



A victimless crime?

A narrative on terrorism victimization
to build a case for support

by Laura Dolci

Cover photo: Employees at the United Nations headquarters in Baghdad, Iraq, search through the rubble after the suicide attack that set off a bomb explosion in the Canal Hotel, which housed the U.N. Headquarters in Baghdad. UN Photo/AP Photo

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Preface

On 19 August 2003, my husband was killed in the terrorist attack against the United Nations (UN) Headquarters in Baghdad, Iraq. Along with our baby son, on that day I became a victim of terrorism. Unfortunately, we are by now amongst the hundreds of thousands of victims hit directly by international terrorism in all regions of the world.

Thanks to the United Nations Sabbatical Programme and with the support of INTERVICT (International Victimology Institute) of Tilburg University and the Programme for the Study of International Governance of the Graduate Institute of International and Development Studies in Geneva, I was able to analyse in depth the main victimological features of this heinous crime, whose *raison d'être* is the deliberate targeting of unarmed civilians. These pages are about those who happen to be directly affected by this senseless violence; they give them a human face and shed light on the specific consequences of terrorism on their lives and that of their families and communities.

Victims of terrorism are the silent protagonists of our times. They belong to all communities, races, gender, age, professional backgrounds, creeds and latitudes. However, in most countries they are not recognized or supported. At the international level, little has been achieved in the context of the vast UN-led counter-terrorism efforts to provide victims with acknowledgment and concrete assistance.

This work synthesizes different perspectives on terrorism victimization - from human rights to criminal law, from history to psychology. The intention is to take the reader, including UN senior managers and state officials operating at the national and multilateral level, through the experience of terrorism victimization narrated by someone who has lived through it. Each chapter is constructed by juxtaposing my personal account with rigorous research. The concluding chapter puts forward concrete recommendations for action addressed to states, the United Nations, academia and civil society.

Narrative is central to every human existence and to the development of a personal identity. Victimization and trauma can severely disrupt lives and challenge the continuity of one's life story. During these months, pursuing a personal narration combined with academically-informed research has allowed me to pick up all the pieces of my life trajectory, which in the last years has intersected with that of many other victims, and make the story whole again.

This book is a call for action in support of those members of the society who bear the heaviest price for a crime that can never be condoned or justified. This book is for the thousands that are no longer with us, and for their children who deserve a future where violence will not prevail.

Chapter I

The yellow post-it

It was a sunny Tuesday afternoon. For the last hour, I had pushed the pram on the paths around our house. 2003 was an exceptionally hot summer across continental Europe. As I walked back, Mattia-Sélim was slowly coming out of his deep baby sleep. I probably had a few minutes for a quick call to Baghdad before he would be fully awake and in need of my breast. The yellow post-it was on the side of the PC screen. Jean-Sélim's new mobile number was written on it. He had proudly dictated it to me in our last phone call some three hours earlier, telling me what a fuss he had made that morning - his first day back on duty after his short paternity leave - to get it issued to him. The UN mission in Iraq had just received a first batch of mobile phones and he had successfully argued for one in order to reach his wife with a newly born child at home. I grabbed the post-it with one hand; with the other, I took the mouse to have a quick look at my email inbox.



Jean-Sélim and his newborn son Mattia-Sélim. Photo Laura Dolci

In a matter of a mouse click our family life was changed forever. The blast that had just destroyed an entire corner of the Baghdad Canal Hotel came through the wire, smoked the air of our living room and was now filling my lungs. At the top of La Repubblica homepage, my eyes froze over the breaking news line: "Forte esplosione all'ONU di Baghdad". And just underneath, the picture of the collapsed building. My professional years in war-zone areas made me process in no time that this was a serious incident with probably many dead and injured in the rubble.

The shockwave hit me like a tsunami. I was still standing near the chair in front of the computer. The yellow post-it had fallen out of my hand. I could hear Mattia-Sélim's wake-up noises coming from the pram. I looked down to the floor and I saw two legs shaking in what looked like an uncontrollable convulsion. I remember thinking: "Whose legs are those?" Those were MY legs, moving spasmodically like in an epileptic crisis. In contrast, my upper body was petrified. I was split in two! Fear reached my head. "Oh my God, I will now fall. My legs will not hold me!" I forced my hand to reach out to the chair. I needed to hold myself up; my breathing became heavy and fast at the same time.

To this day, I cannot tell whether this scene unfolded over ten seconds or ten minutes. I think it was ten seconds. I sat down with Mattia-Sélim in one arm and the phone handset and the yellow post-it in the other hand. I started to think aloud and from then on, for months, I continued to do so. I was speaking to myself ("Laura, stay calm, think, breath"); I was speaking to Jean-Sélim ("Tell me that it is not true; tell me that you are out there helping others to get out of the rubble, I love you"), and to Mattia-Sélim ("Mum is here, I'll give you milk in a minute, don't cry, stay with me, mum is here"). I had to compose that number, but my finger was a moving target. I forced myself to stay focused: "One more digit, one more, don't miss it, there is no time to start all over again". Miraculously, the line was free! "Come on, pick up amore mio, answer the phone!"

One ring, two, three, four. And then, abruptly, it sounded like somebody had just switched the phone off. Mattia-Sélim's patience was running out. He was now crying loudly and agitating his arms in the air. He was hungry! My legs were still frantically moving but I had no time to think of them. Finally, the number was

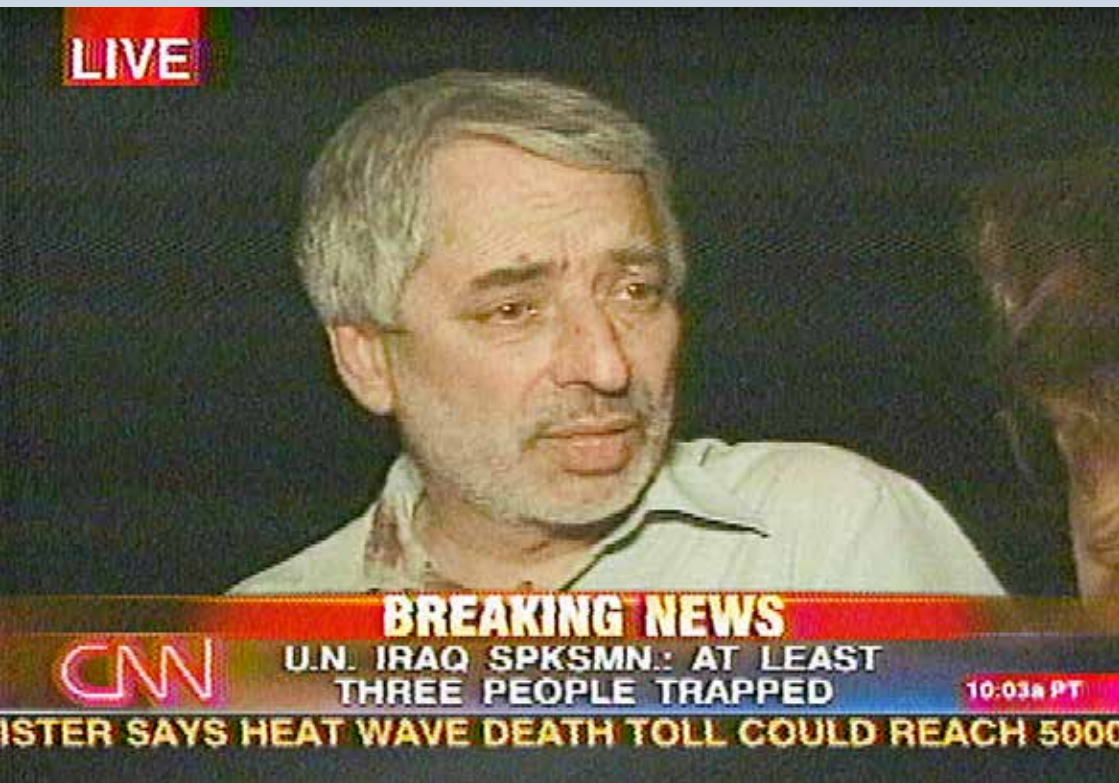
composed again, but this time there was no tone. I don't know how many times I dialled again. The silence of that line was the silence of death. In an instant, my whole system entered into an emergency mode. I grabbed a framed picture of Jean-Sélim that was on the desk near the computer. I was now holding the two loves of my life and was asking Jean-Sélim aloud to help me and give me strength. My neurons were signalling that the worst was to come.

I had to take a pause. I pulled up my T-shirt and put Mattia-Sélim to my breast. That afternoon had nothing to do with the peaceful nursing sessions we had had since we came out of the maternity ward. It was rough, mere survival. While breastfeeding, I was back on the keyboard getting into my email inbox. Maybe he had tried to send me a message? I desperately and repeatedly browsed La Repubblica, and then BBC, CNN, Le Monde. In the two hours that followed, my operational self took over: I started to call my family, colleagues in the region and in New York, embassies, consulates, situation centres in the UN and at various Foreign Ministries. All of this, while holding Mattia-Sélim, speaking to a framed picture and trying to minimize the time on the phone. The line had to stay open, in case he would call.

My sister rang to say that she and my brother-in-law were already on the road and would be at my place in less than three hours. This was reassuring but I still needed somebody next to me earlier than that. It was too long a time to carry Mattia-Sélim alone while preparing for death! I felt Jean-Sélim was dead. Despite his physical strength, incredible vitality and youth, I knew: Jean-Sélim was dead. Somehow, his picture was talking back to me, telling me to get prepared and maximize my energy for the sake of our baby and myself. It was the ultimate act of love from the man with the biggest heart I had ever met.

Suddenly, panic invaded my brain. "What will happen if I can't breastfeed anymore?" In my years in the Balkans, amongst traumatized refugees, I had been struck by the accounts of women who suddenly lost their milk due to shock and exhaustion. Our family friend Tiziana was on her way too, and she could help me! But first I needed to find that mid-wives' hotline number, which I had received when leaving the Geneva Cantonal Hospital after birth! "Oui, allô, bonjour. I am not suffering from post-partum blues but I need to know how to

feed my baby should I run out of breast milk tonight. I have no time to explain, sorry! Can you just tell me which milk powder to buy?" I finally got the necessary instructions, which I then relayed to Tiziana, but my distress call to the hospital service was kept, fortunately, on the record.



Salim Lone, United Nations Spokesman for the Special Representative of the Secretary-General for Iraq, shown speaking to the press on CNN after the bombing of the United Nations Headquarters (Canal Hotel) in Baghdad on August 19th. UN Photo/CNN/Daniel Morel

The following day, in the afternoon, a midwife appeared at my door. In the meantime, our house had transformed from a peaceful nursing cocoon to a sort of international operations room. Family, friends and acquaintances had made it to us overnight. The phone was now ringing non-stop as condolences poured in from the four corners of the world. In the last 24 hours, Mattia-Sélim had always remained in my arms but breastfeeding had lost its well-set pattern. I could not remember which breast I had given last! The angel midwife spoke calmly to me. I followed her into my bedroom. It felt so sad and peaceful at the same time. She asked me how I was and what I needed. I told her that breastfeeding had to continue, as I did not want to be separated from my child - not even during the funeral. Mattia-Sélim needed my warmth and I needed his. She tranquillized me and explained to me what to do. She came for two days in a row and together we saved my breastfeeding. I had chosen life and life had chosen me: continuing breastfeeding was the first vindication that not everything could be stolen from us.

Chapter II

The ugly word

14 years ago, terrorism came into my life and that of my family. It did not knock: it simply smashed the door down. It was on 19 August 2003 at 4.31 pm in Baghdad, 2.31 pm in Geneva. Jean-Sélim was just 33. I was 33. Our son was 28 days old. The following month would have been our first wedding anniversary.

Jean-Sélim died with 21 of his colleagues amongst the ruins of what was known as the Canal Hotel, used as the Headquarters of the United Nations Assistance Mission for Iraq. With them, more than a hundred people, national and international staff and ordinary Iraqis, were injured in the attack. It took an entire week to bring Jean-Sélim's body home: Baghdad, Amman, Paris, and then Cairo, where he was buried next to his father. I placed Mattia-Sélim's baby socks on the metal coffin during the funeral in Paris. They then went with him in the cold earth of the cemetery behind the ancient Sitt Mariam Church in the old Cairo.

From the first night, when a dear colleague found the courage to come to my house to deliver the bad news, I remained lucid. I was shaken, revolted, at times numb, but was always there. My brain had to continue to function in order to take care of Mattia-Sélim. I also needed to understand what had happened: Jean-Sélim had been killed and the death certificate would not say heart attack. From day one I started to call it 'terrorism'. I did not like the word and I still don't: it evokes darkness and fear, but in my family I was brought up calling things for what they are. I was taught that doing so would avoid generalisations, speculations and stereotypes. The explosion that had crushed the chest of the man of my life was not just an accident; the act that had deprived him from seeing his child grow was man-made and intentional.

Terrorism had come close to me several times before. I grew up in the '70s in Italy, the so-called 'anni di piombo', during which hundreds of people were killed, injured and kidnapped in the major cities of my country. I remember transiting through Bologna central train station a few days after the horrific terrorist attack of 2 August 1980, which killed 85 people coming back from or going on summer holidays. We had just spent two weeks at the sea in Sicily with my grandmother. With my sister Claudia, we remained on our seats staring



Before the funeral Photo: Laura Dolci

outside while the train was slowly moving through the sealed off and dust-covered platforms of the station. I spent my childhood in Bolzano, in the Italian border region of South Tyrol, where in those years local separatist movements had caused several bombing attacks, mainly on State infrastructure. On 11 September 2001, I was with Jean-Sélim in New York, locked up for an unbearably long time in the basement of the UN Headquarters, while an enormous mass

grave was emerging in downtown Manhattan. Terrorism had grazed me before and I could therefore recognize it. This time, however, I felt the blast right in my stomach.

I soon came to sense that many around me struggled with that word, including my own Organization, the United Nations. In the first well-written and emotional condolence letter, which I received from the UN Secretary-General on 26 August 2003, there was no reference to terrorism or murder. At the first-month anniversary ceremony, convened by him for all UN staff in New York on 19 September 2003, the word 'bombing' was finally pronounced, although it was not accompanied by the adjective 'terrorist'. When paying an individual tribute to each of the victims, Kofi Annan spoke of the 'new environment' to which the Organization would need to adapt. Clearly, the word terrorism was not an easy one to say out loud. For quite some time, the UN continued to call what had happened on that tragic day a 'bombing', without really qualifying it.

One day, a couple of months after the attack, the ugly word was finally pronounced, carried in an official letter from the "Fonds de Garantie des Victimes des actes de Terrorisme et d'autres Infractions", (French National Fund for Victims of Terrorism) based in Paris, France. The Director-General of this national Fund, of which I did not even know the existence, informed me that the Fund would intervene to 'repair the harm that you had been subjected to due to the death of Mr. Jean-Sélim Kanaan, French citizen, following the terrorist act that occurred in Baghdad (Iraq) on 19 August 2003'¹.

Three years later, when holding a fairy-tale children's book with drawings of forests, wolves and hunters, Mattia-Sélim looked up to me with his large dark eyes and asked: "Mum, where daddy died, were there hunters with rifles?" In his own words, he was expressing the abnormality of what had happened: a one-sided violence in which, even through surrender, his father could not have saved his life.

1 Jean-Sélim Kanaan (Rome, 28 July 1970 – Baghdad, 19 August 2003) was French and Egyptian by birth.

Historical waves of terrorism

By the summer of 2003, terrorism was not a new phenomenon. It had been taken up in various locations and forms for well over a century, making its first appearance on the international scene in the 1860s². As surprising as it may sound, exactly 100 years before 11 September 2001, President Theodore Roosevelt, about to succeed William McKinley who had been assassinated by an anarchist in September 1901, called for “a crusade to exterminate terrorism everywhere”³.

The killing of 2996 civilians in New York and Washington DC on a pristine-sky September day, two years before the Baghdad bombing, had shaken the entire world. However, modern political terror had manifested itself before in different waves, each lasting approximately a generation. Rapoport defines them as ‘the anarchist wave’, spreading in Russia, the Balkans, Western Europe and Asia at the end of the 19th century, with monarchs and prime ministers assassinated in the name of emerging anarchist and nihilist doctrines; ‘the anticolonial wave’, which began after World War I in conjunction with the rising principle of self-determination; the “New Left Wave”, present from the late 1960s onwards predominantly in Western Europe, Latin America and the Middle East (in the same period, several separatist groups like the one in my native region, also started to pursue their territorial objectives through terror means); and later, from the 1980s onwards, the most current wave, which has swallowed my husband and thousands more up to today.

Interestingly, each wave was sparked by the advancement of technology: the invention of dynamite in 1866, the commercialization of civilian aviation in the late 1960s that led to the wide-spread technique of plane hijacking, and the fast-growing web-based technologies in the late 1990s used to disseminate terrorist propaganda, know-how and financing.

2 Rapoport, D.C., The four waves of modern terrorism, *Anthropoetics* 8, no. 1 (Spring / Summer 2002).

3 Walt, S., *Beyond Bin Laden: Reshaping U.S. Foreign Policy*, *International Security* 26, n. 3 (winter 2001-2002): 56

Terrorism is a complex phenomenon, as the underpinning criminal conduct is based on political, ideological or religious motivations.⁴ It is not an ideology *per se*, but rather a strategy based on violence used to pursue an end that is ideological, not personal. Over a century, terrorism has progressively taken up different expressions, due to its 'chameleon-like' character,⁵ from focused killings to today's suicide mass attacks. This has made it hard for the international community to agree upon a universally accepted definition. To my surprise, when *googling* during my sleepless nights in the months that followed Jean-Sélim's assassination, **there was not (and there still is not) an international, consensually agreed definition of terrorism.** What a paradox, given that by 2003 the slogan 'war on terror' had become one of the most mediatised issues on TV, in public debates and political campaigns worldwide! An ugly slogan had been invented around a (legally) non-existing ugly word.

Already in 1937 the League of Nations tried to contain international terror by drafting a Convention for the Prevention and Punishment of Terrorism, which never came into effect given the fast-approaching world conflict. In what has remained a permanent draft, acts of terrorism were defined as "**criminal acts** directed against a State and **intended** or calculated to create **a state of terror** in the minds of particular persons, or a group of persons or the general public."

In the early '60s, the issue of terrorism finally emerged on the negotiating table of the United Nations. Building on the 1937 draft, a general notion of the crime of terrorism started to take shape, as being politically motivated and often magnified by mass murder. However, a possible agreement stumbled repeatedly over the argument by some States in favour of an exclusion from such a definition of acts committed by national liberation movements, generally known as 'freedom fighters', and the corresponding refusal expressed by others to accept that exception.⁶ According to Cassese,

4 Cassese A., *The Multi-faceted Criminal Notion of Terrorism in International Law*, *Journal of International Criminal Justice* 4 (2006), 933-958

5 Roberts A., *Can We Define Terrorism?* (2002) 14, *Oxford Today*

6 Cassese A., *Terrorism as an international crime*, in: Bianchi A. *Enforcing International Law Norms Against Terrorism*, *Studies in International Law*, 2004



Secretary-General Kofi Annan in a moment of silence prior to the commencement of the consultations at the Security Council the day after the terrorist attack against the United Nations headquarters in Baghdad and stated the United Nations Iraq mission "will not be intimidated".

Photo/Eskinder Debebe

what has erroneously been termed as a 'lack of definition of terrorism' is rather the lack of an agreement on an exception within that definition. Nonetheless, in order to exemplify the magnitude of the 'exception issue' it is sufficient to recall that only on 18 July 2008, a few days before the award ceremony for the Nobel Peace Prize, President Nelson Mandela was removed from the US terror watch list (where he had been placed in 1988).

Since 1996, the UN General Assembly constituted an *Ad Hoc Committee*, open to all UN Member States, to draft a comprehensive Convention on International Terrorism. Negotiating efforts intensified after the dramatic events of 9/11 and between 2004 and 2008 an agreement was in close reach. The Committee exists to these days, and is still expected to achieve an overarching convention that would fill the gaps between multitudes of texts that the UN has managed to adopt in the meantime on various aspects of terrorism.

A sectorial approach

UN Member States have circumvented the lack of an agreement on a comprehensive legally-binding definition of international terrorism by adopting over time a sectorial approach - addressing specific physical manifestations of terrorism (i.e. hostage-taking, nuclear terrorism, terrorist acts against the safety of maritime navigation, terrorist hijacking of aircraft, attacks on diplomats, etc.). Since 1963, no less than 12 'sectorial' Conventions dealing with different aspects of terrorism and seven additional legal instruments including optional protocols and amendments to those Conventions were drafted and signed at the UN. Of those, the International Convention for the Suppression of Terrorist Bombings of 1997 and the International Convention for the Suppression of the Financing of Terrorism of 1999, for the first time, contained the 'ugly word' in the very title of the document.

The 1999 Convention, to which 188 UN Member States are parties today, defines terrorist offences as **"any 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”. The Convention also foresees that each State Party adopts measures to criminalize terrorism in its domestic legislation.

Notably, the Fourth Geneva Convention of 1949 (article 33(1)) also explicitly prohibits terrorism committed against civilians, without, however, providing any definition or qualification for terrorism. Serious violations of this and other International Humanitarian Law prohibitions can therefore amount to a war crime in the context of armed conflict, for which individuals may be held to account, as affirmed by the International Criminal Tribunal for Yugoslavia in the Prosecutor v. Galić case of 2003⁷.

A breakthrough resolution, albeit not legally-binding, was adopted by consensus by the UN General Assembly in 1994. Terrorism was defined as encompassing **“all criminal acts directed against a State and intended or calculated to provoke a state of terror in the general public, a group of persons or particular persons for political purposes that are in any circumstance unjustifiable, whatever the considerations of political, philosophical, ideological, racial, ethnic, and religious or any other nature that may be invoked to justify them”**.⁸ Acts, methods and practices of terrorism, termed by the General Assembly as **“criminal and unjustifiable, wherever and by whomever committed**, including those which jeopardize the friendly relations amongst States and peoples and threaten the territorial integrity and security of States”. The resolution also states that **“acts, methods and practices of terrorism constitute a grave violation of the purposes and principles of the United Nations, which may pose a threat to**

7 On 5 December 2003, the International Criminal Tribunal for the former Yugoslavia (ICTY) delivered the judgment in the case of Prosecutor v. Stanislav Galić concerning the siege of Sarajevo between 1992 and 1994 by the SRK, a component of the Bosnian Serb army, during the war in Bosnia and Herzegovina. General Galić, the then commander-in-chief of the SRK stood trial accused of having conducted a protracted campaign of sniping and shelling attacks on civilians with the primary purpose of spreading terror among the civilian population of Sarajevo. He was charged with both direct and command responsibility for the crimes of ‘infliction of terror’ and attack on civilians as violations of the laws or customs of war, and of murder and inhumane acts as crimes against humanity. The chamber found Galić guilty on five counts of terror, murder, and inhumane acts, and by majority imposed a sentence of twenty years’ imprisonment.

8 A/RES/49/60 on « Measures to eliminate international terrorism»

international peace and security and aimed at the **destruction of human rights, fundamental freedoms and the democratic bases of society**”.

The Security Council began to address terrorism as early as the '80s, by initially condemning specific incidents (i.e. bombing of Pan Am flight 103; the terrorist attacks against US embassies in Nairobi and Dar es Salaam in 1998). In its resolutions, the Council regularly stated that **terrorism poses a threat to international peace and security**. In resolution 1269 of 1999, it also called on States to take a number of steps to enhance international cooperation in the fight against terrorism. Remarkably, in its resolution 1373 of 2001, the Security Council went as far as obliging States to ensure that “terrorist acts are established as serious criminal offences in domestic laws and regulations and that the punishment duly reflects the seriousness of such terrorist acts”. All of this without providing a clear definition of what exactly should be criminalized.

Terrorism today

Rapoport locates the beginning of the fourth wave of terrorism in the early '80s. Unlike the previous manifestations of terrorism, the intent here is not always secular and is increasingly complex to grasp. This new cycle of violence is characterised by tactical innovations, such as suicide attacks, as well as the diffusion of terrorist groups operating trans-nationally through a system of separate cells. As argued by Robert Pape⁹, “suicide terrorism often works”: the rate of suicide attacks grew from 31 in the 1980s', to 104 in the 1990s', to 53 in 2000-2001 alone. Half of all suicide terrorist campaigns between 1980 and 2003 were followed by substantial concessions by the target governments.

Over the last 20 years, victim tolls have also grown, both in number and in degree of horror. To remember just a few: the Bali bombing of 12 October 2002 killed 202 people, of whom 164 were foreign nationals. In Madrid, on

9 Pape Robert A., *The Strategic Logic of Suicide Terrorism*, American Political Science Review, Vol. 97, No. 3, August 2003

11 March 2004, 192 people were blown up by bombs placed on commuter trains entering the *Atocha* train station. The school hostage crisis that began on 1 September 2004 in Beslan, in the Russian Federation, ended with the death of 334 civilians, including 186 children. On 9 November 2005, simultaneous suicide attacks in four luxury hotels in Amman, Jordan, killed 60 people. In London, on 7 July of the same year, 52 people were murdered by bombs detonated in the subways and on a public bus. In 2006, according to the Global Terrorism Database website¹⁰, there were 2,729 terrorist incidents worldwide; in 2014, the count had risen to 16,818.

The ultimate target of this most recent wave of terrorism is not just the individual State, but rather a larger community. Recent attacks usually involve multiple nationalities among the victims and multiple nationalities among the perpetrators. Today's terrorism trespasses national borders and is therefore referred to as 'international', 'transnational', if not 'global'. Mass and social media have also become an essential instrument of the terrorist strategy, effectively propagating the terrorist message worldwide. Moreover, moral inhibitions have progressively vanished: while a terrorist of the "anarchist" wave would have had qualms about killing a police chief in the company of his wife and children, in the most recent attacks children and youth are explicitly targeted. On 14 December 2014, a commando of seven foreign nationals attacked a military school in Peshawar, Pakistan killing 141, of whom 132 children between eight and 18 years. On 2 April 2015, gunmen stormed the Garissa University College in Kenya killing 148, the majority of who were young students. The French National Fund for Victims of Terrorism has recorded over 1000 minors, from 2 months old to 18 years, as having been affected by the terrorist attack in Nice on 14 July 2016, either as direct or indirect victims.

Overtime, the international community became more forceful in condemning these acts of brutality, ostracizing terrorism as a serious crime without

¹⁰ The Global Terrorism Database is collected and collated by the National Consortium for the Study of Terrorism and Responses to Terrorism (START), a Department of the Homeland Security Centre led by the University of Maryland. The Global Terrorism Database is considered to be the most comprehensive dataset on terrorist activity globally and has codified to date over 150,000 terrorist incidents. The database also includes terrorist acts staged in countries affected by armed conflict.

invoking condoning arguments. In 2006, the escalation of this senseless violence prompted the General Assembly to adopt a comprehensive UN Global Counter-Terrorism Strategy. Also, as early as 2005, the UN Human Rights Council started to discuss in Geneva the linkages between human rights and counter-terrorism, establishing a Special Procedures mandate on the promotion and protection of human rights while countering terrorism.

The Report of the High-level Panel on Threats, Challenges and Change of 2004¹¹, which was unanimously welcomed by the General Assembly in 2005 at the World Summit at the UN in New York¹², included terrorism amongst the global threats of today, defining it as “any action, in addition to actions already specified by the existing conventions on aspects of terrorism, the Geneva Conventions and Security Council resolutions, that is **intended** to cause death or serious bodily harm to civilians or non-combatants, when the purpose of such an act, by its nature or contexts, is to **intimidate** a population, or to **compel** a Government or an international organization to do or to abstain from doing any act”.

A growing UN counter-terrorism architecture

Since 2006, the Global Counter-Terrorism Strategy pursued by all Member States under the auspices of the UN has translated into a complex and vast secretariat, with permanent structures such as the Counter-Terrorism Implementation Task Force Office (CTITF), coordinating the activities of 38 (!) UN entities and affiliated organizations; the UN Counter-Terrorism Centre (UNCCT); the Terrorism Prevention Branch of the UN Office on Drugs and Crime (TPB/UNODC); the Monitoring Team, Analytical Support and Sanctions Monitoring Team; the Counter-Terrorism Committee Executive Directorate (CTED) and the United Nations Interregional Crime

11 A/59/565 of 2 December 2004

12 A/RES/60/1 “2005 World Summit Outcome”

and Justice Research Institute (UNICRI). Comprehensive programmes have been put in place to deal with most aspects related to terrorism, in particular prevention, criminalization, sanctioning and media -- all of this without the codification of a universally-agreed legally-binding norm on terrorism.

And yet, it is generally maintained that in the absence of an internationally agreed definition of terrorism, it is impossible to criminalize international terrorism. What is possible by law is to consider as criminal only single and specific instances of terrorism specifically prohibited by the sectorial treaties on terrorism, but only in the countries that have ratified those treaties or have adopted national legislation criminalizing terrorism. This has also been the prevailing position during the drafting process of the Statute of the International Criminal Court, when the 160 States participating in 1998 in the Rome conference eventually decided in the end not to include terrorism *per se* among the international crimes under the Court's jurisdiction.

This notwithstanding, according to a number of scholars, *in primis* Cassese¹³, the phenomenon of international terrorism should be considered by now as amounting to a crime under *customary* international law – and this is why, incidentally, a formal and legal definition is unnecessary to initiate counter-terrorism action. In support of this argument, Cassese notes the multiple specific conventions addressing particular types or aspects of terrorism and the growing number of ratifications; the fact that terrorist acts may amount to war crimes as set forth by article 33(1) of the Fourth Geneva Convention of 1949 (if carried out in armed conflict), provided that they are committed against the civilian population; and also the fact that acts of international terrorism are being covered by ordinary domestic law in a growing number of countries.





El zulo, monument to the victims of terrorism in Cartagena, Spain.

Photo: Evgeniy Isaev, CC BY 2.0 (<http://creativecommons.org/licenses/by/2.0/>), via Wikimedia Commons

Many definitions for a concept deficit

Given the growing diffusion of terrorism, the lack of a legal definition in a global convention is clearly not an issue that can be underestimated or discarded lightly. As a victim of terrorism, I can only but support the need for an international codification of the crime of terrorism as it would allow identifying ways to respond to the harm it causes. As I write, however, the prospect of agreeing on such an international norm resembles “the quest for the Holy Grail”.¹⁴

The reality is that terrorism continues to suffer from a concept deficit,¹⁵ which has paved the way to a proliferation of sectorial and partial definitions. Each definition seems to respond to the logic of ‘here and now’, with national states and the international community emotionally reacting to the most recent attack rather than striving to adopt a long-term approach on the issue. Already in 1988, in their monumental research “Political Terrorism”, Schmid and Jongman indexed 109 existing official definitions of terrorism. In their words, “authors have spilled almost as much ink trying to define the concept as the actors of terrorism have spilled blood”¹⁶. Moreover, to complicate the matter further, in recent years other terms and acronyms for terrorism have emerged in international fora: violent extremism, countering violent extremism (CVE) and/or preventing violent extremism (PVE).

Two ambits appear to have been specifically, and dramatically, affected by the lack of an international consensual definition of terrorism, and both have marked my life since the killing of Jean-Sélim and his colleagues: i) the easy resort to military means rather than criminal justice to tackle terrorism, and ii) the unaddressed rights of the victims of terrorism.

14 Levitt G., « Is Terrorism Worth Defining? », 1986, Ohio Northern University Law Review

15 A notion drawn from the course on “Understanding Terrorism: History, Contexts, and New Challenges”, held by Professor Mohammed-Mahmoud Ould Mohamedou, at the Graduate Institute of International and Development Studies of Geneva, Switzerland (academic year 2016-17).

16 Schmid A. & Jongman A., *Political Terrorism: A New Guide to Actors, Authors, Concepts, Databases, Theories and Literature*, Transaction Publishers, 1988

For how much longer can the world sustain the paradox of a declared 'global war on terror' without a legal, rather than political, global definition of what is being fought; without an enforceable international judicial cooperation to effectively contain terrorism; and with an ever-growing list of uncounted victims? A loose definition of this 'ugly word' is, in my view, not conducive to an effective strategy to understand, prevent and eradicate terrorism.

To summarize, despite the absence of a legally-binding definition of terrorism, a general and consolidated understanding of terrorism can be drawn from adopted UN texts:

Terrorism:

- is a crime;
- is pursued with violent means,
- is not pursued for personal ends;
- is organized and systematic;
- is politically/ideologically motivated;
- indiscriminately targets civilians, either in a focused or random mass manner;
- aims at provoking a state of terror, intimidation and fear that goes beyond the individual and affects a larger group or even the general public (also through media dissemination);
- seeks to obtain leverage (i.e. a particular reaction in a government and/or international organization);
- is a threat to international peace and security and hence warrants international cooperation.

Chapter III

Not a priority, for now

I needed to go back to work and regain a daily pace and a framing routine. I also missed our UN blue flag. Jean-Sélim and I were so proud to be a “UN couple”, despite the Organization’s shortcomings, the heavy bureaucracy and the relative impact of some of its actions. In the war-torn Balkans, where we had met in 1997 in a village in North-West Bosnia, we had experienced as young humanitarian workers the best and worst of the UN work.

The pieces of the shattered UN flag that was flying on the roof of the Canal Hotel in Baghdad on the day of the blast had been meticulously collected by the colleagues who had survived, and recomposed at the visitors’ entrance hall of the UN Headquarters in New York, where it is still displayed today. I felt I was one of those pieces. Although wounded inside, I belonged to that flag and I wanted to continue to do my part to make it fly high again. I asked my superiors to transfer me from my post in New York to Geneva, as we would be closer to our three family roots: Italy, France and Egypt. I wanted Mattia-Sélim to be able to nurture his innate multi-nationality and speak at least two of his mother tongues. I also longed for mountains and silence.

In March 2004, I entered for the first time Palais Wilson, the building that hosts, along the shore of Lake Geneva, the Office of the United Nations High Commissioner for Human Rights (OHCHR). My legs were still fragile but it was time to try to go back to an active life. I was a UN professional, but I was also a victim of a senseless crime. And I was now joining the one UN Office mandated to be the moral voice in the face of impunity and to promote and protect “the full realization by all people of all human rights”. Life takes away but also gives back.

My first assignment was ‘NGO liaison officer’, responsible for the facilitation of civil society engagement with the overall UN human rights programme. An eye opener! In those tough months, I spoke with and assisted hundreds of civil society organizations coming to Geneva to meet with the High Commissioner and participate in human rights meetings. They were all driven by the ambition to advance human rights, denounce violations, bring new issues into the international arena, alert diplomats and UN staff about unreported human rights abuses and share their achievements on the ground. I met with many



The United Nations flag that was recovered from the debris of the United Nations headquarters in Baghdad that was bombed on 19 August 2003. UN Photo/Mark Garten

courageous human rights defenders risking their lives for a greater cause that often transcended their personal pain or gain. I was able to observe from up close how new human rights frontiers could make their way into the majestic corridors of the United Nations.

I also encountered victims who, having experienced on their flesh the most ravaging human rights violations would bear witness in the large meeting rooms of the Palais des Nations at Geneva: victims of torture, enforced disappearances, victims of gender-based violence, indigenous people and minorities. I learned from their trajectories and was inspired by their dignity. Like them, I felt I was a victim. Another ugly word to pronounce, but a reality I was trying to come to terms with. Being a victim implied an element of imposed passiveness since somebody else had unilaterally determined my present and possibly my future. A terrible wrong had been committed, which I could not remedy on my own.

171 governments had gathered in Vienna a few years earlier, in 1993, and adopted the UN Programme of Action for Human Rights, fully embraced by the General Assembly in the following year¹⁷. The document opened by affirming that “all human rights derive from the dignity and worth inherent in the human person, and that the human person is the central subject of human rights and fundamental freedoms”. Even if there was no international agreement on how to call the crime that had killed Jean-Sélim and his colleagues, I felt that our dignity had been stepped upon by that act, without asking for permission or apologizing in its aftermath.

In April 2005, I was present in Salle XVII in Palais des Nations when the (former) Commission on Human Rights, the most prominent UN inter-governmental body dealing globally with human rights, adopted a landmark resolution on the “protection of human rights and fundamental freedoms while countering terrorism¹⁸”. Finally, a good day for the growing number of victims of terrorism around the world, I thought. However, only one paragraph of that resolution would make reference to victims of terrorism, with the Commission simply “deploring the suffering caused by terrorism to the victims and their families and expressing its profound solidarity with them”.

17 A/RES/48/121 of 20 December 1993 entitled “World Conference on Human Rights”
18 Resolution 2005/80 of 21 April 2005, contained in E/CN.4/2005/L.10, Chapter XVII

From the very first weeks of his tenure, the Special Rapporteur appointed to work on this new mandate focused on the growing issue of extra-judicial counter-terrorism practices, exemplified by the establishment of ad hoc detention facilities such as Abou Ghraib and Guantanamo. As a victim of terrorism, I was also appalled by those policies: the only suspect caught alive for his alleged involvement in the 2003 terrorist attack against the UN in Baghdad had been jailed incommunicado in Abou Ghraib some months earlier. The heavy securitization of counter-terrorism was violating the right of the suspected criminals to a fair trial, but also –in my view – the right of the victims to truth, information and justice. A few months later, I gathered my courage to take an appointment with Special Rapporteur Scheinin. I exhorted him to also include the perspective of the victims in his mandate, arguing that there was no trade off between the protection of the rights of those accused of committing acts of terrorism and the rights of the victims. His reply was like a cold shower: “I fully support your point of view but the rights of victims will not be a priority for my mandate, for now”. I felt that shake in my legs again.

Only six years later, on 1 June 2011 while wrapping up his mandate, Scheinin conceded in a panel discussion convened by the Human Rights Council (the successor body to the Commission on Human Rights): “This mandate is not about the human rights of terrorists, or human rights of suspected terrorists, or alleged terrorists. A victim’s perspective is important in a comprehensive, holistic perspective to the role of human rights in counter-terrorism”¹⁹. The deception was deep: our rights as victims of terrorism had been seemingly put on hold. I then decided to continue working for the rights of others. In the years that followed, I became the manager of the UN Voluntary Fund for Victims of Torture and the UN Voluntary Fund on Contemporary Forms of Slavery, in OHCHR²⁰. A very fulfilling experience that would teach me a lot about victimhood. Concepts such as resilience, grief, restored dignity, reparation, restitution and compensation would acquire a concrete and professional meaning through my daily work in support of victims of other heinous crimes.

¹⁹ Statement available on the extranet page of the Human Rights Council, Panel discussion on the issue of the human rights of victims of terrorism, 17th session of the Council, 1 June 2011.

²⁰ Both known as humanitarian funds, these voluntary Trust Funds have been established by the UN General Assembly to provide direct assistance to victims through grants awarded to project proposals submitted by entities specialized in the rehabilitation, legal assistance, humanitarian assistance to victims of torture (and slavery) and their family members.

And then one day, out of the blue, I received a letter from the Office of the Secretary-General of the UN. I was being invited to participate in the first-ever global Symposium on Supporting Victims of Terrorism in the UN Headquarters in New York. On 9 September 2008, I found myself in a unique gathering in the sumptuous ECOSOC Chamber, surrounded by diplomats, UN high officials, but more importantly by over 30 victims of terrorism from all regions of the world. Former Secretary-General Ban Ki-moon told the audience that terrorism was an attack on humanity itself and that the needs of victims of terrorism had for far too long gone unrecognized and unmet.

When my turn to speak came, as the keynote address at the end of the two-day conference, my voice came out surprisingly strong and clear, as never before: "We are victims of terrorism because our rights have been violated: our right to life, our right to health, our right to justice and truth. Supporting victims of terrorism means, first, to acknowledge our plight and, secondly, to support us in claiming our rights so that we can rise from being victims to full-fledged rights-holders again. It is my profound hope that this Symposium will mark the beginning of a long journey; a journey of awareness raising, solidarity and action". In that moment, I felt that I had finally embarked on a transformative path from victimhood back to life. It also became very apparent to me that State institutions, including my own, could no longer discharge themselves from recognizing victims of terrorism. In a sense, a double journey had started.

*Opposite:
Laura Dolci at the press conference following the 2008 symposium on "Supporting Victims of Terrorism",
UN Photo/Paulo Filgueiras*



Terrorism and human rights

The Vienna Declaration of Human Rights²¹, adopted in 1993 at the end of the World Conference on Human Rights held in Vienna in 1993, identified the link between terrorism and the enjoyment of human rights. Paragraph 17 stated that “the acts, methods and practices of terrorism in all its forms and manifestations as well as linkage in some countries to drug trafficking are activities aimed at the **destruction of human rights**, fundamental freedoms and democracy, threatening territorial integrity, security of States and destabilizing legitimately constituted Governments. The international community should take the necessary steps to enhance cooperation to prevent and combat terrorism”. In paragraph 27, every State was called “to provide an effective framework of remedies to redress human rights grievances or violations”.

In 1999, the Security Council also started to make reference to human rights in the context of counter-terrorism²². However, it was only in 2001, one day after the terrorist attacks at the World Trade Center and the Pentagon, that the Security Council expressed “**its deepest sympathy and condolences to the victims and their families and to the people and Government of the United States**”²³. For the first time, victims were clearly referred to in a UN text related to terrorism²⁴.

A few weeks later, on 28 September 2001, a more comprehensive resolution was adopted by the Security Council²⁵, this time with no reference to victims or human rights. Nevertheless, this resolution represents a new level of Council action in the fight against terrorism, with a number of general legislative obligations imposed on all Member States of the United Nations.

21 Adopted by the World Conference on Human Rights in Vienna on 25 June 1993

22 S/RES/1269 (1999) on the responsibility of the Security Council in the maintenance of peace and security

23 S/RES/1368 (2001) on threats to international peace and security caused by terrorist acts

24 Unlike international treaties, referred to as covenants, statutes, protocols or conventions, UN declarations, guidelines, statements and resolutions constitute soft law (rather than hard law) under public international law. Nevertheless, such instruments have often a moral force and provide practical guidance to the conduct of States.

25 S/RES/1373 (2001) on threats to international peace and security caused by terrorist acts

A couple of months later, in another resolution²⁶, the Council ventured to declare that acts of international terrorism constitute “a challenge to all States and **to all of humanity, endangering innocent lives and the dignity and security of human beings everywhere**, threatening the social and economic development of all States and undermining global stability and prosperity”.

In its resolution 59/195²⁷, adopted on 20 December 2004, entitled “Human rights and terrorism”, the General Assembly affirmed in clear and comprehensive terms that **terrorist acts are activities aimed at the destruction of human rights**, fundamental freedoms and democracy; it considers that the **right to life is the basic human right**, without which a human being can exercise no other rights and that terrorism creates an environment that destroys **the right of people to live in freedom from fear**. The Assembly also stated its serious concern about **the gross violations of human rights perpetrated by terrorist groups** and expresses its deepest sympathy and **condolences** to all the victims of terrorism and their families. In paragraph 15, the General Assembly also requested “the Secretary-General to seek the view of Member States on **the possible establishment of a voluntary fund for the victims of terrorism, as well as on ways to rehabilitate the victims of terrorism and to reintegrate them into society**”. To my knowledge, no concrete initiative was taken to operationalize the latter proposal.

In the same year, the Security Council, in its resolution 1566²⁸ foresaw the creation of a working group consisting of all members of the Security Council that **should consider the possibility of establishing an international fund to compensate victims of terrorist acts and their families**, which might be financed through voluntary contributions (consisting in part of assets seized from terrorist organizations)²⁹. Similarly, no follow up was given to this recommendation.

26 S/RES/1377 (2001) on threats to international peace and security caused by terrorist acts

27 A/RES/59/195 of 22 March 2005

28 S/RES/1566 (2004) concerning threats to international peace and security caused by terrorist acts

29 In reality most assets of terrorist organizations get frozen rather than seized.

The Outcome Document of the 2005 World Summit,³⁰ signed off at the end of an unprecedented event attended by over 170 Heads of State and Government in New York on the 60th anniversary of the UN, contained a full section on terrorism, reiterating that any measures taken to combat terrorism need to comply with States' obligations under international law, in particular human rights law, refugee law and international humanitarian law. It also stressed the **importance of assisting victims of terrorism and of providing them and their families with support to cope with their loss and their grief**. However, without suggesting how.

Victims of terrorism at the UN

By mid 2000s, the issue of victims of terrorism had become more visible in the international debate under UN auspices. Many victims started to have hopes that some concrete steps would be finally underway. Converging advocacy efforts, led *in primis* by those States that had been hit by terrorist attacks from 2001 onwards, culminated in the adoption by consensus of the **UN Global Counter-Terrorism Strategy by the General Assembly** in 2006³¹. For the first time, the collectivity of States acknowledged the “**dehumanization of victims**” by terrorism, also terming it as “a condition conducive to the spread of terrorism”. However, the text did not elaborate on this concept nor did it indicate concrete ways to remedy the consequences of that dehumanization. The Strategy suggested “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.” It also “encouraged states to request the relevant United Nations entities to **help them** to develop such national systems”. As part of the Strategy, Member States also committed “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

30 A/RES/60/1 entitled 2005 World Summit Outcome

31 A/RES/60/288 (2006) entitled “The United Nations Global Counter-Terrorism Strategy”

the possibility of **developing practical mechanisms to provide assistance to victims**".

The Strategy also dedicated Section IV to "Measures to ensure respect for human rights for all and the rule of law as the fundamental basis of the fight against terrorism", recognizing that **"the promotion and protection of human rights for all and the rule of law is essential to all components of the Strategy, stressing the need to promote and protect the rights of victims of terrorism"**.

2005 World Summit - High-level Plenary Meeting of the Sixtieth Session of the UN General Assembly at UN Headquarters. UN Photo/Paulo Filgueiras



A full-fledged UN architecture was subsequently created to implement the new Global Strategy, led by a Counter-Terrorism Implementation Task Force (CTITF) operating through nine working groups, including a Working Group on Human Rights and the Rule of Law chaired by the Office of the High Commissioner for Human Rights, and a separate Working Group on “supporting and highlighting victims of terrorism”. To this day, I am not quite sure what ‘highlighting victims’ means. What I know is that, over the last ten years, only a few projects, such as the launch of an information web portal for victims and the convening of two victims’ gatherings in 2008 and 2016, emerged from that Working Group. Beyond a few States that had already adopted national provisions for the protection of the rights of victims of terrorism prior to 2006, there is hardly any record of Member States having done so since. A small working group within a large architecture may not be the most forceful tool to place the issue of terrorism victimization on the international agenda, or to pursue an effective advocacy for the protection of rights of victims of terrorism worldwide.

In 2010, the Security Council in its resolution 1963³², in addition to expressing its profound solidarity with the victims of terrorism and their families, for the first time, recognized “the important role that victims and survivor networks play in countering terrorism, including by **bravely speaking out against** violent and extremist ideologies”.

Almost six years after the establishment of the Special Procedures mandate on the promotion and protection of human rights while countering terrorism, in 2011 the Human Rights Council held two landmark panel discussions addressing respectively the “Human rights and issues related to terrorist hostage taking” and “The issue of human rights of victims of terrorism”. In particular, in its decision 16/116³³, the Council requested that the panel discussion on the issue of human rights of victims of terrorism take into account the recommendations of the Secretary-General’s Symposium on Supporting Victims of Terrorism of 2008.

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S/RES/1963 (2010) on threats to international peace and security caused by terrorist acts
A/HRC/DEC/16/116 of 13 April 2011 entitled “Panel on the human rights of victims of terrorism”

In both panels, the Deputy High Commissioner and the High Commissioner for Human Rights asserted respectively that “the point of departure for designing schemes and mechanisms of support to victims of terrorism should be the fundamental principles and rights as enshrined in international human rights standards and instruments, in particular the right to an effective remedy of article 2 of the International Covenant on Civil and Political Rights”, as well as the 1985 Declaration on 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. I was in the room on both occasions, proud to hear my boss arguing for the extension of human rights to victims of terrorism. Was this the beginning of a long-term institutional reflection? My hopes were running high.

A legal instrument for victims of terrorism?

In 2011, Ben Emmerson was appointed by the Human Rights Council as the new Special Rapporteur on the mandate for the promotion and protection of human rights and fundamental freedoms while countering terrorism. In an almost 180 degree shift from his predecessor Scheinin, the new Rapporteur dedicated his first annual report to the Human Rights Council on the human rights of victims of terrorism³⁴. The rationale for his report was that “any sound, sustainable and comprehensive strategy for countering terrorism requires the recognition of the suffering of victims of terrorist acts». The Rapporteur also considered it essential “that the protection of the rights of the victims of terrorism be perceived as a genuine legal duty resting primarily with States”. In front of the plenary of the Human Rights Council, on 20 June 2012 Emmerson recommended the formulation of **a specific international instrument for victims of terrorism**, noting with emphasis that “it is a striking fact that despite the proliferation

34 A/HRC/20/14 of 4 June 2012 entitled “Framework principles for securing the human rights of victims of terrorism”

of international instruments dealing with counter-terrorism cooperation, there is none that directly addresses the rights of victims”.

Emmerson had asked to meet with me prior to his presentation. With my consent, he referred to my story in his speech in order to argue that disregarding the violated rights of victims of terrorism was no longer an option: “The world knows very little, or nothing at all, about the human tragedies that lie behind each and every one of the victims of terrorism. The pain and horror of the blasts themselves, the carnage visible among the rubble, the smell of death, dust and blood, the dreadful life-blighting injuries, the endless psychological damage for those present and nearby, as well as those left behind, the families, the permanent loss of livelihoods. Ironically, it is precisely because of the sheer scale of these dreadful tragedies that we have almost lost sight of the humanity and individuality of the victims. In most cases we don’t even know their names. (...) In this room with us today is a principled woman whose husband was among those killed in the Baghdad bombing. There were 11 different nationalities among the victims of that particular bombing, and five nationalities among those accused of having perpetrated it. Because the attack happened during the period of occupation, she received a death certificate issued by the US military, which was not recognized by the civilian authorities in her country of origin. It took her six months to have the death registered, during which time her bank accounts were frozen. These are the indignities the world knows nothing about. She later learned from the media that one of the men accused of her husband’s murder had been arrested and handed over to the Iraqi authorities and sentenced to death. She wrote immediately to the Secretary-General asking him to intervene to prevent the death penalty from being carried out only to discover that he had already been executed. She and the other victims were entirely excluded from the process of seeking accountability. (...) Terrorism has a very real and direct impact on human rights, with devastating consequences. (...) Victims want that put right. They want to know that the international community stands shoulder to shoulder with them.”

The room remained impassive, State and NGO delegates alike.³⁵ No specific follow-up was given by the Human Rights Council to the groundbreaking report of Special Rapporteur Emmerson. Some States invoked a Convention ‘fatigue’, others would simply not accept to define terrorism as a serious human rights violation. In response, Emmerson strongly argued in his report that “a purely legalistic perspective, which insists that only States and comparable entities can violate human rights, must now be regarded as an out-dated and retrograde analysis. In his view, to allow victims of terrorism to remain as legally ossified “prisoners of doctrine” would amount to a form of secondary victimization”.

In the years that followed, the Special Rapporteur moved on to cover other aspects falling within his broad mandate. The issue of victims was seemingly put to rest, leaving behind a discrepancy in attention between the protection of the rights of individuals accused of acts of terrorism and the rights of victims. Furthermore, as of 2015, the Human Rights Council has been pursuing a two-resolution pattern in relation to terrorism by, on the one hand renewing the mandate on promotion and protection of human rights while countering terrorism (with Mexico as its main sponsor) and, on the other, adopting a new resolution³⁶ on the effects of terrorism on the enjoyment of human rights (with Egypt as its main sponsor).

35 With the exception of Amnesty International that had submitted a well-argued NGO statement in support of Emmerson’s proposal, A/HRC/20/NGO/103.

36 A/HRC/RES/28/17 of 9 April 2015 entitled “Effects of terrorism on the enjoyment of human rights”

The human rights of whom?

In July 2016, the General Assembly approved the **review of the UN Global Counter-Terrorism Strategy**³⁷. Very disappointingly, ten years down the line, the language on victims of terrorism was reduced to one paragraph only (paragraph 24 out of 72), in which the Assembly limits itself to “deeply deploring the suffering cause by terrorism to the victims and their families” and expressing profound solidarity with them. It then encourages States to provide victims with proper support and assistance while taking into account considerations regarding remembrance, dignity, respect, justice and truth, in accordance with international law. In paragraph 23, the Assembly urges relevant United Nations bodies and entities and other organizations to set up their efforts to provide **technical assistance** to building the capacity of Member States in the development and implementation of programmes of assistance and support for victims of terrorism. Of note, the paragraphs on the need for human rights-compliance in the context of countering terrorism are located in another part of the resolution. Somehow, in contrast with the 2006 Strategy, the victims no longer come across as full-fledged rights-holders in this resolution.

In essence, since 2001 victims of terrorism have progressively found a place in UN texts issued by the General Assembly, the Human Rights Council and even the Security Council. However, the evolution of the language in that regard has been sinusoidal, with a charity-type narrative often prevailing over a rights-based perspective. While it can be said that a legal basis on the rights of victims of terrorism is slowly emerging within the international law corpus, UN provisions on victims of terrorism are still not unequivocally grounded on the premise that victims have rights that need to be promoted and protected, with some texts (including recent ones) limiting themselves to expressing mere sympathy with the victims. Moreover, while successive resolutions of various UN bodies make reference to assistance and support (and more recently, rehabilitation) for victims, they usually fail to provide

37 A/RES/70/291 of 1 July 2016 entitled “The United Nations Global Counter-Terrorism Strategy Review”

specific guidance on such concepts – with the exception of UNODC’s Good Practices within the Criminal Justice Framework issued in 2016.³⁸ More importantly, no text has so far addressed in depth the effects of terrorism on the victims nor mandated a comprehensive mapping or a testimonial exercise on the *sequelae* of terrorism on the victims.

Unlike other ‘sectorial’ aspects of the vast counter-terrorism landscape, developed by the UN and its Member States over the years by ably circumventing the lack of a consensual definition of terrorism, the issue of victims appears to have fallen hostage to the absence of an international norm on terrorism. The victimization caused by terrorism has been relegated to the margins of the UN counter-terrorism architecture by invoking definitional quarrels, such as “how can we deal with victims if the crime of terrorism is internationally not defined?”, and the presumed inapplicability of international human rights law in the context of terrorist acts committed by non-State actors.

Everyone at the UN seems by now to concur that terrorist acts aim at the destruction of human rights, but there seems to be little interest on how to complete that sentence. The human rights of whom? And how to concretely protect those rights? Despite the absence of an international definition of this crime, victims exist and carry the visible scars of the rights that were violated. In the next chapters, I will attempt to explain the specific features of terrorism victimization through the lenses of the victims.

38 United Nations Office on Drugs and Crime, *Good Practices in Supporting Victims of Terrorism within the Criminal Justice Framework*, United Nations, 2015

To summarize, the following elements in relation to victims of terrorism are present in UN texts:

- Terrorism dehumanizes victims;
- The dehumanizing of victims is a condition conducive to the spread of terrorism;
- The expression of solidarity and/or sympathy with victims;
- The importance of assisting victims and providing them and their families with support;
- The need for Member States to put in place national systems of assistance and the need for relevant UN bodies to help them to do so;
- The need to promote and protect the rights of victims;
- The imperative of treating victims with dignity and respect and with due consideration to remembrance, justice and truth;
- The importance of the involvement of civil society in a global campaign against terrorism;
- The role of victims in speaking out against terrorism and countering its appeal;
- The possibility of establishing an international fund in support of victims.

Chapter IV

The exception

A year after the attack, the United Nations convened a large memorial ceremony in Geneva to mark the tragic day. In my first months at the UN Human Rights Office I had gotten to know some of the survivors of the blast: colleagues that had volunteered to follow Sergio Vieira de Mello, when he was asked by Secretary-General Kofi Annan to temporarily leave his post as High Commissioner for Human Rights to serve as his Special Representative in Iraq. They were victims, like me, but in a different way. They did not lose a husband, but have left their colleagues, innocence and health in that collapsed building. They were slowly coming back to their normal lives although their wounds, physical and psychological, were still very much visibly hurting. Getting to know each other was initially hard. I was a daily reminder of the hell they had lived on that day: the blood, the smoke, the screams. In my eyes, they were the lucky ones that had made it out alive. When an explosion is set off, it is simply a matter of metres and seconds: somebody had just left the room under which the truck was driven into, another had just moved away from his desk to go to the photocopy machine at the end of the corridor - closer to the epicentre of the explosion. During that first year, we learned with some difficulty to speak to each other and accept the cruel fate that we each carried.

With the fateful day of the first anniversary approaching, we all felt the need to gather in one place to honour those who had departed, show our human faces to the rest of the Organization and the international community and share with each other the ache but also the slowly-growing hope we were feeling. We wanted everyone, including the Iraqi national staff and their families, to be assembled. Many of us had spent that first year in their respective countries; it was time to meet and nobody should be left behind. Carole and Shawbo were the 'other me': after having survived the blast, they had worked tirelessly throughout the year to keep contact with all the injured colleagues, spread over the five continents. I had started to reach out to some of the other 'next of kin'. Under our pressure, the UN machinery began to move and a solemn ceremony was in the end organized on a beautiful day in Geneva.

At the gathering, I was impressed by the dignity of everyone present. Tears and emotions were running copiously, but most of us stood there with strength, driven by the ideals that our loved ones and colleagues had pursued in their

lives. There were no talks about revenge. There were only words of courage, engagement and remembrance. There was also a shared call for accountability, information and truth about the terrorist attack with appeals directed to the Organization to fully support the long rehabilitative path of its impacted staff. Mattia-Sélim was up to the task; he never cried and managed to somehow stay put throughout the entire event. Only at the end, he sneaked out of my arms and crawled to play with the shoestrings of one of the UN Security officers standing in the Honour Guard.

Although I had prepared mentally for the ceremony, I struggled to deal with the survivors. I was shocked to see people in wheelchairs, on crutches and with visible scars on their faces. I was also told that some colleagues could not be present since they were still lying in hospital beds. Twelve consecutive months in a hospital! Many came up to tell me how the night before the attack they had all celebrated in a hotel room in Baghdad the birth of our child. I would try to listen with attention although I was fully absorbed by the sight of those physical injuries and the broken tone of their traumatized voices. I was trying to imagine how their trauma was similar to and yet different from mine. Was it better to die or to survive heavily maimed?

In the programme, after the ceremony, time had been carved out for 'administrative matters'. Most of us had faced bureaucratic challenges in the previous months in trying to put together claim forms, medical dossiers, pension and insurance-related documentations. A tragedy within the tragedy. Those interested could sign up to meet face-to-face with colleagues from the Human Resources Department who had flown in from New York with the Secretary-General. The queue was long! When my turn came, I raised the issue of having been put for three months on a special leave without pay – from the end of my maternity leave to the beginning of my new assignment in Geneva. I told my interlocutor that I had proven my eagerness to move forward and continue to serve the Organization. However, given the circumstances, I could have not possibly have returned to full service earlier than six months since the birth of my child and the concurrent death of my husband! The Human Resources representative, who was senior in rank, sighed, leaned backward and crossed her legs. With a slight paternalistic tone, she went on to explain to me that,

regrettably, our Organization was based on rules set forth by its Member States. As much as she would have liked to, exceptions could not be made to those rules.

It was my turn to sigh, or rather to catch my breath. And then, in one go, my words came out heavily: "I am not asking for an exception. The point here is that the situation is exceptional. It is for a professional Organization like ours to adapt its rules to the exceptionality of what happened and what, unfortunately, may happen again". Our conversation did not lead anywhere. I left the room knowing that I would continue to advocate for the recognition of our special needs and that I would do it also for those who were more vulnerable than me. Six years later, the three months of special leave without pay were finally converted retroactively into medical leave.

In 2008, at the Symposium on Victims of Terrorism, convened by Secretary-General Ban-Ki moon in New York, I found myself surrounded by victims that had survived all sorts of terrorist attacks, beyond the two large bombs against the UN in Baghdad (2003) and Algiers (2007). We all had different yet similar stories. We had pushed our resilience to the limit, created networks of survivors to fight to have our needs recognized, achieved changes in domestic practices and articulated a constructive counter-terrorism narrative. There was Ashraf Al-Khaled, who had lost his father and mother-in-law amongst the 27 killed by a suicide attack at his wedding reception in one of the luxury hotels in Amman in November 2005. There was Ben Borgia from Australia, who lost his mother and 13-year-old sister in the bombings in Bali, Indonesia, in October 2002. And Naomi Kerongo, who was injured in the 1998 bombing of the American Embassy in Nairobi. In the course of her long recovery, she had lost her job, been evicted from the government housing she was occupying and moved to the slum. There was Rachel North, who in July 2005 survived the Piccadilly line bombing in London, trapped 30 metres underground in a train wagon in the darkness, surrounded by corpses.

We had all come from different walks of life and were likely to carry on in different directions after the Symposium. However, in that room we found ourselves sharing the same call for acknowledgment and support for victims of



*Observance of First Anniversary of Attack on UN Headquarters in Baghdad
Secretary-General Kofi Annan (behind the guards, on the left) is being escorted by United Nations Security officers to attend the observance of the first anniversary of the attack on the United Nations headquarters in which 22 staff members gave their lives in the service of the Organization. UN Photo/Jean-Marc Ferré*

terrorism. We also carried a similar non-violent message to counter terrorism. As Naomi stated with an emotional voice in front of a crowded room: "I have thought about suicide many times. This forum has brought hope to me. At last someone is putting an emphasis on survivors and not on terrorists... We are not asking for charity. It is justice we seek".

The specificities of terrorism victimization

Surviving a crime is never easy. The world is populated by victims of rape, murder, torture and trafficking, who struggle daily to give a meaning to their existence so brutally overturned. The difficulty of their experience is often exacerbated by the fact that, historically, victims have not been given priority in court rooms, in UN jurisprudence or in the media. In criminology, for example, attention for victims only started to emerge in the 1970s.³⁹ Traditionally, international law has paid insufficient attention to victims, with the exception of a few fields, namely human rights, international criminal law and international humanitarian law.⁴⁰ The minimum rights of victims of crime were only codified at the UN in 1985, with the adoption by the General Assembly of the *United Nations Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power*.⁴¹ According to Alex Schmid, this long neglect by states and the international community has to be understood in the context of the development of the modern state, which claimed the monopoly of bringing the perpetrators of crime to justice.

Victims had to wait an additional twenty years, until 2005, for another UN body, the (former) Commission on Human Rights, to adopt another important global instrument, 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*”.⁴² These Principles, negotiated for over 15 years in Geneva, constitute a set of concrete modalities and methods for the implementation of existing legal obligations on states under international human rights law and international humanitarian law. Their adoption was an important step forward because the document also recognizes the emergence of various

39 Schmid A., *Strengthening the Role of Victims and Incorporating Victims in Efforts to Counter Violent Extremism and Terrorism*, ICCT Research Paper, 2012

40 Fernandez de Casadevante Romani, *International Law of Victims*, Max Planck Yearbook of United Nations Law, Volume 14, 2010, p. 219-272

41 A/RES/40/34 of 29 November 1985.

42 E/CN.4/2005/L.10/Add.11

contemporary forms of victimization, some of which are of a magnitude similar to most large-scale terrorist acts.⁴³

These relatively recent institutional developments represent, undoubtedly, an advancement in international law; however, to this day no general international treaty exists that would accord to all victims a minimum common denominator of rights.⁴⁴ In the absence of that, over the last 30 years there has been an increasing branching out into specialized norms and policies for particular groups of victims, such as of trafficking, gender-based violence or child victims. As seen in chapter III, however, this cannot be said yet for victims of terrorism.

The question asked by many victims of terrorism in various international meetings, convened not just by the UN but also the EU and the Council of Europe, is therefore whether in the absence of an international norm on terrorism the existing framework for general victims of crime is sufficient to address the specific needs of victims of terrorism.⁴⁵ Not many academic researchers have devoted attention to this challenging issue. The research group led by Professor Letschert between 2008 and 2010, involving the International Victimology Institute of the University of Tilburg (The Netherlands), the Centre of the Study of Terrorism and Political Violence of the University of St Andrews (Scotland, UK), the Catholic University of Leuven (Belgium) and Victim Support of the Netherlands and of Europe, is one of the few that tried to explore the complexities that make the experience of victims of terrorism exceptional in many respects. It is this exceptionality and hardship that I wish to explain in an accessible language in the following sections.

43 Letschert R., Staiger I. & Pemberton A., *Assisting Victims of Terrorism, Towards a European Standard of Justice*, Springer, 2010

44 Fernandez de Casadevante Romani, *see above*

45 Statement delivered by Professor Rianne Letschert, during the Panel Discussion on Human Rights and Victims of Terrorism, at the 17th session of the Human Rights Council, 1 June 2011.

These days, we often hear that anyone could be a victim of terrorism, while travelling on a train, checking in at an international airport or having dinner in a nice restaurant. That is true. In fact, this is the very intent of terrorists, that is to say, to hit massively and publicly. But what happens to those who happened to be on that train, in that airport or restaurant? What happens after the initial outpouring of news feed and messages of condolences? What is their trajectory? What are their needs? Who responds to them? It took me time to understand it myself. I needed to get lost in my solitude, read testimonies and work for other victims of human rights violations. The exchanges with Professor Letschert and Pemberton and the findings of their comprehensive research have helped me intellectualize my experience as a victim of terrorism.

Over the past years, three main issues became evident to me as being specific to terrorism victimization. They are in many ways not exclusive to terrorism, but when taken together they define the complexity of terrorism victimization and the consequences on victims, namely i) the degree of violence, ii) the relationship between the terrorist, the victim and the ultimate target, and iii) the impracticability of justice.

The degree of violence

As noted earlier, terrorism is not listed *per se* under the crimes for which the International Criminal Court has jurisdiction. However, terrorists use increasingly means and weapons similar to those of war-time, mass-murder of non-combatants. When I was told on the tarmac of the *Charles de Gaulle* international airport in Paris that it was better not to open the coffin containing Jean-Sélim's body, I suddenly found myself in a war scene. When one has to undergo repeated surgeries to extract *kalashnikov* bullets out of a limb or an organ, it feels closer to Aleppo than München. Despite my tireless efforts to live fully again, I know I still have indelible splinters of horror inside of me, like the miniscule pieces of glass projected by the blast and still wandering in the body of some of my injured friends– even years after the bombing.

Some of the survivors I met are like war veterans, in body and spirit. Their limbs are maimed and their nights populated by nightmares. Their wounds have received (or should have received) specialized care in well-drilled emergency wards and/or long-term rehabilitation facilities. Their psychological injuries require experts that know how to treat Post Traumatic Stress Disorder (PTSD), including with children, rather than ordinary psychologists. By now, in many places in the world, there are specialized centres for victims of trafficking or victims of torture. But if you are a victim of terrorism, where do you turn?

The triangular relationship: terrorist, direct victim and ultimate target

Unlike other crimes, including serious ones, the victim of terrorism and the perpetrator (the terrorist) are not two dots linked by a straight line. The direct victim finds himself or herself in a *triangle*, whose third angle is the ultimate target of the terrorist act, namely an entire community, a government, an institution or the society at large⁴⁶. The ultimate objective of the commando of 19 August transcended Jean-Sélim and his colleagues: it was the blue UN flag flying on the roof of the Canal Hotel. In most cases, the terrorists do not even know the names of their victims and are not interested to learn them. They want to hit a crowded café because of what it represents in their eyes, and not because I or someone else are sitting at a table of that café. The victims are not chosen for who they are, and this intentional dehumanization is very hard for the direct victims and their families to comprehend and deal with.

A terrorist attack is intended to generate a large impact, and normally it does so. When people spontaneously take to the streets after a bloody massacre in a peacetime city, leaving behind myriads of candles, teddy bears and cards, they do so not just in solidarity with the direct victims of the attack, but because they feel that they were themselves targeted. The 19 August bombing at the UN in Baghdad was a 'public' criminal event meant to have a public reaction. This is why eight days after it, I found myself holding my one month-old baby in a large official ceremony, surrounded by hundreds of people – most of whom I did not know. It would have not been the case had Jean-Sélim died in an ordinary car accident.

For most victims, however, the worst part comes after the public commemorations are over, when they are painfully starting to grasp the public dimension of the event in which they simply happened to be in the line of fire. They feel a growing expectation for a public recognition and

46 Schmid A., *Strengthening the Role of Victims and Incorporating Victims in Efforts to Counter Violent Extremism and Terrorism*, see above

state-sponsored assistance. In the vast majority of countries, however, despite the hundreds of terrorist attacks reported over the last 20 years, there are no provisions in place for victims of terrorism: no emergency services, no hotline numbers to call or no long-term rehabilitation facilities. The weak response or, at times, the full neglect by public institutions adds to the dehumanization already inflicted by the terrorists. It amplifies it and makes it, in some cases, irreparable.

The impracticability of justice

If Jean-Sélim had been killed by an ordinary criminal while jogging along the Geneva Lake, the chances that by now the crime had been investigated fully, with a perpetrator identified and possibly convicted, would be ten times higher than for the 19 August mass killing. Would that criminal justice process have helped me? It would have certainly not changed the fate of having to live in his painful absence; however, it would have given me solace as well as trust in the society and its institutions. The killer who drove the truck loaded with explosives into the UN building blew himself up with it; we were simply told that only one of his hands was found. Moreover, all those who allegedly planned the attack with him were reportedly killed in various subsequent military operations. The only one caught alive spent months in unreported isolation in the infamous detention centre of Abou Ghraib, Iraq, and was then sentenced to death by a Baghdad court. He was hanged in no time and his alleged confession was never shared with the victims and families. Unfortunately, this story can be applied to the aftermath of so many other recent terrorist attacks. Extra-judicial measures may be a convenient short-cut for states, but without a criminal process, there is no concrete context for the victim to hold on to and indeed no full remedial justice.

The senselessness experienced by the direct victims, in particular in the case of a suicide attack, is often amplified by the impracticability of a public

criminal justice process to which the victims may be associated. It is said that a criminal justice process, especially if lengthy and complex, is a necessary evil since its outcome may turn out to be unsatisfactory for the victim. But justice is a necessity and its total absence may be too large an evil for the victim to bear. Today's counter-terrorism, in which millions of dollars are poured, is not pursued with the primary intent to bring redress and truth to the victims. If anything, the extra-judicial means invoked and used by some states to counter terrorism often obstruct the right of victims to a prompt, effective and independent investigation. Furthermore, even when there is a will to ensure effective access to justice for the victims, the global and cross-border nature of today' terrorism may generate some objective obstacles in light of the multiple nationalities amongst the victims, the multiple nationalities amongst the perpetrators and the actual location of the crime.

The combination of these empirical reasons calls for a specific response for victims of terrorism. It is time for the exceptionality of terrorism victimization to be mapped and understood, and most importantly, for an appropriate response to be found to address it. In the next three chapters I will try to unpack each of these features, from the entry point of the victim.

Chapter V

An electric circuit designed to kill

We sat in a large UN meeting room in the Palais des Nations in Geneva to receive the first (and only) briefing organized by the UN Security Department for all the survivors of the 19 August attack. Five years had passed since the tragedy, but emotions were still running high. There was dead silence in the room and many, like me, held a Kleenex in hand. I had asked my father to be next to me; although he doesn't understand English, his presence would give me strength. The presentation was done quite professionally, although it had no supporting written documents and came too late for our closure needs.

Slide after slide, we learned the names of some alleged perpetrators, the brand and plate of the loaded truck and a few facts related to the claimed affiliation of the terrorist commando. Of all, one particular slide shook me. It was the sketch of an electric circuit drawn by the only suspect caught alive, while he was detained in Abou Ghraib. It reportedly proved to the interrogators the veracity of his confession and his active role in the attack. A second sketch, made by the same man, was the map of the Canal Hotel, the surrounding area and the route taken by the bomber to approach the building. The UN Security Chief told us that the electric circuit had been "successfully" reproduced by the FBI in a laboratory and that the second sketch perfectly matched the crime scene. The briefing was filled with military terms and I took careful notes, as if I was again in a school classroom: "...the so-called VBIED, which stands for vehicle borne improvised explosive device, contained two tons of TNT and one and a half tons of artillery shells of different types. The electric system had run off the truck battery and had been manually initiated by the suicide bomber by depressing a push button to trigger the explosion". The TNT and the shells, we were told, are the perfect mix to cause the most harmful damage to people and property.

That electric circuit sketch has been engraved in me ever since. To my eyes, it embodies the intentionality behind the event that changed my life forever. It exemplifies that human skills can be used to generate horror and violence rather than beauty and progress. For years, I would continue to be woken up, in the middle of the night, by the image of the rubble, which had not been caused by an earthquake but by fellow human beings – one of whom (the suicide truck driver) was reportedly a young Egyptian, like Jean-Sélim.

In 2013 I finally got to meet Jason, a brave colleague of my husband, who was also 33 at the time of the attack. We had not met each other at the first memorial because he was still lying in a hospital bed; we had not spoken at the fifth anniversary memorial because he could still not approach me. My child and I spent time with him on the occasion of the tenth anniversary ceremony at the UN Headquarters in New York, along with his wife-to-be and the military surgeon that had saved his life. After the blast, Jason had been found half dead with a piece of metal planted in his head; he regained consciousness only one month after the bombing. It was thanks to the first highly specialized surgical intervention he received by US military medics trained to operate in a war theatre that he was able to survive – although his neurological sequelae are still the object of medical research.

This year, for the purpose of my writing project, I met with another exemplary survivor, Françoise Rudetzki, who was severely injured in 1983 in the terrorist attack at the Restaurant Le Grand Véfour in Paris. Since then, she has had countless operations, treatments and therapies and has dedicated her post-bombing life to the cause of victims of terrorism. The support framework available today in France for victims of terrorism is almost entirely owed to her tireless work and advocacy. Sitting across from each other over a cup of coffee, we spoke for two hours about what she had learned over the years and her most recent activities, at the Institution Nationale des Invalides in the heart of Paris, which she calls ‘my second home’. This military hospital, founded by Louis XIV more than three centuries ago, is specialized in the long-term rehabilitation of military personnel injured during military operations. For the last 30 years, she has had regular access to their expert services – first on crutches and today in an electric mobile chair - to treat her multiple war-type disabilities. During these years, she has also visited the many victims of terrorism hospitalized in those premises at regular intervals since 1983, including after the Parisian hell-on-earth night of 13 November 2015. During our encounter, she stressed the importance of drawing from military know-how in designing adequate medical responses for the support of victims of terrorism, who – in her own words - are like victims of war.

I have often asked myself whether my recovery, or rather my complete return to life, would have been faster had the 19 August bombing been a one-off event, rather than being followed by an endless list of other terrorist attacks and victims. I have kept an article issued on the Los Angeles Times on 24 June 2016, for instance, which reported that in that month not a single day had passed without a terrorist act hitting somewhere: in 30 days only, 180 attacks, 858 fatalities and 1385 wounded. Etymologically, the word terrorism derives from the Latin verb 'terrere', which means to frighten. Those who experience terrorism, especially if very close to its epicentre, are likely to be afraid for a long time after or even chronically, not only because they have experienced loss and pain, but also because they dread that it could happen again and, unfortunately, it does. Since 2003, I got to read that 'breaking news' line infinite times on my PC and mobile screen. Each time, the sketch of that electric circuit designed to kill and maim re-surfaced and my back would mysteriously ache. Each time, I would tell myself aloud that fear would not determine my future or that of my child. Most of the times, I managed to deactivate that frightening circuit in my head and carry on.

High fatality rate

Producing large-scale victimization is one of the characteristics of modern terrorism. The intent is to provoke maximum public attention by causing as many casualties as possible. For this reason terrorists have a preference for soft and symbolic targets,⁴⁷ such as schools, international business centres, airports and train stations, concert and cinema halls, large restaurants and cafés, public transport including subways, trains and planes, as well as cultural sites and museums. According to Bogen and Davis, statistically, terrorist attacks are less frequent than other types of ordinary crime⁴⁸. However, as is the case with airplane crashes, when terrorism strikes, its physical impact is much larger and so is the emotional wave it causes. According to an article published by the American Journal of Emergency Medicine on the pattern of injury observed in hospitalized terrorist victims, the fatality rate amongst victims of terrorism is much higher than in the case of other trauma victims admitted to hospitals.⁴⁹ Bogen and Davis also gathered data for the period 2003 – 2007, which showed a marked increase in the number of terrorist attacks worldwide, as well as a growing trend in the number of casualties, of which 43% were deadly, for a total of almost 15,000 fatalities.

The available data and literature reviewed by Letschert and Pemberton also indicated that the injuries typically sustained due to terrorist attacks are more severe than in the case of other trauma, even when the victim survives. These types of injuries require that a very effective emergency response is in place and that long-term treatment is also foreseen. Wounds are frequently caused by projected glass, metal and concrete, by *Kalashnikov* bullets or burning explosives; orthopaedics, reconstruction surgery, eye surgery, neurology are thus some of the most relevant medical specializations. There is also research that shows that the average age of

47 Albrecht H. J. & Kilchling M., *Victims of Terrorism Policies: Should Victims of Terrorism be Treated Differently?*, European Journal of Criminal Policy (2007) 13:13-31

48 Bogen K.T. & Jones E.D., *Risks of Mortality and Morbidity from Worldwide Terrorism: 1968-2004*, Risk Analysis, 26(1)

49 Peleg K., Aharonson-Daniel L., Stein M., Shapira S.C. (2003), *Terror- Severe form of external injury: pattern of injury in hospitalized terrorist victims*, American Journal of Emergency Medicine 2003; 21

victims of terrorism is relatively low; this means that specialized care will be necessary for a higher number of years. Moreover, a young person in a wheelchair is likely to require continually adjusted measures over time to attain a sufficient quality of life, including family planning and management.⁵⁰

In France, where by now there is a very comprehensive framework in place to respond to terrorist attacks both in the immediate aftermath and in the long term, a national “White Plan” has been operationalized in order to organize and coordinate the medical response to what are by law defined as war-type acts in peace time.⁵¹ In every hospital across the country, a number of available beds are reserved at all times to receive critical patients involved in a terrorist attack. Hospitals should also keep updated lists of specialized personnel, including surgical teams. Furthermore, over the years, a network of so-called CUMP (*cellules d’urgences medico-psychologique*) has been established by pulling together medical doctors, psychiatrists, psychologists and specialized nurses to provide professional care to severely injured and affected populations. On the night of 13 November 2015, Jean-Pierre Tourtier, the iconic chief of the Paris fire brigade, managed to get in no time to the *Bataclan* concert hall. The regular drills undertaken by French services and the lessons learned over time in the context of this nationally-coordinated framework had equipped him and his teams with the knowledge that a rapid and specialized intervention in the aftermath of these war-type attacks is fundamental to save the maximum number of lives. However, the magnitude of the attack of that evening was such that the number of casualties outnumbered the available capacity. Driven by the awareness that medical assistance has to be provided within the hour following an AK47 attack, Tourtier and his comrades resorted to using trousers belts to halt the haemorrhages, and by so doing, saved the life of many of the young people wounded.⁵² As a result, in France it is now being proposed that first-intervention medical teams undergo trainings in war medicine *tout court*.

50 Letschert R., Staiger I. & Pemberton A., *Assisting Victims of Terrorism, Towards a European Standard of Justice*, Springer, 2010

51 Bill of 23 January 1990 (Journal Officiel 25 January 1990)

52 These accounts are taken from the last book by Françoise Rudetzki, *Après l’attentat*, Calmann-Lévy, 2016.

Some of the physical wounds, often combined with psychological *sequelae*, may impair the victim's return to professional life – sometimes indefinitely. In November 2016, I came across an interview, published in the Swiss newspaper *Le Temps*, with Myriam and Maurice, a Swiss couple, victims of the rifle assault at one of the restaurants in Paris on 13 November 2015. They narrated how they miraculously survived, amid twenty corpses, though Myriam was severely injured. After a long medical recovery in France, they both went back to their hometown in Switzerland. However, their life is far from resembling what they enjoyed before that night. Physiotherapist by profession, she can no longer practice given a permanent disability at her arm. To their surprise, their country has no provision in place to support Swiss victims of terrorism for acts that took place outside its borders. The second part of the interview was particularly heart-breaking as Myriam went on to describe how terrorism has changed her life forever, including by degrading their living and economic conditions in the long term.

Memorial plaque at the Municipal Sports Centre of Daoiz y Velarde that became an emergency hospital to tend to the victims of the 2004 Madrid train bombings.

Source: Mr. Tickle - Own work, CC BY-SA 3.0,

<https://commons.wikimedia.org/w/index.php?curid=186059>



madrid

En memoria de las víctimas de los atentados del 11 de marzo de 2004 que fueron trasladadas al hospital de campaña que se estableció en esta Instalación Deportiva Municipal Daoiz y Velarde.

Como muestra de solidaridad de los ciudadanos de Madrid, y en agradecimiento al coraje y generosidad de todos los servicios y personas que acudieron en su socorro.

Complicated Grief

The fact that terrorism often has a high fatality rate also means that many find themselves suddenly forced to grieve the loss of a loved one, which in all cultures is considered amongst the most difficult experiences in one's life.⁵³ But the particular features and techniques of terrorism can acutely interfere with the grief pattern of the victims' families, making grieving even longer and more complex. Medically, the term for that is Complicated Grief (CG). Attacks involving explosives, automatic assault rifles or occurring on planes are likely to cause CG as the families of the victim often undergo extremely gruesome experiences, which not infrequently include the impossibility to have the body of their child, parent or brother returned.

I can still picture Carie Lemack with her large blue eyes holding a framed photo of her mother Judy, who on 11 September 2001 was on board of American Airlines flight 11. She told us at the 2008 UN Victims' Symposium that five and a half years after her mum's murder, she received a phone call from the New York City Medical Examiner's office informing her and her sister that her mum's complete left foot, with her ankle, had been identified. Reportedly, it had fallen from the sky amongst countless pieces of her body, miraculously intact. She then recounted how she carried it on a train from New York to her hometown: on her lap, like a child. She considered herself one of the lucky ones since 1,126 families of the 11 September attacks were deprived of the possibility of bringing even a single piece of their loved ones home. She also told us how fortunate she recognized she was living in a country where there were specialized forensic identification techniques fully financed for years after the attacks,⁵⁴ with the aim of identifying all body remains and enabling closure for the bereaved families.

A group of psychiatrists and epidemiologists conducted a comprehensive web-based survey of adults who had experienced loss during the 11

53 Letschert R., Staiger I. & Pemberton A., *see above*

54 *Supporting Victims of Terrorism*, United Nations Executive Office of the Secretary-General, New York (2009)

September 2001 terrorist attacks, 2 ½ to 3 ½ years after the attacks.⁵⁵ The aim of the study was to examine the long-term grief reactions among bereaved adults across the United States. Of the 704 participants who provided complete data, 79% were women and the average age of the respondents was 45.13 years. Approximately 91% of the participants reported one or more CG symptoms, and 43% screened positive for current CG. The most complicated symptoms reported within the entire study group were: yearning for the deceased and preoccupation with thoughts about the deceased that interrupted normal functioning. Other symptoms of CG are: trouble accepting the loss; detachment, bitterness, loneliness; feeling that life is empty; feeling that part of one's self has died; and the sense of loss of security or safety. Approximately 50% of the respondents who screened positive for CG also met criteria for major depression disorder and 43% met criteria for PTSD. A significant number of those who screened positive for CG also manifested other problems, such as anxiety, suicidal ideation and increased smoking. In simpler words, the study showed that for many victims the emotional burden was dual, inflicted by both the exposure to mass violence and the experience of loss. The study concluded with the recommendation to further research on the long-term impact of terrorist events and the clinical needs of individuals affected, in order to increase preparedness and plan better for public health interventions.

55 Neria Y., Gross R., Litz B., Maguen S., Insel B., Seimarco G., Rosenfeld H., Jung Suh E., Kishon R., Cook J., Marshall R.D., *Prevalence and Psychological Correlates of Complicated Grief Among Bereaved Adults 2.5-3.5 Years After September 11th Attacks*, *Journal of Traumatic Stress* (2007), 20(3)

Epidemiological studies

In France, epidemiological studies have underpinned the public measures progressively introduced in support of victims of terrorism since the '80s. After each major attack, studies were mandated and new provisions and legislations were then adopted on the basis of those findings. The first study was launched in 1987 and surveyed 313 victims affected by terrorist attacks that occurred between 1 January 1982 and 17 September 1987. That study revealed for the first time the linkage between the frequency of traumatic symptoms and the severity of the physical injuries. According to Rudetzki, before then the prevalent assumption was that the incidence of PTSD had a stronger correlation with other factors, in particular the history and personality of the victim.⁵⁶ These studies were also used as evidence to advocate for a compensation scheme for victims based proportionally on the severity of the injury incurred.⁵⁷

A new study, entitled IMPACTS, is currently under way with the support of the French National Agency of Public Health. 232 victims present in the locations of the Paris January 2015 terrorist attacks (at *Charlie Hebdo*, *HyperCasher*, *Montrouge* and *Dammartin*) and another 190 people affected by those events have been surveyed. The preliminary findings, which I obtained from the recently constituted Secretariat of State in charge of Victims' Support (established by Presidential Decree in February 2016), indicate that six months after the attacks, more than one third of the respondents still suffered from psychological *sequelae*. More precisely, two out of ten people suffered from PTSD, 1 out of 10 from depression, and 3 out of 10 from anxiety. Those who experienced the events from a closer location and were more directly affected presented the strongest form of symptoms. Moreover, more than one fourth of the respondents showed symptoms, other than psychological, that could be connected to the event, i.e. cardiovascular problems, skin rushes, joint pain. This data is not dissimilar from that collected and analysed by another group of researchers

56 Rudetzki F., *see above*

57 The French National Fund for Victims of Terrorism was established by law in September 1986 (bill 86.1020)

in the three months that followed the attacks of 11 September 2001 in the United States.⁵⁸ Among 1008 adults interviewed, 7.5% reported symptoms consistent with a diagnosis of PTSD related to the attacks, and 9.7% reported symptoms consistent with current depression. Among the respondents, those who lived south of Canal Street, thus closer to the World Trade Center, had a prevalence of PTSD of 20%.

The vulnerability but also the resilience of children has been the subject of several inquiries. One study showed that parents with terrorism-induced PTSD are more likely to raise children with behavioural problems.⁵⁹ Additional studies demonstrate that children are at a higher risk of developing psychological problems if they have been exposed to images of the attack for a long period.⁶⁰ And this, incidentally, may be one of the reasons why terrorists continuously refine propaganda tactics, including through social media. Psychological disorders on children manifest themselves differently according to their age. Children in younger age groups may develop regressive behaviours, like bed-wetting or fear of the dark, or separation anxiety. Older children and adolescents may resort to alcohol and substance abuse or develop violent behaviours.⁶¹ This field of research should, in my view, be expanded given the very disturbing trend of global terrorism of hitting places where children and adolescents are present.

58 Galea S., Ahern J., Resnick H., Kilpatrick D., Bucuvalas M., Gold J., Vahov D., *Psychological Sequelae of the September 11 Terrorist Attacks in New York City*, *The New England Journal of Medicine*, Vol. 346, No. 13, 2002

59 Solomon et al. (2007), *Panic Reactions to Terrorist Attacks and Probable Posttraumatic Stress Disorder in Adolescents*, *Journal of Traumatic Stress*, 19(2)

60 Pfefferbaum B., *Victims of terrorism and the media*. In: Andrew Ilke (ed.), *Terrorists, Victims and Society, Psychological Perspectives on Terrorism and Its Consequences*, West Sussex, Wiley, 2003

61 Solomon et al. (2007), *see above*

Different degrees, different needs

Available literature seems to demonstrate that the experience of victims of terrorism, in particular in the medical and psycho-social spheres, differs *in degree* from that of victims of other crimes.⁶² When terrorism strikes these days, the number of victims – direct and indirect – is higher than in other types of crime, and so are the chances of severe physical injuries. Victims of terrorism face a higher probability of developing PTSD and undergo CD, in some instances even for a prolonged period after the attack. These data speak to the need for both emergency assistance and continuous support.

It would be timely to establish a repository of the epidemiological studies conducted so far, which collectively should also provide a direction for further areas of research. The UN should provide leadership and have a catalytic role to harness good practices from various parts of the world in the aftermath of specific attacks. Given the mass-scale nature of modern terrorism, lessons should be drawn on: i) the in-take process of victims, including victims voluntarily seeking help weeks or months after an attack; ii) the creation and updating of one certified list of victims, including those who perished and their respective next of kin; those who were injured and the respective next of kin, in particular when the victim is in very severe condition; as well as the ‘vicarious’ victims who had a direct, yet more distant connection to the event, including the affected rescuers; iii) the establishment of a one-stop-shop for the provision of informed advice to the victims, both in the immediate aftermath of the attack and the long-term.

Once again, the recent and tragic experience of France comes to mind: the Municipal buildings in both the Xth and XIth *arrondissements* in Paris opened a permanent desk from the day immediately after the 13 November 2015 attacks. Staff from the CUMPs and other specialized services were available non-stop for free counselling, medical and psycho-social advice and practical information. From mid-November to the end of December

2015, 1500 people in the XI arrondissement and 400 people in the X arrondissement benefitted from those services.⁶³ Very likely, those people were provided with the necessary support that prevented their traumatic experience from becoming chronic.

63 Rudetzki F., *see above*

Police gather evidence outside the Bataclan theatre in Paris on 14 November 2015

Photo: By Maya-Anaïs Yataghène, CC BY 2.0,

<https://commons.wikimedia.org/w/index.php?curid=45006615>



Chapter VI

The triangle

It was a few days before our second family Christmas. I was driving on a fast road returning home after buying festive decorations for our house. We deserved a 'normal' Christmas since the previous one, six months after both a new life and death had entered my existence, had been so hard to pass that it is not even worth narrating. Mattia-Sélim, by then one a half years old, was buckled up on his baby seat and my dad, visiting from Italy, was sitting next to me. Music and words were filling the car cabin. Suddenly, from the back, Mattia-Sélim called for my attention, "Mum?"; "Yes, my love?"; "Where is my dad?" Four simple words, placed one after the other in one of his first complete sentences, cut through the air. I knew that this moment would come and had tried to prepare for it by seeking specialized counselling. Only to find out that it would be impossible to explain meaninglessness to a toddler.

A very competent child psychiatrist, with whom I would regularly exchange over the years, had advised me to deal with it 'on demand', basically waiting for the questions to come. And the questions came from that winter onwards, at more or less regular intervals and with increasing coherence. The answers, however, no matter how hard I tried, were painfully unsatisfactory and illogical. 'Daddy was killed'; "By who?"; "We don't know"; "Mum, those who killed him are now in prison?"; "No, one was a kamikaze and the others were killed"; "By who?"; "We are not really sure"; "Mum, what does kamikaze mean?"

The worst of all questions was: "Did the terrorists know my father?" The cruelty and void of terrorism lies in the 'No' that I was forced to give him as answer, because in the crystal-clear logic of a child it does not make sense to hurt somebody that you don't know. A child normally hits the one child that has taken away his toy. Since that pre-Christmas afternoon I realised that I could not come up with an explanation for a horror that had none. The only thing I could do was to teach my child to focus on giving meaning to life and to fully enjoy it!

Unfortunately, the media have not helped in these years. Bomb after bomb, massacre after massacre, TV and radio news would systematically dwell on the terrorist narrative and confine the reporting on the victims, people of flesh and blood like us, to mere numbers. Twenty-five people killed, 38 injured, 193

people killed, 107 injured, and next to it, entire pages reconstructing the life and profile of the terrorist criminals: where they were born, which schools they attended, who indoctrinated them. And the questions of Mattia-Sélim would grow in depth and breadth: “Why does TV spend so much time on people that don’t make sense, mum?” Al Zarkawi spreading terror all over Iraq, Salah Abdeslam killing chanting youth at a rock concert, Mohamed Bouhlel smashing entire families with a truck, Jihadist John specialized in beheadings!

Only more recently and largely thanks to social media, victims of terrorism have increasingly found a place in the public domain: pictures of their faces,

Mattia-Sélim at the First Anniversary of Attack on UN Headquarters in Baghdad held in Geneva
Photo: Laura Dolci



accounts about who they were, which aspirations they had in life, whom they left behind. Some victims have managed to propagate through social media a powerful counter-narrative, stronger than the terrorist fear-based one preferred and multiplied by traditional media. Thanks to a Facebook post that went viral three days after the massacre at the Bataclan concert hall in Paris, Antoine Leiris' message⁶⁴ to the terrorists, "You will not have my hatred", reached the four corners of the world. Today, his book,⁶⁵ carrying the same title, has been translated into 23 languages.

Soon after Jean-Sélim's death I felt the need for his name and that of his colleagues and friends to be displayed and remembered publicly. For the sake of memory, respect, acknowledgment or, more simply, as the ultimate attempt to prolong their existence for the split-second of a name reading. I also realized that others felt the same necessity, regardless of their nationality, culture or belief. Certainly, a commemorative plaque is no substitute for a life or a justice process, but public recognition can carry moral and educational meaning. Over the years, coming to visit mum in the office has meant for Mattia-Sélim stopping in front of the statue dedicated to Sergio Vieira de Mello and his colleagues, placed in 2007 on the public platform in front of the UN Human Rights Office in Geneva, reading his daddy's name and, occasionally, laying a flower. Each time, we would find somebody, a tourist or simply someone from the neighbourhood, in front of the memorial, learning about Sergio, his colleagues and the bombing. Each time, we would feel less alone in our tragedy.

Over time, I also tried to impress upon Mattia-Sélim the importance of expressing his feelings and thoughts. "Don't hold back, share with others. Humanity has progressed because we have exchanged. Good thoughts should circulate so that in the end they will outnumber bad thoughts". And he managed over the years to articulate himself, at times very profoundly. At the age of 12, when asked by his English teacher to choose and write on a topic considered to be a current issue, Mattia-Sélim lined up the following words, leaving me as speechless as at the time when I was driving home after Christmas shopping:

64 Antoine Leiris lost his wife Helène Muyal in the *Bataclan* massacre on 13 November 2015. Their child was 18 months old when his mother died. A total of 130 people died in the terrorist attacks of that night.

65 Leiris A., *Vous n'aurez pas ma haine*, Editions Fayard, 2016

"Global issue: Terrorism

What is terrorism? It's a crime since terrorist attacks target with extreme violence and indiscriminately innocent civilians.

Which are the consequences? The consequences are nightmares, death, injuries and fear. The victim is affected but also the community and the family.

Can terrorism be excused? No idea, no religion can be a justification for killing people (women, children and men).

How to stop terrorism? We can stop it by working together as a team in different countries. We need to be organized to face terrorism, by being smarter than them and using no violence but the brain.

How can we stop terrorism by internet? Nowadays we are used to see violence on TV. Terrorists aren't courageous as emergency doctors, school teachers, police officers. That's what TV should show instead of these barbarians".

The year after he wrote his school note, I decided to submit my writing proposal on victims of terrorism to the UN and a few Universities. Mattia-Sélim was right: victims of terrorism (and those who help them) deserve to have their story narrated and recognized.

Opposite page: Mattia-Sélim's note on a terrorism as a global issue, written at age 12.

Photo: Laura Dolci

Global issue: Terrorism

What is terrorism? It's a crime since terrorist attacks target with extreme violence and indiscriminately innocent civilians

Which are the consequences? The consequences are nightmares, death, injuries, sadness and fear. The victim is affected and also the community and family.

Can terrorism be excused? No idea, no religion can be a justification for killing people (women, children and men)

How to stop terrorism? We can stop it by working together in different countries. We need to be organized to face terrorism, by being smarter than them and using no violence ~~but~~ ^{as a team} the brain.

How can we stop terrorism by Internet? Nowadays we are used to see violence on TV. Terrorists aren't courageous as emergency doctors, school teachers, police officers. That's what TV should show instead of those barbarians.

Who is the ultimate target?

In most crimes, the victim and the target chosen by the perpetrator coincide: the victim is THE ultimate target and is picked individually for who she or he is. In the case of terrorism, in particular in its current wave, victims are randomly chosen on the basis of a plan. When executing the attack, the terrorist has in mind an ultimate target that transcends the direct victim. The victim is, by definition, indiscriminately targeted as representative of a larger group⁶⁶. The terrorist strategy is demonstrative: to kill as many with the aim to frighten the whole⁶⁷. This 'public dimension' of terrorism – to borrow an expression by Letschert & Pemberton – places terrorism much closer to a crime against humanity than an ordinary crime. In trying to define it, Hannah Arendt in *Eichmann in Jerusalem*⁶⁸ argued that a crime against humanity is not committed only against the victim, but primarily against the community whose law is violated. This qualifying intention applies to terrorism as well. And to pursue that end, terrorists operate increasingly with 'calculated' indiscrimination: children and women, as well as humanitarian workers such as Jean-Sélim, are killed and injured in order to spread fear and mistrust in entire communities.

For terrorists, the direct victims rarely matter. They are chosen *simply* because they are harmless civilians and, as such, easy targets through whom to terrorise many others who may identify with those victims⁶⁹. As desolately put by Brigitte Nacos, "For terrorists, victims are pawns in a power game – the skin on the drum beaten to make a wider audience dance to their tune⁷⁰". This is why mental health problems caused by large-scale attacks extend beyond the direct victims with many 'vicarious victims' also suffering from traumatic symptomatology⁷¹. In the terrorist 'triangle', composed of the terrorist/direct victim/ultimate target, the direct victim

66 Letschert R., Staiger I. & Pemberton A., *see above*

67 Schmid A., *Strengthening the Role of Victims and Incorporating Victims in Efforts to Counter Violent Extremism and Terrorism*, *see above*

68 Arendt H., *Eichmann in Jerusalem: A Report on the Banality of Evil*, 1963

69 Schmid A., *Strengthening the Role of Victims and Incorporating Victims in Efforts to Counter Violent Extremism and Terrorism*, *see above*

70 Nacos B., *Terrorism and Counterterrorism*, Boston, Longman, 2010

71 Letschert R., Staiger I. & Pemberton A., *see above*

is therefore deprived of her/his identity and literally dehumanized as the terrorist logic is not one based on “Me versus You”. The direct victim is intentionally subjected by the terrorist to anonymity and silence, in addition to the enormity of the physical and other harm.

For the victims and the families, this unique dehumanizing feature is often an aggravating factor and an obstacle in their recovery. I remember, at the funeral, repeating instinctively to friends and family that it would have been easier for me if Jean-Sélim had been killed by someone he knew (or by somebody that knew him). As recalled in Chapter II, the dehumanization of the victims caused by terrorism started to be recognized as such by the community of states, under the auspices of the UN General Assembly, only in 2006.

The victim’s double dehumanization

In modern societies, crimes are expected to elicit a proportional response by the state. Some crimes, given their gravity, are even acknowledged and addressed at the international level. In the case of terrorism, its public dimension should, logically, warrant a bold public response from the very community, national and increasingly international, that was the ultimate target of the terrorist act. As a matter of fact, in its resolution 59/195 of 20 December 2004, the UN General Assembly captured the ‘triangular’ paradigm of terrorism by stating that terrorist acts aim at the destruction of human rights, fundamental freedoms and democracy, including the very right of people to live in freedom from fear. A few years earlier, in 2001, the Security Council declared that international terrorism constituted a challenge to all of humanity, endangered innocent lives and the dignity and security of human beings everywhere, and undermined global stability and prosperity.

The public response to terrorism, as argued by Albrecht and Kilchling⁷², should be based on social solidarity, aimed in the first place to those members of the society who have paid the heaviest price. As stated by Michael Møller, Director-General of the United Nations Office in Geneva on 21 February 2017⁷³: “In their fight for what they believe being a greater cause, terrorists try to depersonalize victims reducing them to mere statistics. The international community, I believe, has a responsibility to do the exact opposite. We must see and treat victims as real individuals, with hopes, dreams, families and daily lives that have been shattered or destroyed through terrorist violence”.

However, in most countries the response to the silence inflicted by terrorists on victims is more silence and neglect. In 2014, at the official launch of the UN Victims of Terrorism Portal, former Secretary-General Ban-Ki Moon acknowledged that “(...) far too often, victims are left to suffer in silence (...). This only exacerbates their trauma. We must do more to protect the rights of victims of terrorism and provide the services they need”. If abandoned to face on their own the senselessness of the crime that has changed their lives forever, some victims may fall into a chronic dehumanizing experience, with ever-lasting consequences. In the interview in *Le Temps* (cited in chapter V), Myriam narrated how, only a few months after the attacks in Paris, she was left with no other option than closing her physiotherapy office given her permanent disability and the pile of medical bills caused by it. Her words were as heavy as stones: “*Ne pas être reconnu comme victime, c’est être victime une seconde fois*”.⁷⁴ Furthermore, the excessive focus placed by most media on the stories and voices of the perpetrators may also add to the sense of injustice and anonymity experienced by the victims.

Victims are the first ones to activate resilience in the face of terrorist adversity but states and the international community should not discharge themselves of their obligations *vis-à-vis* the victims by putting everything on individual resilience. Victims’ resilience should be nurtured

72 Albrecht H.-J. & Kilchling M.: *Victims of Terrorism Policies – Should Victims of Terrorism be Treated Differently?* See above

73 http://graduateinstitute.ch/events/_/events/corporate/2017/vous-naurez-pas-ma-haine

74 Not being recognized as a victim is like being a victim for the second time.

through adequate support schemes grounded on social solidarity and the recognition that individuals have been victimised by terrorism as members of a larger audience. The lack of a public acknowledgement may fuel the victims' perception that terrorist violence has taken the upper hand. If unaddressed, the prolonged dehumanization experienced by the victims may end up feeding further fear. This is why in all fora convened by the UN and other international organizations like the EU and the OSCE, victims of terrorism have systematically and vocally requested that their needs and rights be recognized and that a special status be accorded to them.

Some victims may find the term 'victim' disempowering and prefer other words, such as 'survivor', when speaking about their experience. This is ultimately the victim's legitimate prerogative, reflecting her/his emancipatory trajectory in reclaiming her or his rights. The point here is that the state, and possibly the international community, should accompany the victim in that trajectory through a principled stance that criminalizes the terrorist wrong-doing, and recognizes the complexity and gravity of the victimization caused by it. This should translate into a comprehensive response by the state, embracing social solidarity rather than mere charity.

However, as emerged at the UN Conference on Human Rights of Victims of Terrorism held in New York in February 2016⁷⁵, reparations for victims remain regrettably a sensitive and complicated topic, with Member States reporting diverse approaches in this regard, or no approach at all. As a matter of fact, despite over ten years of Global Counter-Terrorism Strategy, very few Member States have adopted specific measures for victims of terrorism based on one or more of the principles underpinning the right to a remedy and reparation for victims, as articulated more than 30 years ago in the 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, namely restitution, compensation, rehabilitation, satisfaction, and guarantees of non-repetition⁷⁶.

75 United Nations Counter-Terrorism Centre, Report of the UN Conference on Human Rights of Victims of Terrorism, UN Headquarters, New York, 11 February 2016

76 General Assembly resolution 60/147, 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

Symbolic reparation measures

In her landmark report to the Human Rights Council⁷⁷, the UN Special Rapporteur in the field of cultural rights, Farida Shaheed, noted that victims of tragic events or mass or grave violations of human rights often call for justice and a form of memorialization: “both are necessary and complementary, one cannot replace the other”. She also noted that while the legal aspect of reparations has attracted considerable interest, memorialization is rarely integrated into broader societal strategies. Memorial policies should contribute to provide public recognition to the victims but could also be a pedagogical part of a policy of prevention aimed at the non-repetition of violence.

Memorials, monuments, remembrance days or commemorative plaques can also be of relevance in cases of large-scale victimization from terrorism, in particular where the perpetrators are dead or not apprehended⁷⁸. They can provide a healing space for the victims and the bereaved families, in particular when the victim’s body was not retrieved (9/11) or when the attack occurred in a distant location that is not easily accessible for the victims (Canal Hotel in Baghdad). Additionally, memorials and remembrance days can also provide occasions to share private and public pains and memories; in the particular case of terrorism they may be relevant for both the direct victims and the large number of vicarious victims affected by the terrorist act. They may also constitute a platform, upon which to nurture resilience through individual and collective memory.

*Opposite:
A close-up of the memorial plaque for the victims of the 2003 Baghdad attack. -
UN Photo/Jean-Marc Ferré*

77 A/HRC/25/49 of 23 January 2014, Report of the Special Rapporteur in the field of cultural rights on Memorialization Processes

78 Letschert R., Staiger I. & Pemberton A., *see above*

في ذكرى أولئك الذين قتلوا في تفجير مقر الأمم المتحدة في بغداد، ١٩ آب/أغسطس ٢٠٠٣

In memory of those killed
in the bombing of
United Nations Headquarters
in Baghdad on 19 August 2003

A la mémoire de ceux qui ont
péri dans l'attentat contre le siège
des Nations Unies à Bagdad
le 19 août 2003

Sead Hermiz Abona
Reham Al-Farra

Emaad Ahmed Salman Al-Jobory
Raid Shaker Mustafa Al-Mahdawi
Omar Kahtan Mohamed Al-Orfalli

Loen Assad Al-Quadi
Ranilo Buenaventura
Gillian Clark

Manuel Martín-Oar Fernandez-Horedia
Arthur Helton
Rick Hooper

Reza Hosseini

Ihssan Taha Husain
Jean-Sélim Kanaan

Christopher Klein-Beekman

Khidir Saleem Sahir

Alya Ahmad Sousa

Martha Teas

Basim Mahmood Utaiwi

Sergio Vieira de Mello

Fiona Watson

Nadia Younes



National compensation examples

Today, the countries that domestically have in place a specific framework for victims of terrorism can be counted literally on the fingers of one hand. Upon a closer examination, existing national plans have all been triggered by the occurrence of terrorist attacks on the territory of the concerned country and strongly lobbied by civil society, in particular victims' associations. Chronologically, the introduction of these national measures does not appear to be correlated with the adoption by the General Assembly of the UN Global Counter-Terrorism Strategy; as a matter of fact, the most comprehensive national systems for the recognition of and support to victims of terrorism, developed in Spain, France and Italy, pre-date the 2006 appeal by the General Assembly to states to adopt national plans for victims. Disappointingly, not many other states have followed suit despite the General Assembly requesting that the protection of human rights of victims of terrorism be made an essential component of the Global Counter-Terrorism Strategy.

Many victims of crime suffer financial consequences caused by the crime they have endured⁷⁹. For ordinary crimes, this may be alleviated by the restitution being paid by the offender based on claims made in tort law. However, as we will see in the next chapter, the possibility for victims of terrorism to receive compensation through the criminal justice procedure is minimal given that, in the aftermath of a terrorist attack, tortfeasors are often dead, publicly not identified or unable to compensate. These impracticalities make it difficult for victims of terrorism to be treated *de facto* as victims of 'ordinary crime' and should therefore call for a stepping in by the state - in the name of that very social solidarity and cohesion that was intentionally attacked by the terrorist act.

Presently, there are very few national experiences in compensation schemes, the diversity of which appear to be determined by the financial means of the country, its social welfare system, as well as the prevailing

philosophical understanding of the role of the state (*l'Etat protecteur vs. l'Etat libéral*). According to Albrecht & Kilchling⁸⁰, only Azerbaijan, Croatia, Greece, France, Israel, Italy, Northern Ireland, the Russian Federation, Spain, and Turkey have set up specific compensation schemes for victims of terrorism. Belgium has recently adopted a bill, following the attacks in Brussels of 22 March 2016. Compensation in the form of national funds seems to be particularly suited in the case of attacks resulting in a large number of casualties in a single act of violence, including many victims of foreign nationalities. Of those States, Italy – in light of his long history with various forms of terrorism – has developed the most significant example of a regular subsidy system, whereby victims and their relatives can receive monthly or annual payments in terms of pensions and further subsidies to sustain long-term needs (medical, social and otherwise) caused by a terrorist attack.

The European Convention on the Compensation of Victims of Violent Crimes of the Council of Europe has put forward a standard list of items for which states should offer compensation to victims, which include medical and hospitalization expenses, funeral expenses, loss of maintenance for the dependants and loss of earnings.⁸¹ As a direct consequence of a terrorist attack, many families may run into very serious financial problems as they bear the burden of financing follow-up treatments, including much needed psychological support⁸².

The French system, established as early as 1986 and continuously improved up to after the last wave of bloody attacks on French soil in 2015-16, foresees a sustainable compensation Fund that is based by law on the principle of national solidarity. The Fund is financed by a levy of Euro 3.30 on the premiums paid by all citizens to property and domestic insurances, which in 2016 was increased to Euro 4.30 in light of the unprecedented number of victims of terrorism in the years 2015-16. All French citizens

80 Albrecht H.-J. & Kilchling M.: *Victims of Terrorism Policies – Should Victims of Terrorism be Treated Differently?* See above

81 Article 4 of the European Convention on the Compensation of Victims of Violent Crimes, adopted in 1983

82 United Nations Counter-Terrorism Centre, Report of the UN Conference on Human Rights of Victims of Terrorism, 11 February 2016, New York

who are victim of a terrorist attack in France or abroad are eligible to this Fund, and so are foreign citizens who are caught up in terrorist attacks on French territory. From its establishment in 1986 to the end of 2014, the French Fund for Victims of Terrorism compensated a total 4,200 victims of terrorism. The number of victims expected to be covered by the Fund in relation to 2015 attacks alone is over 3,000⁸³. My child, as the next of kin of a French victim killed in an attack outside France, was a beneficiary of this compensation scheme, based on a calculation of both the moral and economic loss due to the death of his father.

Furthermore, a number of States, including Austria, Germany, Sweden and the Netherlands, have extended their general crime-victim compensation and protection programmes to victims of terrorism, without specifically mentioning them.⁸⁴ Lastly, a few States have granted compensation to victims of terrorism on the basis of a 'one-off payment', activated in response to specific terrorist attacks, such as in the United Kingdom and the United States. The US Victim Compensation Fund created in the aftermath of the 9/11 attacks constitutes the largest compensation experiment ever to compensate mass damage disaster victims, for a total of \$ 7,049 billion for 2,880 survivors and 2,680 injured victims. In the UK, after the 2005 London bombings, a charity fund with a total capacity of £ 10 million was set up by the Mayor of London and the British Red Cross. In the eventuality of future attacks, the drawback with this type of schemes is that they will have to be established again.

Comprehensive national schemes should encompass reparative notions, in particular rehabilitation and satisfaction (as seen in Chapter V), thus providing for more than just monetary compensation. This presupposes a broader understanding of reparation, a cultural and attitudinal shift⁸⁵, which also translates in concrete support and practical help for the victims, including on gruesome issues such as obtaining a valid death certificate

83 Rudetzki F, see above

84 Albrecht H.-J. & Kilchling M.: *Victims of Terrorism Policies – Should Victims of Terrorism be Treated Differently?* See above

85 United Nations Counter-Terrorism Centre, Report of the UN Conference on Human Rights of Victims of Terrorism, 11 February 2016, New York

from a foreign country or arranging the transportation of human remains across borders⁸⁶. In the unique cases of France and Spain, the compensation scheme is based on a full recognition by law of the status of victim of terrorism. By virtue of a bill adopted on 3 January 1990, France attributes to victims of terrorism the status of civilians victims of war (*victimes civiles de guerre*), thus extending to them all services and institutions available to victims of war, including specialized military medicine and school support to orphan children.

The national examples cited in this chapter show that it is possible for states to embrace this new form of victimhood by terrorism and learn from other countries. To this end, the UN should promote the collection of best practices and undertake a comparative analysis of national provisions. States with an existing framework for victims of terrorism should be asked to share their experiences, in particular on the criteria used to establish victims' lists or on the creation, as is the case in Spain and France, of a 'single government office'⁸⁷ to ensure inter-ministerial coordination of all public services involved in the response to a terrorist act (hospitals, labour organizations, rehabilitation centres, schools, etc.) as well as relevant civil society associations, both during the emergency phase and in the longer run.

86 OSCE High-Level Meeting on Victims of Terrorism, 13-14 September 2007, Vienna

87 International Perspectives on Terrorism Victimisation, An Inter-disciplinary Approach, edited by Argomaniz J. & Lynch O., Palgrave Macmillan, 2015

An international fund?

Nowadays victims of terrorism can be found everywhere since global terrorism increasingly knows no borders. Consequently, the principle of social solidarity should be extended beyond national borders. During the last decade, the proposal for an international fund for victims of terrorism was placed on the UN table on several occasions (as seen in Chapter III), only to then, regrettably, lose momentum. Until now, no progress on this suggestion made by both the UN General Assembly and the Security Council has been registered. Despite the image projected by the media, statistically most terrorist attacks occur in countries with limited financial means. Furthermore, even more resourceful countries find it hard to generate a national compensation scheme for victims of terrorism.

Victims of terrorism, regardless of their nationality or the location of the attack, should be able to rely on the assistance from a global instrument, established and managed by the UN, drawing from previous successful experience with other victim-focused trust funds, in particular the UN Voluntary Fund for Victims of Torture. An international fund should be supported by voluntary contributions from states as well as, possibly, through frozen finances and assets seized from terrorist organizations.

Today, too many victims of terrorism linger in silence, having received no recognition of any sort. Only a minority of countries, mainly in the northern hemisphere, have in place specific administrative or social provisions for victims of terrorism; and most countries do not operate on the principle of territoriality and thus limit the provision of assistance – if any – to their nationals. The majority of victims of terrorism reside in countries with scarce resources and insufficient civil society initiatives. An international fund could therefore provide essential assistance to many in need and, by doing so, prevent in the longer run the possible emergence of retaliatory forms of violence.

No victim should be allowed to fall between the cracks or be left behind. It

is time for the dehumanization of victims caused by the terrorist 'angle' of the triangle to be remedied with an increasing recognition coming from the other 'angle', namely the (national and international) community that was the ultimate target of the terrorist act.

The location where police officers were gunned down by terrorists during the November 2008 Mumbai attacks

Photo: Nicholas (Nichalp) (Own work) [CC BY-SA 3.0 (<http://creativecommons.org/licenses/by-sa/3.0>)]



Chapter VII

The empty chapter

This is the most difficult chapter to write. It would give me less pain to narrate Mattia-Sélim's first day of pre-school, accompanied by one parent only, or the first time that he burst in tears asking whether he could meet his dad at least once in his life. I find myself agonizing over these pages, which should be the narration of justice, because in reality they form nothing more than an empty chapter. In the past 14 years, I was not given the opportunity to find solace by sitting in a courtroom, being informed regularly on the status of the investigations or accompanied to the site of the crime. If an investigation was conducted, it was not with the aim of providing the victims of the attack and their families with information, answers or closure. After all this time, I don't have much of an explanation to give to my son about who planted two tons of explosives targeting unarmed UN officials, and why. Worst of all, I don't know whether the investigation was particularly challenging or whether no serious efforts were made to put in place suitable mechanisms to transmit the outcome of that complex investigation to the survivors and the victims' families.

To write this chapter, I dug in my files. Since 2003, I have meticulously kept any document, exchange of emails and newspapers article on the bombing. Unfortunately, when put together, they don't fill more than a binder. If Jean-Sélim had died in a banal car accident, I'm sure the paperwork would occupy an entire bookshelf. None of the few notifications received in these years came directly from the entity entrusted with the criminal investigation, namely the Federal Bureau of Investigation of the United States of America (FBI). From what we learned, the FBI does not hold briefings for non-American victims and families of international terrorism, which is not really a viable option for cross-border crimes such as today's terrorism. Any information was therefore received, often after repeated requests, from the United Nations: initially from the Department of Human Resources Management (not sure why!), later from the Executive Office of the Secretary-General and the Department of Safety and Security. Bits and pieces, dropped at irregular intervals, and often in response to solicitations from the victims and families of the attack.

The first of such pieces dates almost 15 months after the horrific blast and was prompted by our collective appeal for information at the first anniversary official ceremony held in Geneva. In response, on 4 November 2004, the

Milestones as a single parent have been easier to overcome than the gap of how victims are part of investigative processes.

Photo: Laura Dolci



Assistant Secretary-General for Human Resources Management sent to all concerned a one and a half page summary on the status of the investigations conceding that “we do not have a great deal of information”. Under a half page section entitled “The Facts Ascertained from the Investigations”, the summary reads: “The crime was well planned, probably practiced and observed, targeting the UN compound’s weakest point”. We had waited for over a year to be told that the collapse of a half of a building, the killing of 22 people, including the Special Representative of the Secretary-General, and the wounding of more than 150 individuals, some extremely seriously, was the result of an action that was professionally masterminded and carried out!

Only in November 2005, we were informed by the Under Secretary-General for the Department of Safety and Security that the FBI had reason to believe that associates of Abu Mussab al-Zarkawi, the Jordanian-born terrorist linked with Al-Qaeda, were involved in the bombing of the UN Baghdad headquarters. We were also exhorted to “acknowledge the international complexity which is inevitably part of this scale of investigation”. Even my child, by now, has figured out that international terrorism is complex, that it kills massively and is not limited to a particular nationality, either on the side of the perpetrators or of the victims. What he and so many other victims have also figured, however, is that victims are not central in this complexity, that all the counter-terrorism talk we hear daily on radio and TV is not primarily intended to bring truth and information to the victims and that the available state-based criminal systems struggle to deal effectively with a criminal global phenomenon of such complexity.

Going through the documents accumulated over the years, I can count more news items than official communications, in particular articles I printed from the BBC website or paper pieces cut out from La Repubblica about the killing of Al Zarkawi or of another presumed Al Qaeda associate linked to the bombing. We had to learn most of it from the media, like any other individual, instead of being acknowledged as victims entitled to be treated with “compassion and respect for their dignity” – a key principle stipulated by the UN General Assembly back in 1985⁸⁸.

At the fifth anniversary of the bombing, we vehemently requested the establishment of an independent investigation that would assemble all elements available for the sake of providing the hundreds of victims of that attack with a comprehensive factual picture. We had to then wait another seven (!) years to be provided with a seven (!) page “Summary of Criminal Investigations”, put together by the UN Department for Safety and Security (DSS) and shared with all concerned in 2015. Through that summary we were informed that “all the perpetrators who played major roles in the attack are now dead” and that the investigation was considered officially closed. We also learned the name of the terrorist group, which presumably planned and executed the attack, and that the UN had conducted two interviews with the one perpetrator caught alive, while in custody before being hanged. In a subsequent exchange, I asked DSS for the transcript of those interviews and of the papers of the trial that led to his death sentence. I received a negative answer, and with it, seemingly, a final and full stop to a painful empty chapter.

The role of victims in domestic criminal justice systems

From the perspective of a victim of crime, bringing offenders to court and having them sentenced for the crime committed is of prime importance⁸⁹. It may help the victim gain a sense of closure and restore her/his trust in the state and its institutions. The criminal justice system is in fact the quintessential expression of the modern sovereign state, which since the Treaty of Westphalia has progressively affirmed itself by claiming exclusive jurisdiction over offences committed within its national borders⁹⁰. In reality, if given the choice, not all victims of crime would wish to take an active role in a criminal justice process; however, they should be able to count on the state response to the crime and, consequently, on the implementation by the state of the victim's right to truth and justice, which has been affirmed and recognized nationally and in UN fora over the last decades.

As seen in chapter II, modern criminal justice has evolved and is no longer exclusively focused on the relationship between the state and the perpetrator of the crime. The UN Declaration on the Basic Principles of Justice for Victims of Crime and Abuse of Power, adopted by the UN General Assembly in 1985, 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 of 2005 have established protected entitlements for the victims, both towards the state and the perpetrator. Accordingly, victims should expect from the state to “investigate violations effectively, promptly, thoroughly and impartially, and where appropriate, take action against those allegedly responsible”⁹¹; “provide proper assistance to victims seeking access to

89 Schmid A., *Strengthening the Role of Victims and Incorporating Victims in Efforts to Counter Violent Extremism and Terrorism*, see above

90 *The New Faces of Victimhood, Globalization, Transnational Crimes and Victims Rights*, edited by Letschert R. & van Dijk J., Springer 2011

91 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 (para 5)

justice”⁹²; treat victims “with humanity and respect for their dignity and human rights” and take “proper measures to ensure their safety, physical and psychological well-being and privacy of the victims, as well as those of their families”⁹³, and “provide (victims) with full and effective reparation, which include restitution, compensation, rehabilitation, satisfaction and guarantees of non-repetition”⁹⁴. Although considered as soft law, these UN milestone documents have positively influenced the creation in many countries of legally binding principles in support of the victims that progressively enhanced the role of victims within the domestic criminal justice framework⁹⁵.

In the absence of an internationally agreed definition of the crime of terrorism, there is no international jurisdiction or instrument for victims of terrorism, who have therefore to rely exclusively on national states to initiate legal action. However, in some instances, states have yet to criminalize terrorism offences domestically; in others, investigations may fail due to inadequate arrangements for judicial cooperation in the pursuit of what are today predominantly transnational criminal acts. Furthermore, with regard to the most recent tactics of terrorism, quite often a criminal process is not even initiated as the alleged perpetrators are either suicide attackers or have been killed during or after the attack. Consequently, victims of terrorism face significant difficulties to gain access to justice and see accountability prevail. Although comprehensive statistics are not available, it is a reality that the majority of victims of today’s terrorism are left without legal recourse – unlike victims of ordinary crimes or victims of international crimes, for whom the International Criminal Court has been established. The victims of the attack of 19 August 2003 painfully belong to the category of victims for whom justice was not done.

92 Basic Principles, para 12

93 Basic Principles, para 10

94 Basic Principles, para 18

95 Compilation of International Victims’ Rights Instruments, edited by Groenhuijsen M. & Letschert R., Wolf Legal Publishers, 2012

Cross-border crime

As seen in Chapter II, terrorism has continued to transform since the end of the 19th century. Today's terrorism knows no borders or passports and, as such, was listed - already in 2004 - among the six key global security challenges of the contemporary age by a High level Panel, commissioned by former UN Secretary-General Kofi Annan⁹⁶. In the Panel's momentous report "A more secure world: Our shared responsibility", terrorism is identified as a threat with "no national boundaries" undermining "both human and collective security", coming from non-state actors, as well as states, which should "be addressed at the global, regional and national level". By invoking human security the Panel recognized the need to address the interests of people, and not just those of the state, while countering this global threat: "No State, no matter how powerful, can by its own efforts alone make itself invulnerable to today's threats. And it cannot be assumed that every State will always be able, or willing, to meet its responsibility to protect its own peoples and not to harm its neighbours".

A report by the Secretary-General, issued in 2016⁹⁷, on the "Activities of the United Nations system in implementing the United Nations Global Counter-Terrorism Strategy", highlights the evolving and unpredictable nature of terrorism. In particular, 15 years after 9/11, "suicide bombings have become more common, but so have mass-casualty and complex attacks mounted by a group of attackers working together in one or multiple locations and expecting to die. There has been an increasing trend towards attacks that cost little and require minimal training and planning but which nonetheless have a significant impact. Terrorists have become more likely to operate alone or in small groups, inspired rather than directed by high-profile terrorist organizations to attack at a time and place of each individual's choosing, rendering detection virtually impossible". In sum: ISIS is not Al-Qaeda; and ISIS may have not directly mandated the truck driver

96 United Nations (2004), A More Secure World: Our Shared Responsibility, Report of the High-level Panel on Threats, Challenges, and Change

97 A/70/826 of 12 April 2016

who killed 86 people and injured 434 at the French Mediterranean Riviera in the summer of 2016.

Increasingly, even countries without a history of terrorism bear the consequences of this latest manifestation of terrorism: offenders, even those locally born and raised, may operate at home or in another country; nationals of a given country may become victims at home or when travelling elsewhere. In some attacks, the majority of the victims are non-residential as they only happened to be there as tourists or visitors. As for other transnational crimes such as human trafficking and organized crime, the globalization of terrorism is increasingly posing challenges to the conventional state-based system of criminal justice, which is geared principally to handle crimes committed by nationals and occurring within national borders. Cross-border victimization may bring about obstacles to the access and implementation of justice, such as the victim's impossibility to enter the country where the trial takes place, lengthy processes for the extradition of offenders from one country to another or the lack of jurisdiction of most domestic courts to deal with offences committed abroad by foreigners against foreigners⁹⁸. This complex reality appears to be affecting a growing number of victims: in 2003, my child (French, Egyptian) and I (Italian) were the first-ever victims of terrorism residing in the *Departement de l'Ain* in the eastern part of France - from an attack carried out thousands of miles away in Iraq by a multi-national commando, affiliated with a group led by a Saudi Arabian and later based in Afghanistan, causing 22 fatalities of 11 distinct nationalities. Today, there are 23 direct victims of terrorism accounted for in that peripheral French department, from attacks carried out on French territory as well as in other countries⁹⁹.

98 Gilbert G., *Terrorism and International Law*, The International and Comparative Law Quarterly (2003), Vol. 53, Nr. 03

99 Data shared by the *Prefecture du Departement de l'Ain*, Bourg-en-Bresse, France.

Mass-victimization attacks

Today's terrorism often provokes mass-victimization, generating simultaneously hundreds (or even thousands) of victims of the same act. Large numbers are hard to handle by domestic criminal courts. At a closer look, the prosecution of global terrorism poses intricacies of collective victimization, which are more similar to those experienced in the context of international crimes, such as genocide, war crimes and crimes against humanity, rather than in ordinary crimes. In addition to the sheer number of victims (as analysed in Chapter VI), terrorist acts aim at having an impact on whole communities rather than individuals¹⁰⁰, which can lead to fear, anger and trauma experienced by entire groups and communities. This is normally not the case with ordinary non-hate victimizations. Is it feasible to protect the victims' rights in the case of a large group of victims caused by terrorism? Do the rights of victims contained in the UN Declaration¹⁰¹ apply equally to mass victimizations?

The *de jure* answer to these questions is positive, as the 2005 UN Basic Principles acknowledge the notion of collective victimhood by stating in the Preamble that "contemporary forms of victimization, while essentially directed against persons, may nevertheless also be directed against groups of persons who are targeted collectively". However, *de facto*, the large number of victims (often of different nationalities) can make their participation in a domestic court problematic due to the fact that most countries impose restrictions on the number of victims that can take part in a single court case or have no mechanism in place to provide victims, close and afar, with regular information on the progress of the case. More efforts should be deployed to understand the needs of mass victimization in the context of terrorism and, consequently, put forward satisfactory arrangements to ensure the participation and information of victims

100 *The New Faces of Victimhood, Globalization, Transnational Crimes and Victims Rights*, edited by Letschert R. & van Dijk J., Springer 2011

101 A/RES/40/34 29 of November 1985, *Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power*

throughout the criminal proceedings. In the Spanish trial of the 2004 Madrid bombing, the problem of the insufficiently spacious courtroom was solved by placing the victims and the victims' associations in the basement of the tribunal building and by enabling the broadcasting of the trial live so that victims could participate in the court proceedings¹⁰².

No perpetrator available

In addition to the features of today's terrorism described above, two other elements get in the way of the victims' claim for criminal justice and accountability. Unlike in 'ordinary' cases of homicide, the rate of prosecution of perpetrators in the case of today's terrorist (mass) killings is considerably lower because the perpetrator has often committed suicide in the course of the attack or is killed during or after the event, instead of being apprehended and placed in custody. As I am typing on this keyboard, my thoughts are going to the victims of yesterday's terrorist attack in the centre of London (22 March 2017), who - like many before them - are unlikely to be involved in a criminal justice procedure and, consequently, may not benefit from gaining a sense of safety, empowerment and restitution out of that process¹⁰³.

Terrorism is possibly the only crime where the perpetrator does not expect to survive alive, and often employs a method of attack that requires his/her own death in order to succeed (such as planting a car bomb, wearing a suicide vest or flying a plane into a building)¹⁰⁴ or, alternatively, compels police forces to kill him/her to avoid further killings. The latter is increasingly the case, with terrorists resorting to techniques such as driving a high-speed vehicle into a crowded public street. Consequently, suicide terrorism, in

102 Letschert R., Staiger I. & Pemberton A., *see above*

103 Herman, J.L. (2003), *The Mental Health of Crime Victims: Impact of Legal Intervention*, *Journal of Traumatic Stress*, 16(2)

104 Pape R. A., *The Strategic Logic of Suicide Terrorism*, *American Political Science Review*, Vol. 97, No. 3, August 2003

addition to being of a particularly lethal nature, confines the direct victim in a no-exit street: no possibility of justice, compounded with an aggravated psychological impact due to the incomprehensible self-sacrifice of the perpetrator. Suicide attacks are, in their own tragic way, very 'effective' as they impede, on the one hand, the punishment for the harm caused and, on the other hand, the acquisition by the victim of an understanding of the motive behind the attack. With one single action, the terrorist opts not to share his/her narrative and, conversely, stifles the construction of the victim's narrative.

The extra-judicial 'war on terror'

Since the attacks on the US World Trade Center on 11 September 2001, many states have increasingly resorted to new means and frameworks, other than criminal justice, to respond to terrorism. On 16 February 1993, a truck bomb in the basement parking of the same World Trade Center killed six people and injured hundreds. That terrorist device was designed to cause greater harm, as confessed by the main criminal suspect behind the plan. The US response to the attack was police work and prosecution, resulting in the trial and conviction of six individuals¹⁰⁵. Four suspects were apprehended within a month of the blast, and judged by a federal court. The trial lasted six months and featured 204 witnesses and more than 1000 pieces of evidence. Less than 10 years later, the response to the horrific attacks against the same site was very different as it was based on the use of extra-judicial means – including military action and the creation of *ad hoc* detention centres such as Guantanamo and Abou Ghraib.

As stated by former Special Rapporteur Emmerson at the twentieth session of the Human Rights Council in June 2012, "some States have been willing to abandon the values of human rights and the rule of law on

105 McCauley C., *War Versus Justice in Response to Terrorist Attacks, Competing Frames and Their Implications*, in: *Psychology of Terrorism*, edited by Bongar B., Brown L.M., Breckenridge J. N., & Zimbardo P.G., Oxford University Press, 2006

the pretext of defending victims. I can tell you that the victims' call is not for more torture, or for more human rights abuse, in countering terrorism. Their call is for the recognition of their human rights". At the OSCE High-Level Meeting on Victims of Terrorism held in Vienna on 13-14 September 2007, represented victims' groups were unanimous in wanting "access to full information about the terrorist incidents that caused their injuries, and they want full information about the progress of the ensuing prosecutions".

During these years, I was not the only victim of terrorism to state publicly that the failure to deliver open and fair justice violates not only the rights of the suspects, but also those of the victims. Locking up alleged terrorists in secret detention centres deprives the victims of the right to effective redress, including participation and information. This was also the message delivered by relatives of the British victims of the 2002 Bali bombings, which killed 202 people, including 28 British citizens. In an interview appeared on NDTV news ahead of the 10th anniversary of the terrorist attacks on the Indonesian island¹⁰⁶, a group of British victims and families called for the release of a suspect, the alleged mastermind of the attacks, whom had been held in Guantanamo since 2006. The sister of one of the victims was quoted: "My brother was a lawyer, he believed in justice, he believed in the rule of law and it's particularly invidious that the single most important trial (in relation to this terrorist bombing) has not taken place yet". Reportedly, the suspect was captured in 2003, kept in secret CIA prisons for three years before being moved to Guantanamo in 2006. By so doing, not just the perpetrator, but also the victims, were denied the right of standing a public trial.

A more comprehensive approach

The complex nature of terrorism, positioned somewhere between an ordinary crime and a core crime under international law (i.e. crime against humanity and/or war crime), poses challenges for the national criminal systems. To overcome them, all states should, in the first place, undertake to criminalize terrorism in their domestic legislation and adapt their criminal system to the needs inherent to the prosecution of transnational cross-border and mass-killing crimes. Under international human rights law, states have a due diligence obligation to protect individuals under their jurisdiction from acts of terrorism, amongst other types of violations, take effective counter-terrorism measures and investigate and prosecute those responsible for carrying out such acts, even when caused by private persons or entities. As emphasized by the UN Human Rights Committee¹⁰⁷, failure by a state party to investigate allegations of violations could give rise to a separate breach of the International Covenant on Civil and Political Rights. At the same time, as highlighted by the General Assembly in its resolution 70/291, states should ensure that their national criminal justice system be based on the respect for human rights and the rule of law, including due process and fair trial guarantees – as one of the best means for effectively countering terrorism and ensuring accountability¹⁰⁸. As argued in the previous pages, extra-judicial counter-terrorism – as we have come to know since 9/11 – has often resulted in the impossibility for the victims to receive information and participate in a public legal recourse process.

States should also embrace a victim-centered approach based on a greater understanding of the specific needs of victims of terrorism. As seen earlier in this chapter, the traditional criminal justice response, which defines accountability as making sure that perpetrators are punished, may simply not work in the aftermath of terrorist attacks, in which the

107 General Comment No. 31 issued by the Human Rights Committee on The Nature of the General Legal Obligation Imposed on States Parties to the Covenant

108 A/HRC/34/30, Report of the United Nations High Commissioner for Human Rights entitled “Negative effects of terrorism on the enjoyment of all human rights and fundamental freedoms”

perpetrators are often dead or not apprehended. Victim-centered notions, such as information, recognition and reparation should therefore play a more significant role from the standpoint of the victims of terrorism, in particular in the eventuality of a difficult, if not impossible, criminal justice process. The principle of reparation is grounded on the victim, rather than the perpetrator: the primary goal is to repair the harm of the victim, rather than to only punish the perpetrator.¹⁰⁹ Taken from this entry point, accountability thus means providing victims of terrorism with information and explanations on the criminal event and facilitating, when possible, their participation in the proceedings. It also means treating victims with dignity, caring for their safety and supporting their socio-psychological well-being¹¹⁰, including by making exceptions to established policies as necessary.

As defined in the 2005 Basic Principles and Guidelines on the Right to Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law, reparation is understood as “constituting a moral imperative, in the sense that what has been broken must be mended”. As such, it entails much more than restitution in money, or “compensation”, as victims should be put in the position to seek and obtain information on the causes leading to their victimization and learn the truth with regard to the violation that has occurred. In the absence of a criminal justice process, investigative entities should consider organizing briefings for victims and all concerned. In some complex cases, independent international panels could be created with the mandate to collect the facts and inform the victims accordingly.

It may also be pertinent to look at the provisions contained in the Statute of the International Criminal Court (ICC), whose adoption in 1998 was saluted as a “milestone in victimology”. Established to prosecute individuals accused of genocide, war crimes and crimes against humanity, the ICC is mandated to apply far-reaching victim-centered and reparation-based provisions, which could be used as guidance in the context of

109 Zehr H., *The Little Book of Restorative Justice*, Intercourse, Good Books, 2002

110 Letschert R., Staiger I. & Pemberton A., *see above*

mass victimization provoked by terrorist attacks. In particular, Article 68 (3) of the Rome Statue provides for participation of victims in court hearings, including the possibility of questioning rights. Drawing from it, Alex Schmid argues that surviving victims of terrorism should be given a chance in court to make a “victim impact statement”. When speaking in the courtroom, victims of terrorism could state publicly, including to the terrorist’s constituency, that an unacceptable wrong was committed. Their testimony could have an inherent ‘tell the story’ healing value for the victim and be part of the victimhood recognition process. It could also help build a stronger public case against terrorism.

Chapter VIII

Time for action

Writing on victims of terrorism, under the auspices of the UN Sabbatical Programme and with the support of two academic institutions, has been a very introspective and rewarding experience. During this period, I was able to 'intellectualize' my personal journey - entangled with my UN profession - that started in 2003, when my newly founded family was shattered in pieces and I was violently thrown with my baby son into an unknown territory. I was lucky because I was supported by my great family, many old and new friends and by my own convictions and values, which shook but did not bend. I was also fortunate because the country of origin of my husband, France, has laws that recognize the harm suffered by victims of terrorism. Its institutions reached out to me and gave my son and me a status, upon which we could progressively build our after-attack years. It took courage and hard work, but our life journey has advanced and we are now in a good place.

2016 - Photo: Laura Dolci





Candlelit vigil in Trafalgar Square on 23 March, 2017
Photo: JonathanGarcia456 - Own work, CC BY-SA 4.0,
<https://commons.wikimedia.org/w/index.php?curid=57435756>

Building a case for action

The ultimate scope of this work is beyond personal healing or vindication. It is rather a reflected and researched attempt, enriched by empirical first-hand experience, to unpack the issue of terrorism victimization with the intent of opening the door to greater empathy, understanding and, ultimately, action inside and outside the UN. It is about making a case for support for the growing number of victims of terrorism worldwide. Since 2003, I encountered far too many, whose struggle in the aftermath of a terrorist act has been excessively painful. Children, women and men residing in countries where there is little or no assistance in place for victims of terrorism. Their lives, after the attack, have been dramatically uphill in order to obtain recognition, specialized care and re-insertion into active life. Some succumbed tragically to the dehumanization inflicted by terrorism and the subsequent indifference of national and international institutions; most are left with an unhealed sense of abandonment and injustice.

Terrorism is in peacetime what war crimes are in armed conflict. There seems to be little doubt, if not an acquired international consensus, that terrorism operates through intentional and indiscriminate violence targeting civilians and inflicting severe harm and destruction. During my research, no international text, book or academic article was found that justifies or condones terrorism. While it is a fact that no universal agreement has been reached so far at the UN on a definition of this severe crime under international law, definitional elements have crystallized in UN texts since the 1960s. Numerous UN resolutions, most of which have been adopted by consensus, contain consolidated language to the effect that terrorism aims at the destruction of human rights, it negates the very principles of humanity and is intended to generate wide-spread terror and fear. In his most recent report issued on 3 April 2017 in relation to the implementation of the UN Global Counter-Terrorism Strategy¹¹¹, Secretary-General Guterres - quoting previously adopted resolutions by both the UN Security Council and the General Assembly - stated that terrorism

111 A/71/858, Report of the Secretary-General on « Capability of the United Nations system to assist Member States in implementing the United Nations Global Counter-Terrorism Strategy”

continues to pose a threat to international peace and security, encouraging all Member States to redouble their efforts towards the finalization of the drafting process of a comprehensive Convention on international terrorism.

Since the early 2000s, language was also developed on the imperative of upholding human rights while countering terrorism. Fighting this enormous and amorphous challenge of our times should not be used as a pretext to erode the rule of law and justify torture and other illegal practices, norms which have long been codified internationally. However, as shown in Chapter II, not much has been said consistently in UN fora about the protection of the human rights of victims of terrorism; not much has been researched on the specific needs deriving from terrorism victimization; not much has been achieved (with the exception of a few note-worthy national experiences) to concretely respond to the needs of victims in the immediate aftermath of a terrorist attack and in the longer term.

It is time to give full meaning to the assertion that terrorism destroys human rights, starting from those who have been affected first-hand by it. Expressing sympathy and solidarity to victims is no longer sufficient. Victims of terrorism require and expect in law, but also in practice, respect for their harmed dignity and protection for their violated rights.

Global terrorism, global victims

This manuscript is not about terrorists, as there is already literature on that front from a criminal, historical and even psychological perspective. It is about shedding light on the experience of victims of terrorism, on whom research and knowledge appear to be still underdeveloped and fragmented. Furthermore, terrorism victimization continues to be a marginal component of the fast expanding UN-led counter-terrorism agenda, which places far more resources and attention on other issues, notably the prevention of violent extremism.

And yet, not a single day passes without international terrorism being reported upon in the news, leaving behind a large number of victims.

The Global Terrorism Database maintained by the University of Maryland indicates that from 1997 to 2015 the world has experienced a total of 70,433 terrorist attacks, causing 165,000 casualties and 280,000 injured persons. On 1 January 2017, the start of my writing period, a terrorist shooting in a nightclub in Istanbul killed 39 and injured 70 young people, who had come to this vibrant city to celebrate the New Year. In the ensuing weeks, just to cite a few, international terrorism hit the historical centre of London on 22 March, the subway of Saint Petersburg on 3 April, a central commercial street in Stockholm on 7 April and in Paris on 20 April, and two Coptic churches in Egypt on Easter Friday. Not to mention the many deadly attacks unfolding almost weekly in Afghanistan, Iraq, Mali, Nigeria and Somalia.

Today, hardly any country is spared by global terrorism. Countries may be the stage of attacks carried out on their soil or may be called into play because their nationals are on the casualties' list of an attack happening elsewhere, or feature amongst the names of the suspected perpetrators of attacks at home or abroad. Due to the growing simultaneity and wider range of the attacks, victims of terrorism are now present in all continents, with no exception. Terrorism is diffusing and so are its victims.

Since early 2000s, terrorism has grown into a global phenomenon. And, as it the case with human trafficking for sexual and labour exploitation, crimes on the Internet, or cross-border environmental crimes committed by international companies, in the context of today's terrorism, globalization poses new challenges, including to existing arrangements for victim participation and victim support¹¹². **International terrorism is not a victimless crime.** However, in what is increasingly a "problem without passports"¹¹³, victims of terrorism appear to fall increasingly between the cracks as if they were everybody's and therefore, paradoxically, nobody's responsibility. They are also the silent hostages of the long-lasting failure of the international community to agree on a definition of the crime of terrorism under international law.

112 *The New Faces of Victimhood, Globalization, Transnational Crimes and Victims' Rights*, edited by Letschert R. & van Dijk J., Springer 2011

113 idem

Why protecting the human rights of victims of terrorism?

To this day, more than ten years since the adoption by consensus of the UN Global Counter-terrorism Strategy, which acknowledged the need to promote and protect the rights of victims of terrorism, the great majority of UN Member States do not recognize the specific needs of victims of terrorism and have no measures in place to assist victims despite the enormity of the harm endured by them. The reasons may be multiple, from lack of awareness and know-how on this relatively recent form of victimization to the competing (and more appealing) nature of prevention programmes. Furthermore, recognizing victims of terrorism may be seen as amounting to a public admission that terrorism has become an issue posing a challenge to the sovereignty of the state; responding to the needs of victims of global terrorism may also generate costs that national states do not wish to bear.

Victims are not an abstract reality. With terrorism increasingly transforming into a globalized and transnational phenomenon, victims of terrorism can be found today in any neighbourhood; orphan children from terrorism may be in school with our children; maimed victims may be our colleagues at work. Victims of terrorism are not just the unfortunate subjects of random attacks¹¹⁴; they are fellow individuals, whose daily lives, aspirations, families and hopes have been shattered through senseless violence. They are the visible manifestation of the assertion that terrorism aims at destroying human rights. They are victims because their rights have been violated; their right to life, their right to health, their right to family, their right to justice and truth. From the victims' perspective, the inhumane treatment they have experienced is always perceived as an assault on their dignity, whether it is suffered at the hands of a state agent, a rebel commander or a terrorist group¹¹⁵.

114 *International Perspectives on Terrorism Victimisation, An Inter-disciplinary Approach*, edited by Argomaniz J. & Lynch O., Palgrave Macmillan, 2015

115 Clapham A., *Human Rights Obligations of Non-State Actors*, Oxford, 2006

The most powerful response to the terrorists' disrespect for human life should be for the society targeted by terrorism to stay true to human rights by providing care and redress for the victims directly affected by it.¹¹⁶ As stated in the UN Basic Principles and Guidelines to the Right to a Remedy and Reparation, honouring the victims' right to benefit from remedies and reparation means to reaffirm the international legal principles of accountability, justice and the rule of law. Notwithstanding this moral imperative, international human rights law requires States to protect human rights with due diligence, which entails the obligation to prevent and sanction harm, including deprivation of life, caused not only by their own agents but also by acts of private persons or entities, such as terrorist groups¹¹⁷. This means that under international human rights law, states have a due diligence obligation to protect **all** individuals under their jurisdiction from acts of terrorism, to take effective counter-terrorism measures and to investigate and prosecute those responsible for carrying out such acts.

Furthermore, the individual victims' experience may also be vital to achieve greater understanding of the broader impact of terrorism and political violence. As shown in Chapter VI, terrorism operates in concentric circles, aiming at generating maximum harm - well beyond the primary victims directly hit in the attack. As argued by Argomaniz and Lynch, examining the experiences of those who happened to be the primary targets of that violence and the impact on their families and communities may enable a better comprehension of how terrorism functions and - in the long run - improve and increase public preparedness and collective resilience.

Lastly, as illustrated by Alex Schmid, most victims possess "an unblemished moral capital" and "an untapped source of strength" that could play a role when designing strategies to counter terrorism and radicalization¹¹⁸. The

116 Schmid A., *Strengthening the Role of Victims and Incorporating Victims in Efforts to Counter Violent Extremism and Terrorism*, see above

117 A/HRC/34/30, Report of the United Nations High Commissioner for Human Rights on negative effects of terrorism on the enjoyment of all human rights and fundamental freedoms, issued on 21 December 2016.

118 Schmid A., *Strengthening the Role of Victims and Incorporating Victims in Efforts to Counter Violent Extremism and Terrorism*, see above

voice of victims can be powerful; through sharing their account, victims can prove that there is nothing glorious about terrorist deeds. **This can significantly help build a societal case and norm against terrorism and prevent the repetition of violence.** As stated in 2016 by Jeffrey Feltman, Chairman of the UN CounterTerrorism Implementation Task Force and Executive Director of the UN Counter-Terrorism Centre “victims of terrorism are the strongest, most sincere and most convincing allies in preventing fellow citizens from joining terrorist groups and violent extremists”¹¹⁹.

What needs to be done?

The victimological experience from terrorism, as argued from Chapters IV to VII, has specific features that can raise complexities in implementing existing general victim’s rights as codified by the UN in the landmark Declaration on Basic Principles of Justice for Victims of Crime and Abuse of Power and in the Basic Principles and Guidelines on the Right to a Remedy and Reparations. If taken from the viewpoint of victims, the short- and long-term harm provoked situates terrorism - in particular in its cross-border and mass victimization manifestations - between an ordinary crime and a core crime under international law. **The degree of suffering, physical and psychological, inflicted on victims, the ‘public dimension’ of terrorism and its intentional dehumanizing effect on victims, as well as the limitations faced by national criminal systems to deal with an increasingly transnational crime call for a ‘differential’ response to victims of terrorism, from both states and the international community.**

Victims of terrorism, in particular those affected directly and their families, should no longer be an afterthought, but rather placed more centrally in counter-terrorism strategies and programmes, both at the country- and international level. Albeit scattered, nowadays there is sufficient research-based evidence that justifies a more robust response to affected victims. This would require a 360-degree multi-disciplinary and multi-

119 Report of the UN Conference on Human Rights of Victims of Terrorism, United Nations Counter-Terrorism Centre, UN Headquarters, New York, 2016

level approach, embracing notions of international human rights law, criminal law, public health, social and financial support, as well as an inter-generational perspective.

A greater understanding needs to be developed on the specific needs generated by terrorism victimization; more international pressure and capacity-building assistance is required to ensure the establishment of national counter-terrorism plans that also include mechanisms to remedy the rights of victims; and a more comprehensive action-oriented programme for victims of terrorism should be created within the UN architecture on counter-terrorism. The UN should play as a catalyst by collecting existing national good practices, research and model laws in this field in order to provide strategic direction on victims of terrorism. Only the combined and concerted efforts of a variety of actors, including state institutions such as the judiciary, service providers, law enforcement officials, international and national NGOs, and international organizations (in particular the UN) will make respect for the dignity and rights of victims of terrorism a reality worldwide¹²⁰.

Notwithstanding the persistent lack of an internationally agreed definition of the crime of terrorism, victims of terrorism should be systematically extended the principles of justice for victims of crimes, as stipulated in the UN Declaration of 1985, and thus be treated with humanity and respect for their dignity and human rights. They should be provided with reparation for the harm suffered, in particular rehabilitation, compensation and satisfaction. In this context, as domestic criminal justice systems may not be fully adequate to provide redress to victims in the face of the growing transnational nature of this crime, specific formats for victim participation and information should be devised (i.e. briefings for victims' families and survivors, victim impact statements and/or independent investigative panels). Also, a UN international fund mechanism should be created to complement national compensation schemes, in particular in countries with limited resources.

120 Compilation of International Victims' Rights Instruments, edited by Groenhuijsen M. & Letschert R., Wolf Legal Publishers, 2012

Promenade des Anglais, Nice France after the 14 July 2016 attack.
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<https://commons.wikimedia.org/w/index.php?curid=50288393>



Recommendations

Drawing from international texts on general victims' rights, existing UN guidance for the protection of particular groups of victims, such as victims of trafficking¹²¹ or victims of mines¹²², and the innovative victims-centered provisions contained in the Rome Statute of the International Criminal Court, the following action-oriented recommendations are formulated to concretely and effectively advance the recognition of and assistance to victims of terrorism, both at the country- and global level.

121 UN Protocol to Prevent, Suppress and Punish Trafficking in Persons Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime

122 UN Policy on Victim Assistance in Mine Action (2016 Update)

Recommendations for States, to be implemented at national level

Recognition of victimhood status:

- Treat all direct victims of terrorist acts, their families and other affected people who have suffered harm, physical or mental, economic loss or substantial impairment of their fundamental rights, including in intervening to assist victims, with humanity, compassion and respect for their dignity;
- Accord victim status to all direct victims of the terrorist attack, their families and other affected people who have suffered harm, physical or mental, economic loss or substantial impairment of their fundamental rights, including in intervening to assist victims;
- Recognition of the status of victim and granting of assistance should not depend on the identification, apprehension, prosecution or conviction of the perpetrator(s); it should be extended to all nationals and non-nationals that suffered harm due to a terrorist attack occurring within the boundaries of the State and for all nationals harmed in a terrorist act staged abroad;
- Ensure that the protection of the rights of victims be exercised without any discrimination or distinction of any kind, such as race, sex, age, language, religion or nationality;

Criminalization of terrorism:

- Ensure that terrorist acts are established as serious criminal offences in domestic laws and regulations and that the punishments duly reflect the seriousness of such acts;
- Establish suitable mechanisms for police, judicial and other relevant cooperation amongst States to effectively investigate terrorist acts affecting individuals of different nationalities and involving perpetrators of different nationalities;

Information and participation of victims:

- Systematically open a prompt, thorough, effective and independent criminal investigation on each terrorist act, even in situations where the perpetrator(s) is suicidal or killed during the act, and regardless whether the perpetrator(s) is identified;
- Ensure that the victims and their families are kept fully informed of the progress of the investigation, including through the holding of briefings that are also extended to victims of other nationalities;
- In the case of complex and prolonged investigations consider the possibility of invoking independent international panels with the mandate of collecting the main facts and providing information to the victims;
- Allow the views and concerns of victims to be presented and considered at appropriate stages of the investigation and the criminal proceeding, without prejudice to the accused, including in the form of victim impact statements;

Victims' in-take:

- Establish an effective mechanism for the creation and updating of a single certified list of victims following each terrorist act, and allow for victims to voluntarily come forward in the period after the attack;
- Establish a publicly known one-stop mechanism to provide victims with information about their rights and informed advice on avenues for assistance available nationally and locally in the immediate aftermath of the attack and for the long-term;

Assistance to victims:

- Facilitate proper burial for the victims, and ease administrative procedures for obtaining death certificates, medical certificates and any other documentation that victims may need in the aftermath of the attack;
- Ensure that emergency medical and psychological assistance is available in a coordinated manner and accessible to any person having suffered mentally or physically following a terrorist act;

- Provide for mechanisms to ensure continuing multi-disciplinary assistance, including medical and psychological rehabilitation, specialized care, legal, social and material assistance to victims following a terrorist act; ensure that individuals bearing permanent disability due to a terrorist act are assisted to be re-inserted into active life;
- Provide and support training and regular stress-tests to all relevant services, including police, justice, health, social service and when appropriate non-governmental organizations, that are part of the coordinated response available to victims of terrorism, at the central and local levels;
- Ensure that services are available to respond to special needs of children;

Compensation and reparation:

- Establish a national compensation scheme based on the principle of social solidarity to assist victims and compensate them for the physical or mental harm, lost employment, education, material damages and loss of earnings, and costs required for social services;
- By taking into account the views of the victims, support and/or initiate symbolic reparation measures, including memorials, monuments, remembrance days or commemorative plaques to express respect for the harm suffered by the victims and promote collective memory;

Studies and lessons learned:

- Initiate and coordinate epidemiological studies in the aftermath of a terrorist attack involving a significant number of people in order to advance research on the short- and long-term impact of terrorism on victims and better plan and increase public preparedness;
- Share lessons learned and good practices for the recognition and assistance of victims of terrorism in international fora, in particular in the context of the UN Global Counter-Terrorism Strategy.

Recommendations for the United Nations (UN Member States and UN system)

- Redouble efforts towards the finalization of the drafting process of a comprehensive Convention on international terrorism, which takes into account the evolving transnational nature of this crime;
- Ensure that consistent and rights-based language is systematically inserted in all UN texts regarding terrorism and counter-terrorism, including UN resolutions and official reports;
- Ensure that the promotion and protection of the human rights of victims of terrorism is included in UN initiatives and debates on the issue of upholding human rights while countering terrorism;
- Undertake and support initiatives to map, document and widen the knowledge on the effects of terrorism on victims, including direct victims and the larger community of tertiary victims, in cooperation with relevant academia and civil society;
- Give greater priority to the implementation of the recognition of and assistance to victims of terrorism more centrally in the UN Global Counter-Terrorism Strategy, in particular its Pillar IV;
- Within the UN counter-terrorism architecture, enlarge, if not reform, and rename the ‘Working Group on supporting and highlighting victims of terrorism’, which should:
 1. provide strategic direction on the issue,
 2. serve as a catalyst for multi-disciplinary research and enhanced knowledge on the specific features of terrorism victimization;
 3. establish a repository of national model laws, compensation schemes and epidemiological studies in support of victims of terrorism;
 4. coordinate and prompt specific expertise from within the UN system, in particular on human rights, health issues, children’s needs;

5. provide capacity-building assistance to States for the development and implementation of rehabilitation and assistance programmes for victims of terrorism;
 6. create greater awareness on terrorism victimization and help bring out the voices of victims of terrorism with a view to build a stronger case against terrorism, in particular in affected societies;
 7. work on a set of UN Guidelines on victims of terrorism that can serve as reference to all UN Member States;
- Encourage UN Member States to systematically share their lessons learned and advancements in responding to and addressing the rights of victims of terrorism;
 - Establish an international trust fund to assist victims of terrorist acts and their families, including by providing grants to centres and initiatives aimed at the delivery of specialized medical, psychological, legal and humanitarian assistance to victims of terrorism. Building on successful precedents, such as the UN Voluntary Fund for Victims of Torture, the Fund should be financed through voluntary contributions from UN Member States and, possibly, assets seized from terrorist organizations.

Recommendations for civil society and academia

- Expand research on terrorism victimization, including epidemiological studies, and encourage a multi-disciplinary approach, including in the field of international law, criminal law, medical and psychological studies and social sciences;
- Advocate for the issue of victims of terrorism to become more central in all counter-terrorism strategies, at the national and international level;
- For those centres and programmes already operating on the ground, promote awareness and knowledge on terrorism victimization and the measures developed to adequately respond to the specific needs of victims of terrorism.

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About the author

Laura Dolci, Italian by birth, lives in Geneva where she works for the Office of the United Nations High Commissioner for Human Rights. From a very young age, Laura travelled extensively and has been interested in international affairs. She has 20 years of experience with the United Nations, including in peace-keeping and human rights. She currently manages two United Nations trust funds that provide direct assistance to victims of torture and victims of modern slavery.

In 2016, she felt that time had come to share her story in order to create awareness about the specific consequences of terrorism on the victims, their families and communities. The text was written with the support of the International Victimology Institute of Tilburg University (the Netherlands) and the Programme for the Study of International Governance at the Graduate Institute of International and Development Studies of Geneva (Switzerland).

