribute to the compensation of victims for direct physical or psychological harm, irrespective of their nationality. To this end States could consider the creation of specific funds, if they do not already exist.
2. Compensation should be easily accessible to victims, irrespective of nationality. To this end, the State on the territory of which the terrorist act took place should introduce a mechanism allowing for fair and appropriate compensation, after a simple procedure and within a reasonable time.
3. States whose nationals are victims of a terrorist act on the territory of another State should also encourage administrative co-operation with the competent authorities of that State to facilitate access to compensation for their nationals.
4. Apart from the payment of pecuniary compensation, States are encouraged to consider, depending on the circumstances, taking other measures to mitigate the harmful consequences of the terrorist act suffered by the victims.

IX. Protection of private and family life

1. States should take appropriate steps to avoid as far as possible undermining respect for the private and family life of victims, in particular when carrying out investigations or providing assistance after the terrorist act as well as within the framework of proceedings initiated by victims.
2. States should, where appropriate, and in full compliance with the principle of freedom of expression, encourage the media and journalists to adopt self-regulatory measures in order to ensure the protection of the private and family life of victims in the framework of their information and awareness-raising activities.

3. States must ensure that victims have an effective remedy where they raise an arguable claim that their right to respect for their private and family life has been violated.

X. Protection of dignity and security

1. At all stages of the proceedings, victims should be treated in a manner which gives due consideration to their personal situation, their rights and their dignity.
2. States must ensure the protection and security of victims and take measures, where appropriate, to protect their identity, in particular where they appear as witnesses.

XI. Specific training for persons working with victims

States should encourage specific training for persons working with victims, and grant the necessary resources to that effect.

XII. Raising public awareness and involving victims

States are encouraged to:

- a. take measures, in an appropriate way, in order to attain societal recognition and remembrance of victims;
- b. facilitate the involvement of representatives of the victims of terrorist acts in raising public awareness.

UN Counter-terrorism Centre (UNCCT), Good Practices to support victims organizations in Africa & Middle East (2018)

The [handbook](#) is based on the experiences of a range of civil society and victims' support organizations in Africa and the Middle East, organized into four major thematic areas: (I) Building and sustaining resilience at the individual and community level, (II) Financial and non-financial assistance to victims of terrorism, (III) Outreach and advocacy to better support victims' rights, (IV) Raising victims' voices in preventing violent extremism.

Commission Members

March 2019 (for an updated list, please visit www.icj.org/commission)

President:

Prof. Robert Goldman, United States

Vice-Presidents:

Prof. Carlos Ayala, Venezuela

Justice Radmila Dragicevic-Dicic, Serbia

Executive Committee:

Justice Sir Nicolas Bratza, UK

Dame Silvia Cartwright, New Zealand

(Chair) Ms Roberta Clarke, Barbados-Canada

Mr. Shawan Jabarin, Palestine

Ms Hina Jilani, Pakistan

Justice Sanji Monageng, Botswana

Mr Belisário dos Santos Júnior, Brazil

Other Commission Members:

Professor Kyong-Wahn Ahn, Republic of Korea

Justice Chinara Aidarbekova, Kyrgyzstan

Justice Adolfo Azcuna, Philippines

Ms Hadeel Abdel Aziz, Jordan

Mr Reed Brody, United States

Justice Azhar Cachalia, South Africa

Prof. Miguel Carbonell, Mexico

Justice Moses Chinhengo, Zimbabwe

Prof. Sarah Cleveland, United States

Justice Martine Comte, France

Mr Marzen Darwish, Syria

Mr Gamal Eid, Egypt

Mr Roberto Garretón, Chile

Ms Nahla Haidar El Addal, Lebanon

Prof. Michelo Hansungule, Zambia

Ms Gulnora Ishankanova, Uzbekistan

Ms Imrana Jalal, Fiji

Justice Kalthoum Kennou, Tunisia

Ms Jamesina Essie L. King, Sierra Leone

Prof. César Landa, Peru

Justice Ketil Lund, Norway

Justice Qinisile Mabuza, Swaziland

Justice José Antonio Martín Pallín, Spain

Prof. Juan Méndez, Argentina

Justice Charles Mkandawire, Malawi

Justice Yvonne Mokgoro, South Africa

Justice Tamara Morschakova, Russia

Justice Willly Mutunga, Kenya

Justice Egbert Myjer, Netherlands

Justice John Lawrence O'Meally, Australia

Ms Mikiko Otani, Japan

Justice Fatsah Ouguergouz, Algeria

Dr Jarna Petman, Finland

Prof. Mónica Pinto, Argentina

Prof. Victor Rodriguez Rescia, Costa Rica

Mr Alejandro Salinas Rivera, Chile

Mr Michael Sfard, Israel

Prof. Marco Sassoli, Italy-Switzerland

Justice Ajit Prakash Shah, India

Justice Kalyan Shrestha, Nepal

Ms Ambiga Sreenevasan, Malaysia

Justice Marwan Tashani, Libya

Mr Wilder Tayler, Uruguay

Justice Philippe Texier, France

Justice Lillian Tibatemwa-Ekirikubinza, Uganda

Justice Stefan Trechsel, Switzerland

Prof. Rodrigo Uprimny Yepes, Colombia



**Internationa
Commission
of Jurists**

P.O. Box 91
Rue des Bains 33
CH 1211 Geneva 8
Switzerland

t +41 22 979 38 00

f +41 22 979 38 01

www.icj.org