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United Nations Office on Drugs and Crime



Good Practices in Supporting Victims of Terrorism within the Criminal Justice Framework

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Good Practices in Supporting Victims of Terrorism within the Criminal Justice Framework



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Foreword

Every year, acts of terrorism kill, injure and harm thousands of innocent victims of all races, cultures and religious beliefs all over the world.

In the past, victims of crime, including terrorism, have too often been the forgotten parties in the criminal justice system. In recent years, however, there has been greater recognition of the rights and roles that these important actors have within the criminal justice framework.

An integral part of the international community's efforts to counter terrorism is bringing perpetrators of terrorist acts to justice and holding them to account for their actions, in accordance with the rule of law and human rights. This fundamental principle requires that Member States establish and implement effective, rule of law-based national measures for the investigation and prosecution of such crimes, and to protect and support victims of such crimes, within the criminal justice system.

In light of this, the United Nations Office on Drugs and Crime (UNODC) was requested by Member States in General Assembly resolution 68/187 of 18 December 2013, among other measures, to "continue to enhance specialized legal knowledge through the preparation of best practices, in close coordination with Member States, on assistance to and support for victims of terrorism, including the role of victims within the criminal justice framework".

This publication represents the outcome of an expert group meeting convened by UNODC and held on 24 and 25 November 2014. At this meeting, experts from Member States, the United Nations, civil society and relevant bodies met to share experiences and discuss challenges and approaches to providing greater support to victims of terrorism within the criminal justice framework. As a result of these discussions and deliberations, including on available international, multilateral and regional instruments and normative frameworks, the experts elaborated a number of recommended good practices, which are set out in this publication.

These recommendations are aimed at assisting Member States to establish and enhance policies, laws and institutional capacity to provide improved outcomes for victims, while fully respecting the rule of law and rights of accused persons. We hope the publication will contribute to the growing body of jurisprudence in this important subject area.

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I. Introduction

Background

1. Historically, criminal justice systems have been largely focused on the apprehension, prosecution and punishment of perpetrators of crime, while the role of victims of crime has often been limited to that of witnesses or forgotten altogether. However, the adoption by the United Nations General Assembly in 1985 of the Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power, which contains 21 recommended measures aimed at securing access to justice and fair treatment, and ensures restitution, compensation and social assistance for victims, represented a landmark change of approach towards more victim-centred criminal justice responses. The Declaration provided the basis for the subsequent development and implementation of international standards and norms concerning the fair treatment of victims of crime within legal and criminal justice systems, in accordance with the rule of law, human rights and fundamental freedoms.

2. While the Declaration is not specific to victims of terrorism, it is equally applicable to this group, and the principles it contains have promoted and influenced subsequent international and multilateral instruments and arrangements relating to the fair treatment and rights of victims of terrorism within the criminal justice framework. Moreover, within the United Nations, the status, role and rights of victims of terrorism within the criminal justice process have been acknowledged as an integral part of effective counter-terrorism frameworks, as recognized in the United Nations Global Counter-Terrorism Strategy and resolutions of the Security Council and the General Assembly.¹

3. The United Nations Office on Drugs and Crime (UNODC), through its Terrorism Prevention Branch, is mandated under resolutions of the General Assembly to provide technical assistance to Member States in implementing their obligations under 19 international counter-terrorism instruments negotiated under the umbrella of the United Nations, as well as related counter-terrorism resolutions of the Security Council, which are binding under chapter VII of the Charter of the United Nations.

4. Under recent resolutions, the General Assembly has further recognized the importance of Member States' incorporating effective measures relating to the status, rights and role of victims of terrorism into their legal and criminal justice responses to counter-terrorism. Under these resolutions, the General Assembly has mandated UNODC to

¹Available at www.un.org/en/terrorism/strategy-counter-terrorism.shtml and www.un.org/en/sc/ctc/resources/res-sc.html.

provide specialized technical assistance to Member States in order to strengthen the capacity of their national legal and criminal justice systems to support victims of terrorism.

5. Following a request made by UNODC at the twenty-second session of the Commission on Crime Prevention and Criminal Justice held in Vienna from 22 to 26 April 2013, resolution 68/187 on technical assistance for the implementation of the international conventions and protocols related to counter-terrorism was adopted by the General Assembly, further enhancing the mandate of UNODC, through the Terrorism Prevention Branch, with regard to victims of terrorism. The resolution:

- Recalled resolution 66/282, which recognized the role that supporting victims of terrorism in all its forms and manifestations can play, including in countering the appeal of terrorism.
- Noted the ongoing efforts of the relevant United Nations entities and Member States to ensure that victims of terrorism are treated with dignity and that their rights are recognized and protected.
- Noted the new technical assistance tools developed by UNODC, including the handbook entitled *The Criminal Justice Response to Support Victims of Acts of Terrorism*.

6. Further, operative paragraph 8 of the resolution requested UNODC to “continue to enhance specialized legal knowledge through the preparation of best practices, in close coordination with Member States, on assistance to and support for victims of terrorism, including the role of victims within the criminal justice framework”.

7. In furtherance of its mandate under this resolution, the Terrorism Prevention Branch, in collaboration with the Global Counterterrorism Forum, organized an expert group meeting on 24 and 25 November 2014 in Vienna, which brought together experts from United Nations Member States, civil society, victims’ associations and other relevant organizations to share experiences and comparative approaches in supporting victims of terrorism within criminal investigations and prosecutions related to terrorism.

8. Drawing upon the discussions of participating experts, as well as available international, multilateral and regional instruments and arrangements relating to victims of crime, including terrorism, and information previously gathered during the development of *The Criminal Justice Response to Support Victims of Acts of Terrorism*, the Terrorism Prevention Branch has, in consultation with participating experts, compiled a list of practices (though not exhaustive) that can be said to represent good practice in this important area.

9. For the purposes of this publication, good practices can be said to represent policies or practices, related to supporting and assisting victims of terrorism during the criminal justice process, that have been identified as effective because of: (a) their positive impact on producing improved criminal justice outcomes for victims of terrorism; (b) their sustainability for most States; and (c) their capacity to be replicated in

most States, if necessary, with adaptations to make them compatible with particular national circumstances (e.g., cultural and legal situations).

10. This publication aims to assist and provide practical guidance to policymakers, criminal justice officers and practitioners from Member States in developing and implementing rule of law-based, criminal justice responses to support victims of terrorism within their national legal and criminal justice frameworks. It is hoped that it will contribute to an enhanced understanding of the issues associated with this important field and the development of identifiable international standards and norms.

11. The relevant work of the Justice Section of UNODC was also taken into consideration during the development of this publication. In 1999, it developed the *Handbook on Justice for Victims: On the Use and Application of the Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power* to serve as a guide for States implementing the Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power. The Handbook outlines basic steps for developing comprehensive assistance services for victims of crime, as well as victim-sensitive policies, procedures and protocols for criminal justice agencies. The Justice Section is currently developing a revision of the Handbook to ensure it remains an up-to-date and useful resource for Member States.

12. Additionally, in 2008, following consultations at an expert group meeting with national experts and specialized bodies, the Organized Crime Branch of UNODC produced *Good Practices for the Protection of Witnesses in Criminal Proceedings involving Organized Crime*. This guide, which is available to policymakers, legislators, legal practitioners and law enforcement and justice officials, is designed to assist States with applying practical measures in their national legal systems and operational procedures. While the primary focus of the guide is investigations and prosecutions related to organized crime, the practices and approaches it contains are nevertheless equally relevant when identifying and elaborating good practices for the protection and support of victims who are also witnesses in criminal investigations and prosecutions related to terrorism.

International, regional and other multilateral instruments and arrangements

United Nations

13. Within the United Nations system, the rights and role of victims within the criminal justice framework are specifically acknowledged in a number of counter-terrorism and criminal justice instruments and institutional bodies, which follow below.

United Nations Global Counter-Terrorism Strategy

14. In September 2006, the General Assembly adopted the United Nations Global Counter-Terrorism Strategy under General Assembly resolution 60/288, which contains an annexed plan of action. Serving as the guiding strategic document of the United

Nations in the field of counter-terrorism, the Strategy marked the first time that all Member States were able to reach a consensus on a common strategic approach to fight terrorism, resolving to take practical steps individually and collectively to prevent and combat this phenomenon. The Strategy is based on four pillars:

- Measures to address the conditions conducive to the spread of terrorism (Pillar I)
- Measures to prevent and combat terrorism (Pillar II)
- Measures to build States' capacity to prevent and combat terrorism and to strengthen the role of the United Nations system in this regard (Pillar III)
- Measures to ensure respect for human rights for all and the rule of law as the fundamental basis of the fight against terrorism (Pillar IV)

15. Paragraph 8 of Pillar I specifically refers to and recognizes the rights and role of victims of terrorism as a key component in effective counter-terrorism, providing that States Members resolve:

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

16. Since its adoption, the Strategy has been reviewed biennially to assess the work of the United Nations and Member States in addressing the threat of terrorism, as well as to highlight challenges and opportunities in implementing counter-terrorism programmes and activities in the current international security landscape.

17. At the third and fourth biennial reviews, the General Assembly adopted resolutions renewing its steadfast commitment to strengthening international cooperation to prevent and combat all forms of terrorism, and emphasizing the need to promote worldwide solidarity in support of the victims of terrorist acts. The General Assembly acknowledged the work of United Nations bodies and other organizations aimed at supporting victims of terrorism and encouraged them to enhance their efforts to provide, upon request, capacity-building and technical assistance for Member States to develop and implement programmes of assistance and support for such victims.

Symposium on supporting victims of terrorism

18. In 2008, the Secretary-General of the United Nations, Ban Ki-moon, convened a Symposium on Supporting Victims of Terrorism, aimed at providing a forum for victims, experts, Member States, regional organizations, civil society and the media to discuss concrete steps to assist victims, share best practices and highlight measures

already taken by Member States and non-governmental organizations to support and empower victims.

19. During the Symposium, terrorism was condemned as a serious violation of basic human rights, and the vital importance of granting legal status to victims was underscored. Member States were urged to consider establishing ad hoc structures to complement investigative work on terrorist cases, ensure that findings were shared regularly with victims of terrorism and facilitate the participation of victims in legal proceedings against perpetrators. The following eight recommendations for providing effective support to victims of acts of terrorism were identified:

- Provide a virtual networking, communication and information hub for victims of terrorism, Government officials, experts, service providers and civil society
- Strengthen legal instruments at both the international and national levels, providing victims of terrorism with legal status and protecting their rights
- Establish easily accessible health services that can provide victims with comprehensive support over the short, medium and long term
- Create an international rapid response team for victims' support
- Provide financial support to victims
- Improve the capacity of the United Nations to assist survivors and families of staff killed or injured in terrorist attacks against it
- Engage in a global awareness campaign supporting victims of terrorism
- Improve media coverage of victims of terrorism

United Nations Security Council resolutions

20. While none of the 19 counter-terrorism conventions and protocols negotiated under the auspices of the United Nations refer specifically to the rights and role of victims of terrorism, they do emphasize the fundamental importance for States to incorporate the rule of law, human rights and fundamental freedoms into national legal and criminal justice responses with regard to the investigation and prosecution of crimes related to terrorism, in full conformity with international instruments, standards and norms. In this way, the rights of victims are implicitly recognized in these instruments as an integral and important component of effective counter-terrorism measures.

Security Council Counter-Terrorism Committee Executive Directorate

21. Reaffirming resolution 1373 (2001), adopted under chapter VII of the Charter of the United Nations, and the Ministerial Declarations annexed respectively to resolution 1377 (2001) and to resolution 1456 (2003), as well as other resolutions concerning threats to international peace and security caused by terrorism, the Security Council adopted resolution 1535 (2004) at its 4936th meeting, on 26 March 2004, which created the Counter-Terrorism Committee Executive Directorate.

22. The Counter-Terrorism Committee Executive Directorate is responsible for assessing the implementation by Member States of their international counter-terrorism obligations under Security Council resolutions related to terrorism. As part of its overall assessment of the national counter-terrorism laws, policies and practices of Member States, the Executive Directorate evaluates the extent to which Member States incorporate measures into their national legal and criminal justice systems to protect and support key actors during the investigation and prosecution of crimes associated with terrorism. This assessment includes evaluating technical assistance needs in relation to victims of terrorism and collecting the best practices of different countries regarding this issue.

23. In resolution 2129 (2013), the Security Council expresses its profound solidarity with the victims of terrorism and their families and encourages the Executive Directorate to take into account the important role that victims and survivor networks can play in countering terrorism, in close cooperation with the Counter-Terrorism Implementation Task Force and its relevant working groups.

Counter-Terrorism Implementation Task Force

24. The Counter-Terrorism Implementation Task Force, established by the Secretary-General in 2005, is chaired by the Under-Secretary-General of the Department of Political Affairs and comprises 35 United Nations and international entities. It works to ensure overall coordination and coherence in the counter-terrorism efforts of the United Nations system, mainly through its working groups and other initiatives. It also strives to ensure that the priorities of the Secretary-General are integrated into its work, including respect for human rights, as expressed in the Human Rights Up Front initiative, and seeks to foster constructive engagement between the United Nations system and international and regional organizations, civil society and the private sector, where appropriate, in implementing the United Nations Global Counter-Terrorism Strategy.

25. Bringing together decades of United Nations counter-terrorism policy and legal responses emanating from the General Assembly, the Security Council and relevant United Nations specialized agencies into one coherent framework, the Strategy has been the focus of the work of the Counter-Terrorism Implementation Task Force since its adoption.

26. The Strategy welcomes the institutionalization of the Counter-Terrorism Implementation Task Force within the United Nations Secretariat. Thus, in 2009, the Secretary-General established a Counter-Terrorism Implementation Task Force Office within the Department of Political Affairs, through which the Counter-Terrorism Implementation Task Force, with the help of a number of thematic initiatives and working groups, and under the policy guidance of Member States through the General Assembly, aims to coordinate United Nations system-wide support for the implementation of the Strategy and catalyse system-wide, value added initiatives to support the efforts of Member States in implementing the Strategy in all its aspects.

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

27. The report of the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism (A/HRC/20/14) sets out proposed framework principles for securing the human rights of victims of terrorism.

28. The recommendations in the report, which aims to support pillars I and IV of the United Nations Global Counter-Terrorism Strategy, can be broadly grouped into the following categories: (a) criminalization, (b) criminal investigations and prosecutions, (c) mutual legal assistance and international cooperation, (d) participation of victims in criminal proceedings, (e) personal privacy, (f) reparation, (g) victim support organizations, (h) mediation and dispute resolution, and (i) addressing the conditions conducive to terrorism.

The situation in Europe

29. In Europe, the Council of Europe, the European Union and the Organization for Security and Cooperation in Europe (OSCE) have all incorporated the rights of victims of crime, including terrorism, into both binding and non-binding policy directives and recommendations.

Council of Europe

30. Within the Council of Europe, the Committee of Ministers is the decision-making body, comprising the ministers for foreign affairs or permanent representatives of all 47 member States. In accordance with its statute, the Committee of Ministers can make non-binding recommendations to member States on matters for which it has agreed a common policy.

31. The Committee of Ministers has adopted various recommendations on assistance and support for victims of crime, which cover, among others, compensation, access to justice, participation in criminal procedures and prevention of victimization. Among the most important are Recommendation No. R (85) 11 on the position of the victim in the framework of criminal law and procedure and the more recent Recommendation Rec(2006)8 on assistance to crime victims, which replaces Recommendation No. R (87) 21 on assistance to victims and the prevention of victimization. Particular consideration should also be given to the Guidelines on the Protection of Victims of Terrorist Acts, adopted by the Committee of Ministers on 2 March 2005.

32. The Committee of Experts on Terrorism, an intergovernmental committee of experts set up in 2003 to replace the Multidisciplinary Group on International Action against Terrorism, has also been involved in the elaboration of legal instruments to fight terrorism. As a result of the Committee's work, the Council of Europe adopted in 2005 the Convention on the Prevention of Terrorism, which contains a provision specifically dealing with the protection and compensation of, and assistance for, victims of terrorism.

European Union

33. The European Union has addressed the topic of assistance for victims of crimes, in particular through framework decisions or directives, both of which are legally binding for member States, but provide some flexibility regarding national approaches and practices.

34. An important landmark instrument is Council of the European Union framework decision 2001/220/JHA on the standing of victims in criminal proceedings, adopted on 15 March 2001, which provides for minimum rights of victims of crime in criminal proceedings. It sets out provisions whereby victims are guaranteed the rights to protection, compensation and access to mediation and any relevant information, as well as the right to participate in the proceedings. In addition, Council of the European Union framework decision 2002/475/JHA of 13 June 2002 on combating terrorism urges European Union member States to bring their legislation in line with this decision and sets out minimum rules in relation to terrorist offences and the penalties that member States must incorporate into their national legislation, while ensuring appropriate assistance for victims' families.

35. Also relevant is Council of the European Union directive 2004/80/EC of 29 April 2004 relating to compensation to crime victims. The aim of this directive is to set up a system of cooperation to facilitate access to compensation for victims of crimes in cross-border situations. More recently, directive 2011/99/EU of the European Parliament and of the Council of 13 December 2011 on the European protection order established the mutual recognition among European Union member States of decisions concerning protection measures for victims of crime.

36. Finally, directive 2012/29/EU of the European Parliament and of the Council of 25 October 2012 establishing minimum standards on the rights, support and protection of victims of crime, and replacing Council framework decision 2001/220/JHA, has significantly improved the situation of victims of crime in the European Union by highlighting the special circumstances surrounding victims of terrorism and the need for due responses of Governments to their specific needs.

37. In addition to these legislative acts, the European Council adopted the Stockholm Programme, a five-year plan for the period 2010-2014 to provide common policy guidelines for responsible national authorities of European Union member States on the protection of fundamental rights, privacy, the rights of minority groups and the rights of groups of people in need of special protection. These guidelines, inter alia, called upon member States to review how national legislation and related support measures for the protection of victims, including terrorism, could be further improved.

Organization for Security and Cooperation in Europe

38. OSCE is an intergovernmental organization comprising 57 participating States and 11 partners. It has highlighted the need to strengthen solidarity with victims of terrorism in politically binding decisions.

39. Such decisions include OSCE Permanent Council decision No. 618 of 1 July 2004 on Solidarity With Victims of Terrorism,² which invited OSCE participating States to “explore the possibility of introducing or enhancing appropriate measures, subject to domestic legislation, for support, including financial assistance, to victims of terrorism and their families”. It further encouraged them “to cooperate with relevant institutions of civil society in expressing solidarity with and providing support for the victims of terrorism and their families”.

40. Decision No. 618 also tasked the Office for Democratic Institutions and Human Rights with compiling existing legislation relating to assistance to and compensation for victims of terrorism and promoting best practices in this area. The Office for Democratic Institutions and Human Rights followed this mandate by developing a project on solidarity with victims of terrorism and organizing a High-Level Meeting on Victims of Terrorism held in Vienna on 13 and 14 September 2007, which acknowledged that internationally recognized minimum standards of support to victims of terrorism could be drafted and continue to play a role in promoting good practices in this area in participating States.³

41. Finally, OSCE Permanent Council decision No. 1063 of 7 December 2012 on the OSCE Consolidated Framework for the Fight Against Terrorism⁴ provides that OSCE activities to enhance cooperation and build capacity to prevent and combat terrorism should “place a focus on the role of victims of terrorism and their families, promoting best practices in the area of solidarity with them and ensuring that their voices are heard”.

Other multilateral initiatives

Global Counterterrorism Forum

42. The Global Counterterrorism Forum is an intergovernmental body comprising 29 countries and the European Union. Launched in September 2011, it provides an informal, multilateral counter-terrorism platform aimed at: (a) identifying critical civilian counter-terrorism needs; (b) mobilizing expertise and resources to address such needs; and (c) enhancing global cooperation. The Global Counterterrorism Forum regularly convenes meetings of key policymakers, practitioners and experts from its membership, the United Nations and other multilateral bodies.

Madrid Memorandum on Good Practices for Assistance to Victims of Terrorism Immediately after the Attack and in Criminal Proceedings

43. In September 2011, the Criminal Justice Sector and Rule of Law Working Group of the Global Counterterrorism Forum was called upon to develop good practices on an effective and rule of law-based criminal justice sector response to terrorism. On 9

²Available at www.osce.org.

³Ibid.

⁴Ibid.

and 10 July 2012, the Government of Spain hosted a High-Level Conference on Victims of Terrorism under the auspices of the Countering Violent Extremism Working Group of the Global Counterterrorism Forum. At this meeting, member States recognized the need to collaborate on developing a document outlining good practices for assisting victims of terrorism. The Government of Spain circulated a draft of the Madrid Memorandum on Good Practices for Assistance to Victims of Terrorism Immediately after the Attack and in Criminal Proceedings, which identifies 17 good practices of criminal justice in three broad categories: (1) general approach, (2) actions immediately after the terrorist attack, and (3) actions during the criminal justice process.

44. On 7 November 2012, experts from member States met to discuss and refine this document. Consistent with the Global Counterterrorism Forum Cairo Declaration on Counter-Terrorism and the Rule of Law, all member States are encouraged to consider using these non-binding good practices, while recognizing that implementation of such practices must be consistent with applicable international law, as well as national law and regulations, and must take into account the varied histories, cultures and legal systems among States. States are also encouraged to take note of relevant international and regional instruments, United Nations General Assembly resolutions and United Nations reports, and are encouraged, but not obligated, to share their experiences of applying the recommended practices with the Countering Violent Extremism Working Group.

Rabat Memorandum on Good Practices for Effective Counter-Terrorism Practice in the Criminal Justice Sector

45. Drawing on inputs from the Criminal Justice Sector and Rule of Law Working Group on the role of criminal justice authorities in the investigation and disruption of terrorist activities, the Global Counterterrorism Forum adopted in February 2012 the Rabat Memorandum on Good Practices for Effective Counter-Terrorism Practice in the Criminal Justice Sector, which sets out 15 good practices in countering terrorism, some of which relate to the rights and role of victims of terrorism, such as good practice 1.

46. The Global Counterterrorism Forum encourages member States to adopt and implement the non-binding good practices set out and recommended in the Madrid Memorandum and Rabat Memorandum.

Global Counterterrorism Forum Plan of Action on Victims of Terrorism

47. During the High-Level Conference on Victims of Terrorism, member States identified and agreed on a Plan of Action of concrete steps to advance and strengthen support for victims of terrorism. Several initiatives identified in this Plan (e.g., the development of public information material, including brochures, posters and web-based services) are relevant to the identification and implementation of good practices in this field.

African Union

48. The African Union is a regional organization comprising 54 countries from the African continent. It aims to promote unity and solidarity among African States,

coordinate and intensify cooperation for development, safeguard the sovereignty of member States and promote international cooperation within the framework of the United Nations.

49. At the third ordinary session of the Assembly of the African Union in Addis Ababa, on 8 July 2004, the Protocol to the Organization of African Unity Convention on the Prevention and Combating of Terrorism was adopted. Under article 3, paragraph 1 (c), of the Protocol, States parties are obligated to “identify, detect, confiscate and freeze or seize any funds and any other assets used or allocated for the purpose of committing a terrorist act, and to establish a mechanism to use such funds to compensate victims of terrorist acts or their families”.

50. In Algiers on 27 and 28 October 2014, the African Union Commission organized the Symposium on Victims of Terrorist Acts, which brought together not only delegates from African Union member States and partner States, but also from international and regional organizations, civil society and non-governmental organizations involved in promoting assistance and support to victims of terrorism. The discussions held during the Symposium focused on a number of thematic issues related to support and assistance to victims of terrorism. In particular, participants addressed the need to further elaborate response mechanisms, which should take into consideration the immediate, medium-term and long-term needs of victims, be tailored to the needs of different groups, such as women and children, and pay sufficient attention to the psychological well-being of victims.

51. During the Symposium, emphasis was put on the importance of the role of victims of terrorist acts, as well as the media, civil society and community and religious authorities, with regard to delegitimizing terrorism and countering violent extremism. The Network of Journalists for Peace and Security in Africa (NetPeace), which was established with the African Union’s assistance in order to facilitate reporting on peace and security issues by African media, plays an important role in promoting such an approach among the media and journalists in Africa. Participants of the Symposium also discussed the creation of the Network of African Associations of Victims of Terrorist Acts.

The League of Arab States

52. The League of Arab States is a regional organization comprising 22 Arab countries in and around North Africa, the Horn of Africa and South-West Asia. The League’s main goal is to “draw closer the relations between member States and coordinate collaboration between them, to safeguard their independence and sovereignty, and to consider in a general way the affairs and interests of the Arab countries”. In 1998, the members of the League of Arab States adopted the Arab Convention on the Suppression of Terrorism, which was designed to ensure that Governments in the region would not tolerate or give support to groups or individuals mounting terrorist attacks in Arab countries. Part three, chapter III, of the Convention sets out provisions for the protection of witnesses (including victims who are witnesses) and experts, which are referred to in more detail later in this document.

South Asian Association for Regional Cooperation

53. The South Asian Association for Regional Cooperation is an economic and geopolitical organization comprising eight South Asian countries and observer members.⁵ The Association aims to promote socioeconomic development and collective security within the South Asia region. In 1987, member States adopted the South Asian Association for Regional Cooperation Regional Convention on Suppression of Terrorism, which sets out comprehensive measures aimed at countering terrorism within the South Asia region. In 2004, an Additional Protocol to the Convention, dealing with issues related to combating the financing of terrorism, was adopted by member States.

Organization of American States

54. The Organization of American States is a regional intergovernmental organization, which comprises 35 States of the Americas and constitutes the main political, juridical and social governmental forum in the region. In addition, it has granted permanent observer status to 69 States and the European Union. In 1971, its member States negotiated the Convention to prevent and punish the acts of terrorism taking the form of crimes against persons and related extortion that are of international significance, a regional counter-terrorism instrument that contains provisions relevant to victims of terrorism.

Definitions and general principles

Definition: victims of terrorism

55. In order for national laws and policies for the support of victims of terrorism within the criminal justice framework to be effective, the parties intended to benefit from protection and safeguards must be clearly defined or identifiable within national policies, laws and institutional practices.

56. For the purposes of this publication, the term “terrorism” refers in general to acts defined by the international legal instruments for the prevention and punishment of terrorist acts.⁶ When referring to national examples or to regional or multilateral instruments, the scope of the definition may and indeed does vary. In such cases, clarification should, if necessary, be sought on the specific definition of the term within the given national, regional or multilateral context.

57. In many countries, criminal codes or specific victim rights legislation contain provisions that define victims of crime for the purpose of their general criminal law. Such legislation often reflects the principles enunciated in the Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power, which, in paragraph 1, defines the term “victims” as “persons who, individually or collectively, have suffered harm, including physical or mental injury, emotional suffering, economic loss or

⁵Afghanistan, Bangladesh, Bhutan, India, Maldives, Nepal, Pakistan and Sri Lanka.

⁶Available at www.un.org/en/terrorism/instruments.shtml.

substantial impairment of their fundamental rights, through acts or omissions that are in violation of criminal laws operative within Member States, including those laws proscribing criminal abuse of power”.

58. A further definition of the term “victim” can be found in operative paragraph 8 of the Basic Principles and Guidelines on the Right to a Remedy and Reparation of Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law, annexed to Commission on Human Rights resolution 2005/35:

8. For purposes of this document, victims are persons who individually or collectively suffered harm, including physical or mental injury, emotional suffering, economic loss or substantial impairment of their fundamental rights, through acts or omissions that constitute gross violations of international human rights law, or serious violations of international humanitarian law. Where appropriate, and in accordance with domestic law, the term “victim” also includes the immediate family or dependents of the direct victim and persons who have suffered harm in intervening to assist victims in distress or to prevent victimization.

59. In the report of the Special Rapporteur (A/HRC/20/14), the Special Rapporteur identified, without expressly defining terrorism, the following four main categories of victims of terrorism:

- *Direct victims of terrorism:* Natural persons who have been killed or have suffered serious physical or psychological injury as the result of an act of terrorism.
- *Secondary victims of terrorism:* Natural persons who are the next of kin or dependents of a direct victim of terrorism.
- *Indirect victims of terrorism:* The Special Rapporteur noted individuals who have suffered serious physical or psychological injury as the indirect result of an act of terrorism. This category includes (a) members of the public (such as hostages or bystanders) who have been killed or injured through the use of potentially lethal force against suspected terrorists; (b) eyewitnesses who have sustained serious psychological harm as the result of witnessing a violent terrorist incident or its immediate aftermath; (c) individuals who have been subjected to potentially lethal force by a public authority after being mistakenly identified as a suspected terrorist; (d) rescue workers who suffer serious physical or psychological harm as the result of taking part in emergency relief.
- *Potential victims of terrorism:* For the purposes of promoting a comprehensive statement of basic rights and obligations in this sphere, potential victims of future terrorist acts are an important additional category.”⁷

⁷Report of the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism: framework principles for securing the human rights of victims of terrorism (A/HRC/20/14), para. 16.

60. The Madrid Memorandum does not contain a specific definition of the parties that should be considered victims of terrorism for the purpose of implementing its recommended good practices. The decision of whether and how to define victims of terrorism appears to be left to the discretion of individual States when implementing the recommendations.

61. Part III of *The Criminal Justice Response to Support Victims of Acts of Terrorism* contains a useful summary of different comparative approaches towards defining the term “victims of terrorism”.⁸ Whichever approach is adopted, the individuals who are entitled to hold the status of and receive support as victims of terrorism must be readily identifiable for the purposes of domestic legislation, policies and procedures. In this regard, every victim of terrorism should be afforded all rights and services provided to victims of terrorism within the criminal justice framework, including those victims who are not citizens of, or do not reside in, the country investigating, prosecuting and adjudicating the case. The need for international, cross-border coverage for victims of terrorism is discussed later in this document in part five on international cooperation.

Preventing and avoiding secondary victimization

62. It is a generally accepted criminal justice principle that victims of crime, including terrorism, should not be subject to secondary victimization. Secondary victimization has been defined as victimization that occurs not as a direct result of the criminal act causing harm to the victim but through the response of institutions and individuals to the victim.⁹

63. Within the United Nations context, although there is no specific definition of the term “secondary victimization”, this important principle is recognized in the Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Gross Violations of International Humanitarian Law, annexed to Commission on Human Rights resolution 2005/35. It provides that “the State should ensure that its domestic laws, to the extent possible, provide that a victim who has suffered violence or trauma should benefit from special consideration and care to avoid his or her re-traumatization in the course of legal and administrative procedures designed to provide justice and reparation”.

64. When undertaking work relating to victims of crime, UNODC has highlighted the importance of preventing secondary victimization. For example, *The Criminal Justice Response to Support Victims of Acts of Terrorism* notes: “Survivors of terrorist acts and family members suffer losses and become more vulnerable as a consequence of the criminal act. Therefore, the State’s institutional framework, including its criminal justice system and administrative organs tasked with assisting victims, must protect those victims from unnecessary additional burdens.”¹⁰

⁸United Nations Office on Drugs and Crime, *The Criminal Justice Response to Support Victims of Acts of Terrorism* (Vienna, 2012), pp. 15-32.

⁹Council of Europe, Recommendation Rec(2006)8 of the Committee of Ministers to member States on assistance to crime victims, adopted by the Committee of Ministers on 14 June 2006.

¹⁰*The Criminal Justice Response to Support Victims of Acts of Terrorism*, para. 65.

65. The need to avoid and prevent secondary victimization of victims of crime, including terrorism, within criminal justice responses cannot be understated and should be a fundamental objective of any effective legal or criminal justice system. This objective underpins the observations in this document and should be a guiding principle for Governments seeking to develop more effective laws and criminal justice policies, practices and institutional support for victims of terrorism.

Upholding human rights and the rule of law

66. A fundamental principle in international counter-terrorism and human rights instruments is that criminal investigations and prosecutions related to terrorism must be undertaken in full conformity with international standards and norms relating to the rule of law, human rights and fundamental freedoms.

67. In several of its technical assistance publications, UNODC has addressed the human rights of victims and witnesses of terrorism, as well as those of accused persons, in criminal proceedings related to terrorism, and has set out the nature, scope and application of such rights.¹¹ For example, *The Criminal Justice Response to Support Victims of Terrorism* states:

As international and regional standards repeatedly state, the recognition of victims' rights does not prejudice any of the rights of defendants. It is self-evident that an accused person is entitled to a fair trial regardless of public outcry. ... The balance between the much-needed protection of the rights of the accused—including the presumption of innocence, equality of arms and access to good quality defence services—and the rights of victims must be given special attention in order to ensure a fair trial.¹²

68. Thus, the above-mentioned principle applies both to the rights of victims of terrorism and the persons accused of having committed such acts. It requires States to balance carefully and uphold the respective interests and rights of these parties under their national criminal justice laws, policies and practices.

69. In this publication, it is not intended to repeat the analysis contained in previous UNODC publications on the implications of criminal justice responses to victims of terrorism in terms of human rights and the rule of law within the criminal justice context. However, the fundamental importance of a rule of law- and human rights-based approach as an integral component of any effective criminal justice response during the investigation and prosecution of crimes related to terrorism, is reaffirmed here.

¹¹See *Handbook on Criminal Justice Responses to Terrorism*, Criminal Justice Handbook Series (United Nations publication, Sales No. E.09.IV.2); *The Criminal Justice Response to Support Victims of Terrorism*; and UNODC, *Human Rights and Criminal Justice Responses to Terrorism*, Counter-Terrorism Legal Training Curriculum, Module 4 (Vienna, 2014).

¹²*The Criminal Justice Response to Support Victims of Acts of Terrorism*, paras. 64 and 65.

II. Legal framework, institutional capacity and coordination

Introduction

70. Many countries have established legal and institutional measures, as part of their national legal and criminal justice frameworks, to provide victims of crime with proper support services. In many cases, this includes support services for victims of crime associated with acts of terrorism.

71. The needs of victims vary widely depending on their individual circumstances and evolve over time, starting from the period immediately following a terrorist incident, to the medium and long term. Needs such as medical, financial, psychological and emotional support, as well as access to information before, during and after the criminal process, should be addressed through a comprehensive and integrated government response, in full coordination with other public or private support services.

72. In some cases, the number, resourcing and coordination of personnel and agencies involved in dealing with the needs of victims can vary widely. In order to be effective, the efforts of responsible agencies must be well coordinated, and policies and practices should be implemented by trained specialists. The coordination of all law enforcement, criminal justice and related agencies (e.g., social welfare) involved at all stages of a victim's journey through the criminal justice system is absolutely critical and plays an important role in preventing secondary victimization.

73. Measures aimed at reducing unnecessary bureaucratic or administrative requirements or barriers will reduce the stress and anxiety often experienced by victims and their families during criminal investigations and trials.

74. States should consider mandating an agency or agencies within the criminal justice sector with lead responsibility for implementing and coordinating national policies and practices for the protection and support of victims of terrorism. Authorities should ensure effective and appropriate cooperation and coordination among all relevant governmental agencies, civil society, community groups and non-governmental organizations responsible for or involved in the provision of assistance to victims and their families. In many cases, the roles and coordination of, and exchange of information among, relevant government agencies could be set out in a memorandum of understanding or similar arrangement.

75. States should ensure that all government agencies responsible for providing assistance and support to victims are sufficiently well funded and resourced to undertake

these functions. Plans should be established for emergency measures and support, as well as continuing assistance, for victims of terrorist acts. All personnel involved in dealing with victims should receive adequate, specialized training, focused in particular on more vulnerable victims. Consideration should be given to conducting national simulated training exercises on a regular basis, in order to test and evaluate the responses of government agencies, community groups and non-governmental organizations involved in supporting victims of terrorism.

76. States should develop national policies and enact legal frameworks relating to the provision of services for and the rights of victims and, if necessary, adopt guidelines for the implementation of such laws and policies.¹³ The enactment of legislation on the rights of victims contributes to empowering victims of terrorism and is in itself an effective message against violent extremism and terrorism. In addition, it makes public bodies more transparent and helps build confidence and trust in the criminal justice system and the rule of law. Moreover, incorporating the legal rights of victims of terrorism into national law increases the likelihood that such rights will be available and applied consistently across all cases.

77. The initial starting point for Governments wishing to develop and implement effective national policies and a legislative and institutional framework relating to victims of terrorism is to undertake a review or gap analysis of existing policies, laws and institutional capacity against recognized international good practices. Such a review, which might be undertaken with the assistance of international experts or technical assistance providers, should identify any reforms necessary to strengthen support and assistance to such victims within the criminal justice framework. The diagram in annex I highlights some key elements of an effective framework for supporting victims of terrorism in a criminal justice context and sets out a possible approach to the development of national policy and legal frameworks.

78. Following the implementation of new policies, laws and institutional measures, Governments should provide training on issues relating to victims for relevant criminal justice practitioners and victim-support actors, if necessary, in conjunction with related technical assistance providers. Moreover, mechanisms should be established for ongoing monitoring and evaluation of the effectiveness of such measures. Such monitoring and review mechanisms should include opportunities for consultations with and the provision of feedback by victims, victims' associations and other relevant civil-society actors.

79. Such consultations could be implemented through regular dialogue with victims, victims' associations and/or other representative and victim-focused organizations, whereby views are sought on the development or implementation of legislation, policies and practices relating to the rights of victims within the criminal justice system. One possible mechanism for achieving this goal is a multidisciplinary committee or group that meets regularly to discuss victim-related issues, problem solve creatively and make

¹³See Report of the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism (A/HRC/20/14).

recommendations to policymakers. Consideration should be given to appointing a high-level justice sector official as head or chair, in order to promote greater visibility of victim-related issues and facilitate the necessary policy or legislative changes within the justice sector.

80. The establishment of victim support specialists, focal points or liaison persons within criminal justice agencies would enhance communication and understanding between such agencies and victims, victims' associations and other relevant civil society actors. Such victim specialists, focal points or liaison persons should meet regularly to review and exchange good practices and, where necessary, identify policies and approaches that will strengthen support for victims, through ongoing consultation with victims, victims' associations and other civil society actors. A victim support specialist within the prosecutor's office can ensure enhanced access to justice by keeping victims apprised of court hearings, assisting in preparing victims to be witnesses at trial and ensuring that victims have a voice at sentencing hearings.

United States of America

81. In the United States of America, the Federal Bureau of Investigation created the Office for Victim Assistance, which provides services to victims of all types of federal crimes. The Office for Victim Assistance is responsible for the Terrorism and Special Jurisdictions programme, which works exclusively with victims of terrorism and mass casualty. The programme is specially designed to assist highly traumatized victims and supports a fly-away team that can be mobilized to respond to large-scale attacks in the United States and overseas. During prosecutions of crimes of terrorism committed against United States citizens overseas, the Department of Justice, through its Office of Justice for Victims of Overseas Terrorism, provides victims with information and support.

82. At the national level, each United States attorney's office also has at least one victim and witness coordinator to ensure that victims are properly notified of court dates and to assist the prosecutor in terrorism cases tried in the United States.

83. These procedures and practices should be incorporated into national laws, policies and practices that set out minimum standards for the treatment of victims, in order to facilitate effective and consistent access to justice for victims across all cases. States should consider providing updated policy and practice guidelines and protocols to all criminal justice personnel involved in dealing with victims of terrorism.

United Kingdom of Great Britain and Northern Ireland

84. The Crown Prosecution Service of the United Kingdom of Great Britain and Northern Ireland has recognized the centrality and importance of victims and their rights in its 12 core quality standards,¹⁴ which identify the core business of the Crown

¹⁴Available at www.cps.gov.uk/consultations/cqs_policy.pdf.

Prosecution Service and indicate how such business should be conducted. Core quality standard 8 states that the Crown Prosecution Service must assess the needs of victims and witnesses, keep them informed about the progress of their case and help them to give their best evidence. Core quality standard 9 states that the Crown Prosecution Service must explain its decisions to victims when it stops cases or substantially alters the charge.

85. Building on the core quality standards, the Crown Prosecution Service issued an updated Code of Practice for Victims of Crime. The updated Code contains a broader definition of victim, which includes any person who has made an allegation to the police, or had an allegation made on his or her behalf, that they have been directly subjected to criminal conduct under the national crime recording standard. Also included under this definition are bereaved relatives, parents of a victim who is under 18 years of age, a family spokesperson and businesses with a named point of contact.

86. A multidisciplinary crisis response team should include emergency medical-care professionals, trauma-care specialists, grief counsellors, social workers and specially trained investigators.

Spain

87. In Spain, following the adoption of Act No. 29/2011 of 22 September 2011 on the Recognition and Comprehensive Protection of Victims of Terrorism, the Directorate-General of Support for Victims of Terrorism was established. This unique body brings together those responsible for the different services involved in supporting victims of terrorism, includes a unit for compensation and aid, and liaises with the Office of Information and Assistance to Victims of Terrorism under the National High Court. It is also responsible for liaising with, assisting and orienting victims of terrorist acts and their family members.¹⁵

South Africa

88. The National Prosecuting Authority of South Africa has a special unit that provides assistance to victims and witnesses of crime in coordination with a number of stakeholders, including non-governmental organizations. Furthermore, the Department of Justice and Constitutional Development has enacted the Service Charter for Victims of Crime in South Africa to ensure access to justice for victims and witnesses.

89. Whenever possible, such support services should be made available within government institutions. However, if for whatever reason this is not possible, consideration should be given to the possibility of government institutions entering into memorandums of understanding or similar agreements with victims' associations or non-governmental organizations with significant and proven experience in providing such services.

90. Governments should collaborate and enhance this good practice by sharing all relevant, available information with relevant public or private entities through contracts or memorandums of understanding, in order to provide victims of terrorism abroad with assistance and support.

Ireland

91. The Irish Tourist Assistance Service is a free and confidential specialized service offering immediate support and assistance to tourists who become victims of crime. The service is sponsored by leading public and private sector entities linked to tourism services.

Good practices

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

^aEuropean Commission, Directorate General for Justice, guidance document related to the transposition and implementation of directive 2012/29/EU of the European Parliament and of the Council of 25 October 2012 establishing minimum standards on the rights, support and protection of victims of crime, and replacing Council framework decision 2001/220/JHA (Brussels, December 2013).

^bCouncil of Europe, "Guidelines on the protection of victims of terrorist acts", adopted by the Committee of Ministers on 2 March 2005 at the 917th meeting of the Ministers' Deputies. Madrid Memorandum on Good Practices for Assistance to Victims of Terrorism Immediately after the Attack and in Criminal Proceedings.

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

Introduction

92. A number of international, regional and multilateral instruments and arrangements provide useful guidance on the good practices and features that should be present in criminal investigations and prosecutions related to terrorism. These sources, which include directives and recommendations of the European Union and the Council of Europe, the Rabat Memorandum on Good Practices for Effective Counter-Terrorism Practice in the Criminal Justice Sector and the Madrid Memorandum on Good Practices for Assistance to Victims of Terrorism Immediately after the Attack and in Criminal Proceedings of the Global Counterterrorism Forum, and the report of the Special Rapporteur (A/HRC/20/14), identify, inter alia, factors such as timeliness, objectivity, thoroughness, transparency and accountability.

93. From the perspective of victims, the period immediately following a terrorist attack is particularly challenging and difficult. In addition to suffering the immediate physical and psychological effects caused by a traumatic event and coming to terms with the severe disruption to their normal lives, for many victims and their families, the subsequent criminal proceedings are likely to be their first encounter with law enforcement and criminal justice authorities, which in itself can be a stressful experience.

94. In these circumstances, interaction with victims must be handled with sensitivity and understanding by investigators and prosecutors, in order to avoid possible additional stress and secondary victimization.

95. The needs of victims should be assessed, and victims should be informed of their right to access support services and, where necessary, assisted in arranging appropriate referrals. The use of mass and social media and other support or community-based groups can be extremely useful and effective in identifying and informing victims of the existence of and how to access specific support services.

96. Throughout the criminal justice process, it is important that law enforcement investigators, prosecutors, judges and other criminal justice practitioners, as well as victim support professionals, are sensitized to, receive training on and apply appropriate strategies for interacting with victims and meeting their specific needs to the greatest extent possible.

97. Sufficient measures should always be put in place for the physical security of victims, in particular those who will be required to testify during a trial. In order to avoid or minimize the risk of victims coming into direct contact with the alleged perpetrators, appropriate measures must be put in place throughout the criminal proceedings and especially in the courtroom where the trial will take place.

98. Victims must be made to feel a sense of inclusion and provided with a supportive and empowering environment throughout the criminal proceedings. The expectations of victims regarding the outcome of the criminal proceedings, their lack of legal knowledge, their need for timely and accurate information about the prosecution process and the involvement of the media during the trial process can all lead to secondary victimization unless effective measures are put in place to support and protect victims.

99. Although provisions within national legal systems recognize different levels and modes of participation of victims, such measures should all take into account and pay special attention to victims with special needs or who require physical protection measures, for example, when the victim is a witness in the criminal prosecution.

100. Whenever possible, prosecutors and/or liaison officers should meet with victims at an early stage of the proceeding to explain the case and answer questions about their respective roles and the judicial process, preferably in non-legal terminology. If requested, victims should be offered the opportunity to familiarize themselves with the precincts of the court where the trial will be held.

101. Where prosecutors are required to make decisions on critical aspects of the conduct of the case with which victims might disagree, victims (preferably supported by a legal representative or support person) should promptly be informed of the reasons underlying the decision and of their rights of review or other methods of redress.

102. Where a defendant is convicted at trial and appears for sentencing, victims should be permitted to provide a statement to the court informing the sentencing judge of the impact of the offence on them or their families. Where a defendant is given a custodial sentence, victims should be given sufficient prior notice of any subsequent parole hearings or release and be given the opportunity to express their opinion, in writing or in person, on the offender's potential release.

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

Introduction

103. Many of the good practices set out in this document can be implemented through the use of multidisciplinary teams, which include a victim and witness coordinator or specialist, for the investigation and prosecution of crimes related to terrorism. This approach allows well-trained investigators, prosecutors and victim support professionals,

who have been thoroughly screened and sensitized to victim-related issues, to better serve the interests of victims and protect the integrity of investigations. Moreover, since information-sharing is limited to trusted team members who have been vetted for security purposes, victim and witness protection is ensured throughout the criminal justice process.

104. The inclusion of victim advocates or coordinators in investigation or prosecution teams promotes a victim-centred approach by allowing closer contact and more effective communication between victims and the teams. Such advocates or coordinators can serve as the primary contact points for victims, answering their questions and addressing their concerns, which builds trust and promotes victim participation throughout the justice process, thereby enhancing the overall effectiveness of the criminal justice system.

105. Moreover, trained advocates or coordinators are better able to identify the needs of victims and provide them with information on how to obtain necessary medical, psychological, legal and financial support, whether offered by the Government, victims' associations or other non-governmental organizations.

United Kingdom

106. In the United Kingdom, the police, the Crown Prosecution Service and courts have recognized the centrality of victims within the criminal justice process.¹⁶ When a terrorist incident occurs involving a death, part of the initial response by the police is to identify the victims and their families. Having identified the victims, the police will appoint one or more family liaison officers to support them and their families. The family liaison officer has a number of functions, including:

- Providing information to the family via regular updates
- Dealing with any fears and concerns the family may have as to their safety and, if need be, facilitating protection
- Giving the family appropriate advice
- Protecting the family from unwarranted media intrusion
- Facilitating access to medical and/or support services, should the family need them

107. The family liaison officer will continue to provide information, advice and assistance to the victims and their families throughout the police investigation and any subsequent prosecution.

108. Adopting a multidisciplinary, team approach involving investigators, prosecutors, and victim advocates also reduces the need for multiple victim interviews, thanks to greater information-sharing and coordination among the criminal justice professionals involved in a case.

¹⁶*The Criminal Justice Response to Support Victims of Terrorism.*

109. This good practice means that victims have greater access to the prosecution team and allows for greater victim input and participation in the criminal justice process.

United Kingdom

110. In 2007, the United Kingdom launched a Victim Focus scheme under which prosecutors offer meetings to bereaved families in certain cases involving a death. The purpose of such meetings is to explain the role of the Crown Prosecution Service, the legal basis of any charges, the court process, the progress of the case and the victim personal statement scheme, described in detail later in this document.¹⁷

Republic of Korea

111. In the Republic of Korea, authorities use a range of protective measures for victims and witnesses during the investigation stage of a criminal case, including the appointment of assistants and trustees to accompany witnesses and offer support, the expunction of the personal information of witnesses from records of court proceedings and the use of video links, two-way mirrors, in-camera sessions, and witness anonymity measures when witnesses are giving testimony.

112. In addition to assigning victim advocates to investigation teams, an alternative approach is for authorities to sign a contract or memorandum of understanding with suitably experienced victims' associations or non-governmental organizations for liaising with victims, providing case updates to victims and facilitating related victim services.

113. When this approach is used, any individual or group that undertakes this critical role should be thoroughly vetted for security purposes, so as not to compromise the investigation or the safety and welfare of victims. Moreover, the individual or group should be fully aware of victims' legal rights and the various measures and services available, as well as how to facilitate victims' access to such measures and services in practice.

114. Such training may be provided by victim assistance professionals, in particular to criminal investigators and other practitioners responsible for interviewing or questioning victims, or dealing with referrals to support services.

115. Wherever possible, training on this victim-sensitive approach to criminal investigations should be included as a standard component of the curriculums of police training colleges or academies. It should also form part of the ongoing professional development of prosecutors. Peer-to-peer training or a "train-the-trainers" approach, whereby selected practitioners pass on expertise and knowledge to other trainees, is an efficient and effective means of providing training in a sustainable way. Mentoring or shadowing programmes also help disseminate good practices within relevant agencies.

United Nations Office on Drugs and Crime and Counter-Terrorism Committee Executive Directorate

116. UNODC provides specialized tools and training on the rights and needs of victims within the criminal justice process for investigators, prosecutors, judges and other relevant practitioners. Such training is delivered through a variety of means, including face-to-face training workshops and its global e-learning platform, such as the Terrorism Prevention Branch’s online Counter-Terrorism Learning Platform. These platforms are an effective and cost-efficient way of implementing this good practice.

117. In addition to the work of UNODC, the Counter-Terrorism Committee, through its Executive Directorate, facilitates the provision of technical assistance to Member States by disseminating good practices, identifying existing technical, financial, regulatory and legislative assistance programmes, promoting synergies between the assistance programmes of international, regional and subregional organizations, serving as an intermediary for contact between potential donors and recipients, and maintaining an online directory of assistance providers, all within the framework of Security Council resolution 1373 (2001).

Good practices

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

^aDirective 2012/29/EU of the European Parliament and of the Council of 25 October 2012 establishing minimum standards on the rights, support and protection of victims of crime, and replacing Council framework decision 2001/220/JHA (directive 2012/29/EU, art. 20 (b) and (d)).

^bMadrid Memorandum on Good Practices, good practice 15 and European Union directive 2012/29/EU establishing minimum standards on the rights support and protection of victims of crime, art. 25.

Access to justice, legal advice, representation and participation

Introduction

118. It is fundamentally important that States provide, in accordance with their national legislation, victims of terrorism with targeted support, rights and effective

means for accessing justice that best suit their local conditions. The absence or inadequacy of such mechanisms in legal and criminal justice systems can lead or contribute to secondary victimization, which exacerbates the psychological damage to and other chronic long-term effects of victims.

119. Owing to differences in national legal and criminal justice systems, some States do not enable victims to participate in criminal proceedings or to have effective access to justice. Victims are often unable to access justice or to participate fully in the criminal justice process for different reasons, including a lack of awareness of their rights, their socioeconomic or cultural background or other local conditions.

120. In order to address this issue, one of the primary goals of any effective legal and criminal justice system should be to identify all affected victims in a timely manner and to inform them of their right to access justice. In such circumstances, special attention should be accorded to more vulnerable or disadvantaged victims.

121. Information regarding the rights of victims, including access to legal aid and the status of investigations and judicial proceedings, should be timely, accurate and readily understandable. General information about the criminal justice system should be provided in comprehensible and plain language, and, where appropriate, interpretation and translation services should be made available at no cost, in order to remove language and financial barriers to the ability of victims to exercise their legal rights.

122. Wherever possible, States should, in accordance with their national legislation, policies and practices, provide victims of terrorism specific rights and roles within criminal proceedings. Such national laws and procedures should recognize the right of victims to be heard, participate and play an active part in criminal proceedings. Victims should also have the right, under national laws, policies and institutional practices, to be informed of the dates and location of court hearings and, if they so wish, to attend court with appropriate safeguards, where necessary.

123. In countries where the participation of victims in the legal and criminal justice process is not specifically provided for or precluded under national legislation, it might nevertheless be possible for prosecution services to accommodate victims' participation to some degree through existing legal channels and procedures. Examples of this might include the submission of victim impact statements to the court upon sentencing or the facilitation of the presence of the victim in the court, with necessary safeguards, during sentencing.

124. A list of victims, including their and their next of kin's contact details, should be compiled and constantly updated throughout the criminal justice process. The use of media and other support services (e.g., hospitals or community groups) can be an extremely useful and effective means of notifying victims of the existence of specific support services or the need for registration. Web-based tools can also be an effective and efficient means of registering, recording and facilitating contact with victims and providing them with updated information related to their right to access to justice, the criminal proceedings in which they are involved and the different support services they

might require during the process (e.g., psychological or counselling support and legal advice).

125. In the report of the Special Rapporteur (A/HRC/20/14), the Special Rapporteur noted that investigations (which can take various forms, e.g., an inquest, public inquiry or independent investigation) should, in every case, meet certain minimum standards, including:

- Once the matter has come to the attention of the authorities, they must act *ex officio* and not wait for a formal complaint.
- The investigation should always begin promptly. A timely investigation is more likely to secure reliable evidence. While there may be obstacles delaying progress in an investigation, it must be carried out with reasonable expedition.
- In all cases, once an investigation has been opened, authorities must ensure that the victim or their next of kin are kept fully informed of its progress, and are provided with an adequate opportunity to participate.¹⁸

126. The enactment of national legislation on the rights of victims (which has been done in many countries) to enshrine these minimum requirements promotes the protection of the rights of victims across all criminal cases.

127. The circumstances and conditions under which victims may be reimbursed of all the costs and expenses arising from their participation in the justice process should be enshrined in law, in order to facilitate their fulfilment and ensure equal treatment of victims across all cases.

128. One way of ensuring that criminal cases related to terrorism are given sufficient priority is to establish time frames between charges being brought and the disposition of criminal trials, including the return of verdicts and sentencing. A good practice to ensure that cases are concluded in a timely manner is to make the trial process as continuous as possible, i.e. testimony and evidence should be presented without lengthy continuances or gaps between hearing dates. The development and use of standard case management procedures, including time and performance protocols, checklists and flow charts for criminal justice practitioners, will assist in the timely and efficient disposition of criminal proceedings.

129. The incorporation of guidelines or protocols relating to the management of criminal cases into national laws and policies will help ensure that victims receive consistent treatment and outcomes across all cases. Moreover, it makes the criminal justice process transparent, which helps to build trust and confidence in the criminal justice system and the rule of law.

¹⁸Report of the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism (A/HRC/20/14).

130. In order to encourage reasonable expectations, victims should be provided with general information about the criminal justice system, including the stages of the criminal process and the length of time that each stage typically takes, except where victims express they do not wish to receive such information.¹⁹ Ideally, a trained victim and witness coordinator, liaison person or advocate should serve as the primary contact point for victims to answer questions and keep them informed of matters pertaining to their case, as mentioned in part three, section I.

131. The prosecuting authority should establish a notification system that will notify victims in a timely manner of all public court hearings. Where there is no public hearing or trial, victims should be consulted and provided with an explanation of the underlying reasons for this in non-legal terminology. Wherever possible, victims should be accompanied by a legal adviser, a victim-support professional or a nominated support person of their choosing.

Colombia

132. In Colombia, there is an automated victim notification programme that notifies homicide victims about court dates through text messaging.

Spain

133. In Spain, Act No. 29/2011 of 22 September 2011 on the Recognition and Comprehensive Protection to Victims of Terrorism provides for the establishment of an Office of Information and Assistance to Victims of Terrorism at the National High Court,²⁰ focused on:

- Providing information about the conduct of the proceedings that affect victims of terrorism
- Giving advice to victims regarding criminal and contentious-administrative proceedings
- Offering personal accompaniment to trials
- Safeguarding the safety and privacy of the victims during their participation in the proceedings
- Establishing channels of information

134. A needs assessment of measures to ensure the safety of victims should be carried out, taking into account the individual circumstances of victims or their next of kin, and should be updated throughout the criminal justice process to meet their current needs.

¹⁹Council of Europe, “Guidelines on the protection of victims of terrorist acts”, guideline X.

²⁰Oficina de Víctimas de la Audiencia Nacional, available at www.poderjudicial.es.

135. Where a victim's oral testimony is required, measures should be considered to enable such testimony to be given by alternative means (e.g., video link or in-court screens). When victims give testimony, they should be supported by a trained victim support professional. Methods for implementing this good practice may include:

- Changing the venue
- Using remote video testimony
- Providing safe houses
- Employing protective custody measures (e.g., moving to a hotel or neutral setting, or police surveillance of area)
- Providing law enforcement transport to and from court (varying the route each day and/or using unmarked vehicles)
- Using separate entrances and exits to the courthouse
- Ensuring the security of the courtroom (e.g., armed guards and/or metal detectors)
- Protecting victims' identity (e.g., redacting their names or concealing them through the use of screens, in-camera proceedings or remote video testimony)
- Protecting private information that could be used to locate a victim's residence or place of employment, such as addresses and date of birth

Indonesia

136. Since 2003 in Indonesia, legal instruments specifically related to victims of terrorism have been adopted, namely Law No. 15/2003 on Combating Terrorist Acts and Government Regulation No. 24/2003 on Procedures for Protecting Witnesses, Investigators, Prosecutors and Judges in Criminal Acts of Terrorism. Law No. 15/2003 provides for State protection for witnesses, investigators, prosecutors, judges and their families against threats to their physical and mental well-being and property before, during and after trial.²¹

137. Under Law No. 13/2006 on Witness and Victim Protection, the Lembaga Perlindungan Saksi dan Korban is the government agency responsible for providing support or protection to victims and/or witnesses and evaluating whether victims and/or witnesses are entitled to certain rights. In deciding the kind of protection or support to be provided to victims and/or witnesses, the Lembaga Perlindungan Saksi dan Korban must consider the importance of the testimony of victims and/or witnesses and the type and degree of threats to them.

138. Following the 2009 bombings at the J.W. Marriot and Ritz-Carlton Hotels in Jakarta, the Lembaga Perlindungan Saksi dan Korban received requests from relevant agencies to provide assistance and rehabilitation to the victims and survivors of the bombings. In response, it established a special team, consisting of experts and officials,

²¹*The Criminal Justice Response to Support Victims of Terrorism*, para. 89.

to collect data and information on the survivors and to provide them with access to medical treatment, rehabilitation and other services. It also considered the importance of keeping witnesses' identities confidential from the public and media.

Morocco

139. The Criminal Procedure Code of Morocco provides special protection for victims and witnesses to crimes involving terrorism. Article 82-4 provides that the victim must be informed of his or her right to bring a civil action before the judge or trial court. The victim must also be informed of his or her rights by law. This information is mentioned in the report issued by the police or the prosecution if the victim appears before it. The public prosecutor or the investigating judge shall, pursuant to article 82-5, take protective measures to ensure the protection of the victim, his or her family members and relatives and his or her property from any damage that may arise as a result of the filing of the complaint. For this purpose, the following may be made available to the victim:

- A special phone number for the police or security services that the victim can dial anytime to seek protection
- Close protection for the victim and his or her family members or relatives provided by the police
- Change of residence and non-disclosure of information concerning his or her identity
- A medical examination by a specialist and necessary social assistance

140. If the above protective measures prove to be insufficient, other measures may be taken in favour of the person for whom protection is due.

141. Appropriate protective measures, mentioned in articles 82-6 and 82-7, shall be provided to the victim in relation to their testimony or the information they provide.

United Kingdom

142. In the United Kingdom, the national charity Victim Support has established a witness service, which is available to witnesses in crown centres and magistrates' courts in England and Wales. The service offers:

- General information on criminal proceedings
- Psychological support
- Accompaniment of the witness to court and the use of a side entrance to enter and leave the court building
- Arrangements for appropriate waiting facilities separating witnesses for the prosecution from defence witnesses and the public
- Parking and drop-off arrangements
- The communication of additional witness requirements during criminal trials

Namibia

143. Pursuant to section 208 of the Criminal Procedure Act of Namibia, the Prosecutor-General is authorized to apply to the judge in chambers to remove the witness to a place of safety if, in the opinion of the Prosecutor-General, the personal safety of the witness is in danger, or if the witness may be intimidated or prevented from giving evidence. A witness placed under protection pursuant to section 208 is entitled to a prescribed allowance by the State for the duration of that protection.²²

144. If necessary, translation and interpretation services should be available at no cost to victims or their families throughout the criminal justice process, from the initial investigation to the conclusion of trials and appeals. Possible methods for implementing this good practice include:

- Introducing an official registration and accreditation system (albeit not obligatory) for certified interpreters and translators at the national level
- Entering into a memorandum of understanding or similar with international organizations to provide interpretation and translation services where victims are involved in criminal proceedings in another jurisdiction
- Establishing videoconferencing and other technological tools that may be used to ensure victims can access interpretation and translation as and when required
- Developing cooperation practices among responsible authorities in Member States, to share resources and liaise between translation and interpretation services in cross-border cases²³

European Legal Interpreters and Translators Association

145. The European Legal Interpreters and Translators Association aims to promote cooperation and best practices in working arrangements with legal services and legal professionals. It also aims to promote quality in legal interpretation and translation through the recognition of the professional status of legal interpreters and translators, the exchange of information and best practices in training and continuous professional development, and the organization of events on issues such as training, research and professionalism, thus fostering judicial cooperation and mutual trust between member States of the European Union in their respective legal interpretation and translation systems.

146. Owing to differences between national criminal and procedural models and participatory systems, national examples of victims' participation in criminal proceedings are diverse. The applicable procedural rules relating to ways to be heard should be incorporated into national criminal justice laws, policies and practices to ensure effective participation of victims in the criminal justice system. The inclusion of the views

²²United Nations Office on Drugs and Crime, *Good Practices for the Protection of Witnesses in Criminal Proceedings Involving Organized Crime* (Vienna, 2008).

²³Guidance document related to the transposition and implementation of directive 2012/29/EU establishing minimum standards on the rights, support and protection of victims of crime.

of victims in the criminal justice process enhances confidence in the judicial system on the part of victims and the general public.²⁴ Such confidence is important in building social resilience and solidarity against terrorism at the national and community levels and supports broader national anti-terrorism strategies aimed at countering violent extremism and terrorist narratives.

147. In the report of the Special Rapporteur (A/HRC/20/14), the Special Rapporteur strongly recommended that States which currently have no possibility for a victim of terrorism or his or her next of kin to play an active part in criminal proceedings (other than as witnesses of fact) should give serious and urgent consideration to implementing a system to enable their effective participation.

148. In some common law countries, including Australia, Canada, New Zealand, the United Kingdom and the United States, where victims cannot directly intervene as a party in the criminal trial process, victims are provided with the opportunity to have their views considered by the court upon sentencing by making victim impact statements.

Canada

149. Under the Criminal Code of Canada, the court is required to consider a victim impact statement at the time of sentencing an offender. The victim impact statement describes the harm done to or loss suffered by the victim. The statement must be made in a form that complies with the procedures established by the victim impact statement programme designated by the lieutenant governor in council of the province. The following guidelines normally apply to victim impact statements:

- The victim is permitted to read an impact statement at the time of sentencing if he or she wishes to do so.
- The judge is required to ask, before imposing sentence, whether the victim has been informed of the opportunity to prepare a victim impact statement.
- Adjournments to permit a victim to prepare a statement or to submit other evidence to the court about the impact of the crime may be provided.
- Victim impact statements shall be considered by courts and review boards following a verdict of not criminally responsible on account of mental disorder.
- In proceedings to determine whether an offender sentenced to life in prison should have his or her parole eligibility reduced, the information provided by the victim may be oral or written.²⁵

150. In the absence of a victim impact statement, and if the victim wishes, a community assessment may be completed by a parole officer. A community assessment is a report containing information that assists in monitoring the offender's progress. Moreover, victims may submit written material that is relevant to the offender's case to the Correctional Service of Canada or the Parole Board of Canada at any time.

²⁴Madrid Memorandum on Good Practices, good practice 14.

²⁵*The Criminal Justice Response to Support Victims of Terrorism*, para. 158.

Turkey

151. The participation of victims in judicial proceedings and appeals procedures are set out in articles 237 to 243 of the Criminal Procedure Code of Turkey. In order to exercise their rights, victims are entitled to intervene in the criminal case before the court. According to these articles, victims of crime, as well as individuals liable for pecuniary compensation, are entitled to intervene in the criminal case at any stage during the prosecution phase at the court of first instance, until the judgement has been rendered, announcing that they are putting forward their claim.

152. Interventions are made by written application, or orally with the oral request recorded in the minutes of the trial, to the court after a criminal proceeding has been initiated. If the victim puts forward his or her complaint during the main hearing, he or she must be asked if he or she is willing to intervene in the prosecution. The judge must evaluate the request of intervention after hearing from both the public prosecutor and the accused or his or her defence counsel.

United States

153. The United States has legislation at both the federal and state levels that guarantees the rights of victims to attend and participate in criminal trials. Under the Crime Victims' Rights Act, victims have the right to "be reasonably heard at any public proceeding in the district court involving release, plea, sentencing or any parole proceeding".²⁶ In cases with large numbers of victims, there are several mechanisms that can be used to ensure this right, including the use of ballots to determine who will be able to speak, written statements and victims' representatives. Other provisions include the right to be reasonably protected from the accused; the right to notice of public court or parole proceedings; the right not to be excluded from any court proceeding unless the court determines that the testimony by the victim would be materially altered if the victim heard other testimony at that proceeding; the reasonable right to confer with the attorney for the Government in the case; the right to full and timely restitution; the right to proceedings free from unreasonable delay; and the right to be treated with fairness and with respect for the victim's dignity and privacy.

United Kingdom

154. On 7 July 2005, terrorist bombings killed 52 persons and injured many others in London. Afterwards, three persons were charged with conspiracy to cause explosions together with the four bombers who died in the explosions.

155. Under the law as it then stood, the bereaved families of the victims did not fall within the definition of victims as set out in the Victim Focus scheme (now, they would fall within the new definition of victims). However, given the high profile of the case and the individual devastation caused, it was determined to be appropriate to extend the assistance to affected victims and families under the scheme. As a result, once the

²⁶Available at www.justice.gov/usao/resources/crime-victims-rights-ombudsman/victims-rights-act.

families had been identified, they were treated as though they were victims. They were allocated a police family liaison officer and the Crown Prosecution Service lawyer met with representatives of the various families affected by the attacks.

156. The case highlighted difficulties in defining victims and their families, particularly given the impact of the traumatic incidents on first responders (e.g., police and emergency services). For example, the status and entitlements of victims, under the definition contained in the Victim Focus scheme and new guidance, for individuals responsible for clearing the scene of the attacks, who were at risk of developing long-term effects, was an issue that required the attention of policymakers. It was recognized that the sensitivities of such individuals should be taken into consideration, but there was no formal structure to accommodate their individual needs.

157. In the trial itself, no eyewitnesses were called to give evidence in court. Their evidence was provided in statement form, which was accepted by the defence. The criminal process allowed for written statements that had been served to be read to the court if both the prosecution and defence agreed to this. Therefore, there was no need to consider special measures.

158. One of the key initiatives used in this trial was a remote court in another town, to which all the victims and their families had access. It was arranged and treated as a proper court in all respects, with a court clerk (legal adviser) on-site. There was a live video and audio feed from the actual court where the defendants were being tried. Several monitors were set up to enable everyone to see what was happening. The work of the court was closely monitored to ensure that the remote court saw only those parts of the proceedings that the victims and their families would have seen had they attended the actual court. The police family liaison officers were also present. This initiative enabled the victims and their families to see what was happening in the actual court, while shielding them from unwanted media attention. The financial cost was high but considered appropriate given the nature of the case.

159. A further initiative was the creation of a secure website to enable those who could not attend the actual or virtual courts to follow the progress of the case each day and see what was planned for the next day. The site was password-protected for the victims and their families.

160. In addition, the Crown Prosecution Service lawyer met with an organization called Survivors' Group, which is a non-governmental organization that assists survivors of disasters, and explained the role of the Crown Prosecution Service. A system was established to forewarn victims and their families when potentially upsetting evidence was to be called (e.g., the last video clip of victims getting on the underground train prior to the explosion that killed them). The exercise confirmed that victims and their families want information immediately after the event and continually throughout the investigation and trial.²⁷

161. In inquisitorial systems, victims are frequently allowed to participate as third parties at various stages of the investigation or trial. This is less common in common law systems where a prosecuting agency generally represents the State and, indirectly, the interests of the victim (who is not separately represented).

Spain

162. The Spanish judicial system allows for those affected by a crime to take part in the process, request and undertake criminal prosecutions and civil actions, and seek a criminal conviction against the alleged offender and reparations for the harm suffered. In addition, the prosecution maintains a protective function, defined by article 124, paragraph 1, of the Constitution and article 1 and article 3, paragraph 10, of Act No. 50/1981, of 30 December, on the Organic Law of the Public Prosecutor, thereby reaffirming article 773, paragraph 1, of the Criminal Procedure Act as an advocate for victims in criminal proceedings. In addition to criminal actions, the prosecutor is obligated to initiate civil actions aimed at providing reparation for the damage caused to the victims of any crime as appropriate.

163. The victim may become party to criminal proceedings in accordance with article 101 of the Criminal Procedure Act, which establishes that all Spanish citizens may bring a criminal action in accordance with the requirements of the law. This provision is endorsed by article 125 of the Constitution, article 270 of the Criminal Procedure Act and article 19, paragraph 1, of Organic Law No. 6/1985, of 1 July 1985, on Judicial Power.

164. In cases where victims cannot intervene directly as parties to criminal proceedings, victims should be informed of their rights to access these services. In particular, staff dealing with victims should promptly:

- Advise victims of their rights under the law
- Facilitate victims' meeting with investigators and prosecutors
- Provide victims with a copy of the charges against the defendant(s)
- Provide victims with general information about the criminal justice system to encourage reasonable expectations. Such information should include the stages of the criminal process and the length of time that each stage typically takes

165. The process should be clear, transparent and not overly bureaucratic to ensure that victims can request the review without legal representation. Victims should be able to make an informed decision as to whether to request a review of a decision not to prosecute. A lack of financial resources should never be an obstacle to the victim requesting such a review.

Turkey

166. In Turkey, the rights of victims are set out in articles 233 to 243 of the Criminal Procedure Code. Pursuant to article 234, paragraph 5, victims have the right to appeal against a decision not to prosecute, in compliance with the procedure laid down in the law.

167. Legal aid should be provided to victims free of cost when required in the interests of justice. In order to facilitate victims' access to free legal assistance, a memorandum of understanding could be signed between the Government and national or local bar associations.

Spain

168. In Spain, the Act on the Recognition and Comprehensive Protection to Victims of Terrorism stipulates that victims of terrorism who prove they lack the resources to litigate shall have the right to free representation and defence by a barrister and solicitor in all administrative processes and proceedings.

Algeria

169. In Algeria, article 28 of Ordinance No. 71-57 of 5 August 1971 on legal assistance, as amended and supplemented by Act No. 09-02 of 25 February 2009, states that legal aid is granted automatically to victims of acts of terrorism. In this respect, victims of acts of terrorism are exempt from paying fees such as for lawyers, clerks and notaries. Free legal assistance is also granted to victims' dependents.²⁸

Turkey

170. According to article 234 of the Criminal Procedure Code of Turkey, if victims have no representative, they have the right to request the appointment of a lawyer on their behalf from the bar association in cases of sexual assault and in crimes carrying penalties of five years' imprisonment or more, during both the investigation and criminal proceedings. Furthermore, in cases where the victim is under 18 years of age or suffers a disability and has no representative, a representative shall be appointed on his or her behalf, without requiring a request by the victim. The lawyer appointed to the victim has all the rights, duties and responsibilities of a defence lawyer.

171. Under this approach, the appointed lawyer assists the victim with judicial and legal issues during the investigation and criminal proceedings, accompanies and supports the victim when giving statements, and reviews and investigates the documents under the conditions set out in the Criminal Procedure Code.

172. The fees of lawyers appointed by the bar association are met from an allowance allocated from the budget of the Ministry of Justice. In this way, there is no cost to the victims for legal representation. Before judicial proceedings, victims should be informed of their legal right to request and be provided legal representation, and this should be written into the judicial records.

Italy

173. The Italian judicial system allows victims of crime to take part in the process and bring a civil action for the reparation of harm suffered. Victims have the right to

be informed by the judicial authority of the relevant information at certain stages of the proceedings and to take part in the gathering of evidence before the trial. In addition, if they decide to bring a civil action, they have the right to put forward evidence on their own (i.e. independently of the prosecutor) and to cross-examine the witnesses brought to the court by other parties, including the defendant.

Good practices

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

^a Report of the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism (A/HRC/20/14), para. 36.

^b Madrid Memorandum on Good Practices, good practice 13.

^c Report of the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism (A/HRC/20/14), paras. 38 and 39.

^d Guidance document related to the transposition and implementation of directive 2012/29/EU establishing minimum standards on the rights, support and protection of victims of crime.

Information, personal privacy and dealing with the media

Introduction

174. From the perspective of victims, issues relating to the availability and use of information need to be considered both in terms of their right to information and their right to personal privacy. The importance of the right of victims to receive information cannot be emphasized enough. This includes their right to information about the investigation and prosecution of the criminal offences of which they are victims, victim and other types of support services (e.g., medical, counselling and financial compensation) and exercising their right of access to justice.

175. In all cases, victims should be provided with timely and accurate information from relevant government authorities about the investigative and judicial process associated with their case. This information should preferably be provided in non-legal terminology, and, where necessary, interpretation and translation services should be provided at no cost to the victim.

176. In addition, depending on the particular circumstances of the case, including the level of interest and coverage of the mainstream media and social media networks following a terrorist attack, the related investigation and criminal proceedings, and the disclosure of the identity of the victims and their families, can lead to secondary victimization. Authorities should therefore exercise vigilance to protect victims' privacy and confidentiality, in particular their identity and contact information, as well as more sensitive information on their medical, emotional or mental health status. Given their right to privacy and respect for their family life, victims should be shielded from unjustified intrusion by the media. They should also be informed about their options with regard to dealing with the media and, if necessary, be provided with support by media communications specialists.

Indonesia

177. Under the Indonesian legal system, the relevant legal officers or authorities will send victims official letters informing them of pertinent matters, upon request. In practice, the National Police of Indonesia has implemented this right, upon the request of witnesses and/or victims, by keeping them informed of the progress of proceedings. Witnesses and/or victims also have the right to access records of criminal proceedings at any stage (pre-investigation, investigation, prosecution, trial proceedings), while the general public is only allowed to receive information during trial proceedings.²⁹

178. Measures for the implementation of this good practice may include:

- Redacting the names or initials of victims from public documents

²⁹Guidance document related to the transposition and implementation of directive 2012/29/EU establishing minimum standards on the rights, support and protection of victims of crime..

- Protecting personal privacy information, such as dates of birth, addresses or other identifiers
- Using separate, non-public entrances to and from court to avoid the media and being photographed
- Using screens in court to shield victims from the public and defendants

United States

179. The Department of Justice of the United States is committed to ensuring that victims of federal crimes are treated fairly as their case moves through the criminal justice system. In order to provide victims with information on case actions, the Department of Justice has developed the Victim Notification System, which gives notice of all public court proceedings and major case events by letter, e-mail, website or phone, based on the victim's choice. Notice can be provided in English or Spanish.

Spain

180. Spain has adopted a victim-sensitive approach to rights concerning victims' data, which is focused on protecting the privacy of victims and includes legal measures such as:

- The consideration of media coverage that uses images of victims of terrorism for derogatory, degrading or sensationalist purposes as illicit
- The duty of institutions responsible for ensuring that audiovisual media comply with their obligations to adopt appropriate measures to guarantee that victims of terrorism are treated according to constitutional principles and values
- The availability of cessation, rectification actions and sanctions
- The existence of principles applicable to data of victims of terrorism that relate to the role of the media in promoting the protection and safeguarding of images of victims of terrorism

181. A possible way of promoting and implementing a more victim-sensitive approach by the media is to raise awareness of and sensitivity to victim-related issues in training institutions for journalists by incorporating victim-sensitive topics into their basic curriculum. In addition, the establishment within such institutions of specific chairs in this subject area or in the area of victimology would increase awareness of victim-related issues.

182. This good practice could be implemented by ensuring that the media are provided with all available information regarding relevant points of contact, sources of information and registration systems for victims, as well as through government media conferences, information materials or publicity campaigns.

183. In order to ensure a coordinated approach to engagement with the media, States could consider the creation of a media liaison team within the Government to keep journalists up to date with information and enhance a fluid communication channel.

184. Social media enables wide online broadcasting of any image or footage. Images of terrorist attacks, including images of victims, are spread worldwide through this channel. The media can have a prominent role in educating and raising awareness in the community about the risks of social media when dealing with private and potentially distressing images of victims or terrorist attacks.

185. Victim assistance professionals and/or suitably qualified and experienced personnel involved in victims' associations should provide victims with information about how to set boundaries with journalists. Victim support services and/or associations should develop guidelines or advisory material to assist victims when dealing with media. Victims should be informed about the possible options of interacting with the media, such as through a family spokesperson, the implications of interacting with the media and their right to refuse contact with the media if they wish. At particularly sensitive times, for example anniversaries or trials, victim support professionals should pay increased and sensitive attention to victims, focusing on preserving or enhancing the resilience and managing the expectations of victims and their families.

186. When dealing with the media, prosecutorial and investigation agencies should adopt policies to protect and ensure victim privacy. Agencies should designate specific personnel who are authorized to speak to the media about criminal investigations or prosecutions related to acts of terrorism.

187. Victims should be informed of their rights in relation to the media, including that it is their choice whether to make any statement to or be interviewed by the media. They should be made aware of the possible consequences of their choices, including the potential impact of their statements on the investigation. The participation of young children in media interviews should be discouraged, and agencies should work closely with parents or guardians to represent the best interests of child victims.

188. Where victims agree to speak to the media, they should be informed in advance that they can request that certain conditions be met before agreeing to an interview and that, if the media is unwilling or unable to agree to such terms, they can withdraw from any interviews. Victims may request, among others:

- For the media to agree to any conditions in a signed document
- The time and location of the interview
- To be informed in advance of the angle of the story
- To receive the questions in advance
- That the media not disclose the interview location and protect their identity, including by omitting any photographs of them or taking measures to conceal their image
- That no other family members be interviewed and/or filmed, including children
- For a specific reporter to conduct the interview
- That any offensive photographs or images be omitted from the broadcast or publication

189. If victims choose to speak to the media, they should be prepared for such encounters and provided with necessary support. Their participation in any interviews should be coordinated so as to protect their safety and privacy (e.g., interviews should take place in neutral settings or their place of work or residence should be obfuscated). When victims who do not wish to have contact with the media attend court hearings, arrangements should be made for them to use alternative, separate entrances.

190. For measures to implement this good practice, refer to part three, section III.

Good practices

- States should ensure that victims have the right to protection from unreasonable intrusions into their personal privacy by the media or public.
- States should provide remedies for victims against the media for breaches of privacy, when necessary, through cessation, rectification actions or sanctions.
- States should encourage the media to adopt self-regulatory measures to ensure victim-sensitive coverage (e.g., media guidelines or standards developed by the industry in consultation with the Government, civil society and victim support professionals).
- States should involve the media in other specific tasks aimed at raising awareness of the vulnerability of victims, their needs and the potential risk of secondary victimization.
- States should ensure that victims are provided with information when dealing with the media.
- States should ensure that officials dealing with or providing information to victims are given specific training on victim-sensitive approaches.

Restitution, reparation and financial compensation

Introduction

191. A number of international, regional and multilateral instruments recognize and identify the need for and importance of timely, fair and effective State regimes for restitution, reparation and financial compensation for victims of terrorism. For example, in the report of the Special Rapporteur (A/HRC/20/14), the Special Rapporteur recommended that Governments should provide full and effective reparation to victims of terrorism where death or serious injury results from an act of terrorism committed on their territory, including restitution, compensation, rehabilitation satisfaction and guarantees of non-repetition. Providing some form of financial restitution or compensation for the harm suffered by victims not only assists their return to normality and reintegration into society, but may also be symbolic, reaffirming the dignity of victims as they endeavour to return to a sense of normality in their lives.

192. The demands placed on national government mechanisms and legal systems for effective financial compensation to victims of terrorism vary considerably among countries. Moreover, the capacity of Governments to provide comprehensive compensation to

victims of terrorism also varies because of wide differences in their economic and financial resources. Therefore, countries that, on the one hand, experience high levels of terrorism and related victimization, and, on the other, have limited economic and financial capacity to provide State-funded financial reparation for victims, are in a difficult position in terms of providing financial or social support to victims of terrorism.

193. National approaches to compensation schemes vary considerably. In many countries, the notion of the wrongdoer's obligation to compensate or otherwise make amends to the victim for the harm he or she has suffered is an integral and long-established part of domestic culture and/or legal systems. In addition to provisions allowing victims to bring civil claims against perpetrators, some countries belonging to the civil law tradition have legislation recognizing the rights of victims of crime to receive financial compensation and participate in criminal proceedings.

194. While in some countries compensation is provided through a legal mechanism established a priori, other States apply ad hoc solutions, adjusting their responses to each case. There are also significant differences in the amount of compensation provided, as well as in the appropriate moment for victims to seek compensation. While some systems provide for the possibility of almost immediate assistance, independently of criminal proceedings, in other systems, compensation is only provided once a final judicial decision has been reached. In practice, however, the use of litigation often involves lengthy and costly procedures, with no guarantee of success or recovery. Particular obstacles can arise in cases where no offender is identified or available (e.g., deceased suicide bombers), or owing to difficulties in identifying parties involved in planning or supporting acts of terrorism. States should therefore allow compensation, at least to a certain extent, to be independent from the result of criminal or civil proceedings.

195. Whatever approach is adopted, the challenge of providing timely, fair and reasonable compensation coverage for victims of terrorism remains significant for many Governments. The importance of this aspect of effective national counter-terrorism frameworks should not be underestimated, in terms of both empowering and supporting victims of terrorism in their return to normal life and the strong, symbolic message of social unity and solidarity with victims that it conveys.

Indonesia

196. Law No. 13/2006 on the Protection of Witnesses and Victims addresses compensation, restitution and assistance to witnesses and victims of crime, including in the case of terrorism. For the purposes of this law, compensation is an indemnity provided by the State because the offender is not able to fulfil his or her restitution responsibility. Restitution is an indemnity provided by the offender or third party to the victim or their families, in the form of return of property, payment for loss or suffering, or reimbursement of certain expenses.

197. In addition, Government Regulation No. 44 of 2008 stipulates that witnesses and/or victims are entitled to receive medical and psychosocial rehabilitation support.

In practice, the Government of Indonesia, through the Ministry of Health, provides free medical treatment and psychosocial rehabilitation for victims of terrorist attacks, as long as the medical treatment takes place in Indonesia.

India

198. The Code of Criminal Procedure of India, as amended in 2009, includes a victims compensation scheme and provides that every state government in collaboration with the central government shall prepare a scheme for providing funds for the purpose of compensation to victims or their dependents who have suffered loss or injury as a result of the crime and who require rehabilitation. Whenever a recommendation is made by the court for compensation, the district or state legal service authority decides the amount of compensation to be awarded under the scheme.

199. In addition to financial assistance, permanently incapacitated individuals and the family members of victims who are killed are entitled to a health card provided by the district health society under the National Rural Health Mission. Cardholders are entitled to free medical treatment for injuries and all other major illnesses caused by violence.

Turkey

200. In Turkey, the Law on Compensation of Damages that Occurred due to Terror and the Fight against Terrorism provides for compensation of the losses and damages arising as a result of terrorist actions. Public institutions are required to allocate a minimum of 2 per cent of positions within their workforce to victims of terrorism, wounded security officials and their first-degree relatives, as well as to the first-degree relatives of security officials who have been killed by terrorist actions. All public institutions are required to submit vacant positions allocated to victims of terrorism, security officials and their first-degree relatives twice a year to the State Personnel Department, which is responsible for appointing victims to positions in line with their preferences with regard to particular provinces.

Morocco

201. Under the laws of Morocco, there are provisions to preserve the rights of victims before the verdict, such as for the return of confiscated assets to their owner by the public prosecutor (arts. 40 and 49 of the Criminal Procedure Code), the judge (art. 106) or the court (art. 366) before the verdict.

Italy

202. In Italy, victims of acts of terrorism or their next of kin can apply for compensation from the State, pursuant to Act No. 302 of 20 October 1990 and Act No. 206 of 3 August 2004, which provides for reparation for damages resulting from personal injury suffered by victims of acts of terrorism, regardless of whether the perpetrator is identified or prosecuted. The State provides victims of terrorism with indemnity of up to 200,000 euros and a special living allowance of 1,033 euros per month. All indemnities

are free from taxes. Victims of acts of terrorism or the next of kin of victims who are killed are also entitled to receive psychological support from public social services, as well as all kinds of free medical treatment from the national health service. In addition, the State shall grant victims legal defence in civil, administrative and criminal proceedings.

Canada

203. Under the Criminal Code of Canada, a victim surcharge is an additional penalty automatically imposed on offenders at the time of sentencing, unless the accused successfully seeks waiver on the basis of undue hardship. The surcharge is collected by the provincial and territorial governments and used to fund programmes, services and assistance to victims of crime within their jurisdictions.

204. Section 718 of the Criminal Code provides that the fundamental purpose of sentencing is to contribute, along with crime prevention initiatives, to respect for the law and the maintenance of a just, peaceful and safe society, by imposing just sanctions aimed at providing reparations for harm done to victims and the community and promoting a sense of responsibility in offenders and their acknowledgement of the harm done to victims and the community.

France

205. In France, victims of acts of terrorism are provided by law with the possibility to apply for compensation from a special fund called the Guarantee Fund for the Victims of Terrorist Acts and Other Offences. Established under Act No. 86-1020 of 9 September 1986 on the fight against terrorism and attacks on State security, the Guarantee Fund aims to provide full reparation for damages resulting from personal injury suffered by victims of acts of terrorism and, since 1990, victims of other crimes. It provides compensation regardless of the existence of any criminal proceeding or the identification, prosecution or potential solvency of the perpetrators. The Guarantee Fund assesses claims for compensation based on evidence submitted by prosecutors and information provided by claimants. If satisfied that compensation is payable, an initial advance on account of the losses suffered is paid. Additional compensation is provided within three months from the date of receipt of the justification for damages from the victim or his or her representatives.

206. The Guarantee Fund is recognized as a legal entity and is administered by a council, which is chaired by a member of the French judiciary and comprises representatives of victims' associations, relevant government ministries and the insurance sector.

207. The funds for the Guarantee Fund are derived from a deduction or levy on property insurance contracts (currently approximately 3 euros per policy) and revenue derived from the adjudged financial and patrimonial sanctions against the persons found guilty of terrorist acts. The Guarantee Fund has subrogated rights to the victims against the person responsible for the damage or harm.

Morocco

208. In Morocco, the determination of compensation claims for damage arising from a crime associated with terrorism can take place through two legal channels: firstly, an amiable settlement and secondly, a special gift.

209. The judicial channel used depends on the legal basis of the compensation claimed. If it is based on the fault of the criminal, the case will be determined as a civil matter by an administrative tribunal. This approach is founded on the notion of the basic responsibility of the State, including its civil servants, to manage public services and uphold the principle of national solidarity in the event of a disaster.

210. Under article 4 of the Royal Decree of 2 March 1953, which provides that a judicial officer may compromise after the assent of the committee of litigation and after agreement, the amiable settlement of claims for compensation of victims of terrorism will be paid against a discharge issued by the beneficiary. This approach was taken in compensating the victims of an attack in Marrakesh in 2011.

211. The special gift approach was adopted in relation to the victims of bombings in Casablanca in 2002, under the promulgation of the Royal Decree of 11 September 2003, which granted a lump-sum donation to the beneficiaries of each victim for a global amount of DH 500,000 (50,000 euros).

212. Several States operate nationally administered schemes relating to the compensation of victims of terrorism that are not resourced directly by the taxpayer.

United States

213. The United States Government established the Crime Victims Fund, which is funded through fines and special assessments levied against convicted federal offenders. It is not funded by the taxpayer. The fund is used to support victim assistance and compensation programmes, including the Antiterrorism Emergency Reserve fund, which can be used to fund programmes for victims of mass violence and terrorism.

214. Although not directly related to the criminal justice process, the ability of individuals to self-insure against death, injury or damage caused by acts of terrorism, thereby reducing their reliance on publicly funded or court-ordered compensation, is limited by current restrictions or exclusions on commercially available insurance policies.

215. In the report of the Special Rapporteur (A/HRC/20/14), the Special Rapporteur highlighted the commercial practices of insurance companies that sell or market life insurance policies that specifically exclude coverage for loss or harm suffered as a result of acts of terrorism. He identified such exclusion as an obstacle to widening the financial base for the compensation of victims of terrorism and recommended that States consider prohibiting this practice under their national laws. Certain compensation models also refer to their national systems of insurance. This approach may reduce reliance on State-funded compensation schemes for victims of terrorism. In considering possible

options, it is important that policymakers bear in mind the need for equal treatment of all victims eligible for financial compensation, regardless of their personal circumstances.

216. The disparity between national regimes for reparation to victims of acts of terrorism could lead to discriminatory treatment, based, for example, on the different nationalities of victims of the same terrorist act. Equal treatment of victims, regardless of their individual circumstances, is not only a way of improving general support to victims and enhancing their rights, but is also a statement against terrorism. Some States have allowed foreigners to receive compensation as long as they were legally present in their jurisdiction at the time of the incident. Equally, States can develop schemes that will prevent duplication of payments by victims (i.e. where victims are eligible to receive compensation from both the State where the attack took place and their country of nationality).

217. In order to provide equal treatment of and entitlements for victims, individual assessments should be carried out by qualified and experienced assessors to determine the appropriate quantum of financial compensation for injuries, death or losses arising from acts of terrorism, taking into account the individual circumstances of victims, their families and next of kin.

Canada

218. In Canada, the provincial and territorial governments are primarily responsible for programmes and services for victims of crime, including compensation. Their programmes focus on where the crime occurred, and therefore, assistance is not limited to Canadians or to residents of a particular province or territory. A victim of a terrorist act committed in Canada may be eligible for compensation from an existing provincial or territorial programme if it is determined that the act is a crime committed within that province or territory.

Spain

219. In Spain, Act 29/2011 of 22 September 2011 on the Recognition and Comprehensive Protection to Victims of Terrorism consolidates and unifies previous legislation on compensation, including Act 35/1995, of 11 December, on support and assistance to victims of violent crimes and against sexual freedom, which established the Offices of Assistance to Victims, aimed at ensuring comprehensive assistance to victims. The Act introduces indemnification to victims of terrorism for exceptional assistance for damage suffered abroad. Title IV of the Act establishes a set of measures, known as the social protection regime, which aim to address the different needs of victims of acts of terrorism that may arise throughout their lives. Under the Act, compensation is not tied to a conviction, the solvency of the convicted person or enforcement proceedings.

Good practices

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

IV. The role of victims' associations and civil society

Introduction

220. It is generally recognized that, in order to provide effective support to victims of terrorism, Governments need to adopt an inclusive, whole-of-government and holistic approach that includes cooperation with civil society groups representing victims. Many of the international or multilateral initiatives aimed at supporting victims emphasize the important role that civil society and non-governmental organizations can play in supporting victims.³⁰

221. Victims' associations can play many roles, including advocacy and lobbying for the rights of victims. They also often play a fundamental role in providing information and support to victims of terrorism in ways that public institutions often cannot. While the aims of victims' associations evolve and change over time, they are often principally focused on providing information and practical support to victims in the period immediately following a terrorist incident. In many cases, it is this role that has led to the formation of these types of organizations and associations.

222. In the short term, the main goal of victims' associations or non-governmental organizations working to support victims of terrorism is to provide psychological, emotional, financial and legal support. However, they can also serve as an empathetic focal point or fulfil an advocacy role in dealing with national authorities, Governments and regional and international organizations or bodies. The activities of victims' associations can be carried out by specialized personnel, either on a paid or, more commonly, voluntary basis. It is important for the recovery and healing of victims of terrorism that they feel a sense of unity, support and protection. Victims' associations can often provide victims with this support in the period immediately following an attack by facilitating contact with other victims within the association's membership, many of whom will have had similar personal experiences.

223. In the medium and long term, the goals of victims' associations often evolve into an active lobbying or advocacy role at the regional, national or international level, with the involvement of both the mainstream media and social media networks. It is important that Governments listen and respond actively to the views expressed by groups

³⁰Madrid Memorandum on Good Practices, directive 2012/29/EU establishing minimum standards on the rights, support and protection of victims of crime and report of the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism (A/HRC/20/14).

representing victims' interests, which can better inform and enrich the process of creating public policies, legislation and responses for dealing with the effects of terrorism.

224. Frequently, victims' associations and groups are involved in public awareness projects focused on countering violent extremism leading to acts of terrorism. The different roles and goals of victims' associations can often overlap, depending on the stage of the recovery and healing process of the victims they represent. For example, by providing victims of terrorism with a safe channel for telling their personal stories, victims' associations support victims during the healing process, while at the same time playing an active role in countering violent extremism leading to acts of terrorism.

225. In the report of the Special Rapporteur (A/HRC/20/14), the Special Rapporteur highlights the right of victims of terrorism to create associations or any other kind of organization to represent their interests and/or provide support to their members. Similarly, the Global Counter-Terrorism Forum Plan of Action on Victims of Terrorism recognizes the role that non-governmental organizations and civil society can play in this important area.

226. Personnel involved in victims' associations should be provided with ongoing training and forums to exchange national good practices, gaps and alternative strategies and approaches. The promotion of victims' groups or associations representing victims of terrorism should be enhanced, particularly in countries or regions that are affected by high levels of terrorism or lack sufficient public resources to provide adequate specialized support to victims.

227. States should consider identifying and appointing a lead focal point or liaison person responsible for dealing with victims' associations or non-governmental organizations, in order to enhance communication between Governments and relevant organizations. Prior to the enactment of legislation relating to victims and victims' associations, relevant civil society actors should be consulted and their views with regard to victim-related issues should be taken into consideration during policymaking processes.

228. This support can be implemented through the establishment and operation of national or international grants or subsidies, contracts for services or memorandums of understanding with experienced victims' associations or related non-governmental organizations.

Spain

229. The Government of Spain has promoted and recognized the role and importance of victims' associations under Act No. 29/2011, highlighting in articles 64 and 65 that associations and foundations of victims of terrorism contribute to promoting unity among victims, defending their interests, improving their status, raising social awareness against terrorism and preserving the memory of victims. As a result, the activities of victims' associations receive social recognition, enabling government agencies to promote their creation and maintenance. Associations and foundations for victims of terrorism are acknowledged as representatives of victims in the Act, which provides, under article 65,

that the State administration shall grant subsidies to associations, foundations and non-profit organizations that represent and defend the interests of victims of terrorism.

Canada

230. There are many non-governmental organizations throughout Canada that advocate for and provide support to victims of crime. A number of non-governmental organizations have undertaken considerable work on behalf of victims of acts of terrorism, for example, the Canadian Coalition Against Terror, which comprises Canadian terrorism victims, counter-terrorism professionals and other individuals committed to enhancing Canada's counter-terrorism policies. This non-partisan advocacy body has been active since 2004 and has been involved in the national dialogue on terrorism and national security.

231. In Canada, non-governmental organizations may apply to the federal government for project funding in order to conduct research and consultations, or to create new services for victims of crime where gaps exist. For example, the Victims Fund, which is administered by the Policy Centre for Victim Issues at the Department of Justice, provides grants and contributions for projects that encourage the development of new approaches, promote access to justice, improve the capacity of service providers, foster the establishment of referral networks and/or increase awareness of services available to victims of crime and their families. This funding allows non-governmental organizations to conduct research and consultations in order to further their goals with respect to victims of crime. Non-governmental organizations working on matters specifically related to victims of acts of terrorism may apply for such funding to the federal government, as well as to the provincial or territorial governments.

232. There should be regular consultations, preferably at associations' headquarters, between victim support and liaison persons and victims' associations, focused on improving coordination and avoiding overlapping resources and procedures, in order to facilitate greater understanding of respective roles and enhanced coordination and collaboration. Government authorities should facilitate regular briefings or meetings with victims' associations and raise awareness of new laws, policies or services relevant to victims.

France

233. Several States, including France, allow victims' associations to participate actively in criminal proceedings. According to article 2-9 of the Code of Criminal Procedure of France, "any association lawfully registered for at least five years on the date of offence proposing through its constitution to assist the victims of offences may exercise the rights granted to the civil party in respect of the offences falling within the scope of article 706-16, where a prosecution has been initiated by the public prosecutor or by the injured party".

234. The right of victims' associations to intervene as a civil party on behalf of victims was initiated at the request of the French victims' association SOS Attentats, SOS Terrorisme. It encompasses the right to be a civil party in all proceedings in connection

with crimes related to terrorism (including murder, attempted murder, aiding and abetting, and financing), as well as in proceedings related to crimes of criminal association in connection with terrorist acts, such as terrorist networks. By grouping victims with the same lawyer, SOS Attentats, SOS Terrorisme has:

- Eased victims' access to information on the status of the process
- Fostered relations with the judge
- Helped the victims become civil parties in all related administrative processes (e.g., by centralizing applications for legal aid)
- Organized information briefings both before and during the trial

235. The association also made available to victims a network of general practitioners and specialists, including psychologists.³¹

236. The designation of national or international days to commemorate victims of terrorism, with the support of Governments, international organizations and the media, helps to raise awareness of the effects of terrorism within society. Anniversaries of terrorist attacks should be a time for special care and sensitivity, with a victim-sensitive approach being taken when assisting victims during these difficult times.

European Union

237. Since 2004, 11 March has been commemorated as the European Day in Remembrance of Victims of Terrorism within the European Union and hosted by the European Commission, involving a wide range of victims' associations around the European Union.

238. In Spain, 27 June is recognized by law as the Day of Remembrance and Homage to Victims of Terrorism. It is hosted in the Chamber of Deputies and attended by Spanish associations of victims of terrorism. In France, after the attacks in Paris in January 2015, the French National Assembly hosted a national homage in remembrance of all the victims and their families in the aftermath of the attacks. Additionally, a large crowd rallied publicly to demonstrate solidarity against terrorism.

Good practices

- States should work closely with civil society organizations, including recognized and active non-governmental organizations working with victims of crime, in particular in policymaking initiatives, information and awareness-raising campaigns, research and education programmes, and training, as well as in monitoring and evaluating the impact of measures to support and protect victims of terrorism.

- States should promote and support civil society and non-governmental organizations involved in providing support to victims of terrorism within the criminal justice system.
- In order to increase transparency, States should review the basis and implementation of grants awarded to non-governmental organizations providing support to victims, in order to monitor and evaluate the technical quality of the support offered, as well as to enhance mutual collaboration, coordination and communication between Governments and non-governmental actors.
- States should encourage government agencies to coordinate with suitable civil society and non-governmental organizations in order to improve the coordination and delivery of justice-related services to support victims of terrorism.
- States should support the actions of victims' associations and civil society to highlight the human cost of terrorism, for example through public displays.

V. International cooperation

Introduction

239. With the increasingly complex, transnational nature of terrorism and greater global mobility provided by modern forms of transportation, there is an ever-increasing likelihood of citizens of one country becoming victims of terrorist acts committed in another country with which they do not necessarily have any substantive connection (e.g., a visiting tourist harmed by a terrorist act in another country).

240. Despite the considerable efforts of the international community to strengthen international cooperation in the investigation and prosecution of transnational organized crime and terrorism, most international, regional and bilateral instruments dealing with international cooperation currently focus exclusively on measures for facilitating the successful investigation of crimes and prosecution of offenders, rather than meeting the specific rights and needs of victims. While such instruments are entirely consistent with the rights and interests of victims in securing justice for the crimes committed against them and, in this sense, support victims, the primary focus nevertheless remains on bringing alleged offenders to justice, rather than providing support and assistance to victims.

241. There are, however, indications that a more victim-centred approach is gradually being incorporated into international cooperation in criminal investigations and prosecutions. In Europe, for example, a number of express references to the rights and needs of victims can be found in normative frameworks of the European Union and Council of Europe. Article 26 of directive 2012/29/EU, which deals with cooperation and the coordination of services for victims of terrorism, provides:

“1. Member States shall take appropriate action to facilitate cooperation between member States to improve the access of victims to the rights set out in this directive and under national law. Such cooperation shall be aimed at least at:

(a) The exchange of best practices;

(b) Consultation in individual cases; and

(c) Assistance to European networks working on matters directly relevant to victims' rights.

“2. Member States shall take appropriate action, including through the Internet, aimed at raising awareness of the rights set out in this directive, reducing the risk

of victimization, and minimizing the negative impact of crime and the risks of secondary and repeat victimization, of intimidation and of retaliation, in particular by targeting groups at risk such as children, victims of gender-based violence and violence in close relationships. Such action may include information and awareness-raising campaigns and research and education programmes, where appropriate in cooperation with relevant civil society organizations and other stakeholders.”

242. Similarly, article III on continuing assistance of the Council of Europe’s Guidelines on the Protection of Victims of Terrorist Acts provides:

“1. States should provide for appropriate continuing medical, psychological, social and material assistance for victims of terrorist acts.

“2. If the victim does not normally reside on the territory of the State where the terrorist act occurred, that State should cooperate with the State of residence in ensuring that the victim receives such assistance.”

243. Finally, article 15 on international cooperation of Recommendation Rec(2006)8 of the Committee of Ministers to member States on assistance to crime victims states:

“Preparation of States’ responses

“15.1. States should cooperate in preparing an efficient and coordinated response for transnational crimes. They should ensure that a comprehensive response is available to victims and that services cooperate in providing assistance.

“Cooperation with the State of residence

“15.2. In cases where the victim does not normally reside in the State where the crime occurred, that State and the State of residence should cooperate to provide protection to the victim and to assist the victim in reporting the crime as well as in the judicial process.”

244. With increasing focus on the status and rights of victims of crime, including crime related to terrorism, it is foreseeable that a more victim-centred approach might, over time, develop and become incorporated more fully and concretely into instruments related to international legal cooperation in criminal cases. Such a development would be consistent with the United Nations Global Counter-Terrorism Strategy, which calls upon Member States to consider putting in place national systems of assistance to promote the needs of victims of terrorism and their families and facilitate the normalization of their lives (Pillar I), and stresses the need to promote and protect the rights of victims of acts of terrorism (Pillar IV).

245. Likewise, in the report of the Special Rapporteur (A/HRC/20/14), the Special Rapporteur recommended that States take effective international action to protect the human victims of terrorism through the adoption of a specific normative framework declaring and protecting their rights. The development and adoption of such an

international framework, specifically recognizing the rights and interests of victims of terrorism in criminal investigations and prosecutions (including aspects related to international cooperation) would likely promote international cooperation and coordination between authorities in different countries in providing improved criminal justice responses to support victims.

246. In the absence of express recognition of victims' rights within international, multilateral or bilateral legal cooperation instruments, it might nevertheless be possible, using some innovative and flexible thinking and goodwill, for law enforcement and prosecuting authorities in different countries to work together to provide improved outcomes for victims of terrorism, including those who are foreign nationals. Examples might include affording and facilitating the right of foreign victims to meet with prosecutors and to follow, attend or participate (if they wish) in court proceedings. However, in doing so, authorities must be mindful of the need to avoid inadvertently creating different tiers or categories of victims (possibly from different countries), receiving varying levels of assistance or support.

247. In this context, the possible role of private organizations, foundations, charities and non-governmental organizations aimed at supporting victims of terrorism is noted. Such groups and organizations operate in many countries and over time have developed international associations, federations and networks that can act as platforms for sharing good practices and strengthening national frameworks for supporting victims of terrorism in many countries. With the support and involvement of Governments and international organizations, they can also act as informal, flexible and specialized channels of international cooperation for supporting victims of terrorism. Moreover, at a broader level, such associations can contribute to identifying and assessing national, regional or international approaches and gaps in laws, policies and institutional capacity, as well as to identifying and implementing good practices and normative standards for protecting and supporting victims of terrorism worldwide.

248. In this regard, the Global Counterterrorism Forum Plan of Action on Victims of Terrorism specifically notes the role of victims' associations and encourages its members and other countries to consider providing, where appropriate, assistance and possible financial support in forming such organizations and promoting their initiatives. Moreover, the Plan of Action highlights the importance of networking and forging partnerships between Governments and non-governmental organizations, networks of non-governmental organizations, victims' groups and first responders.

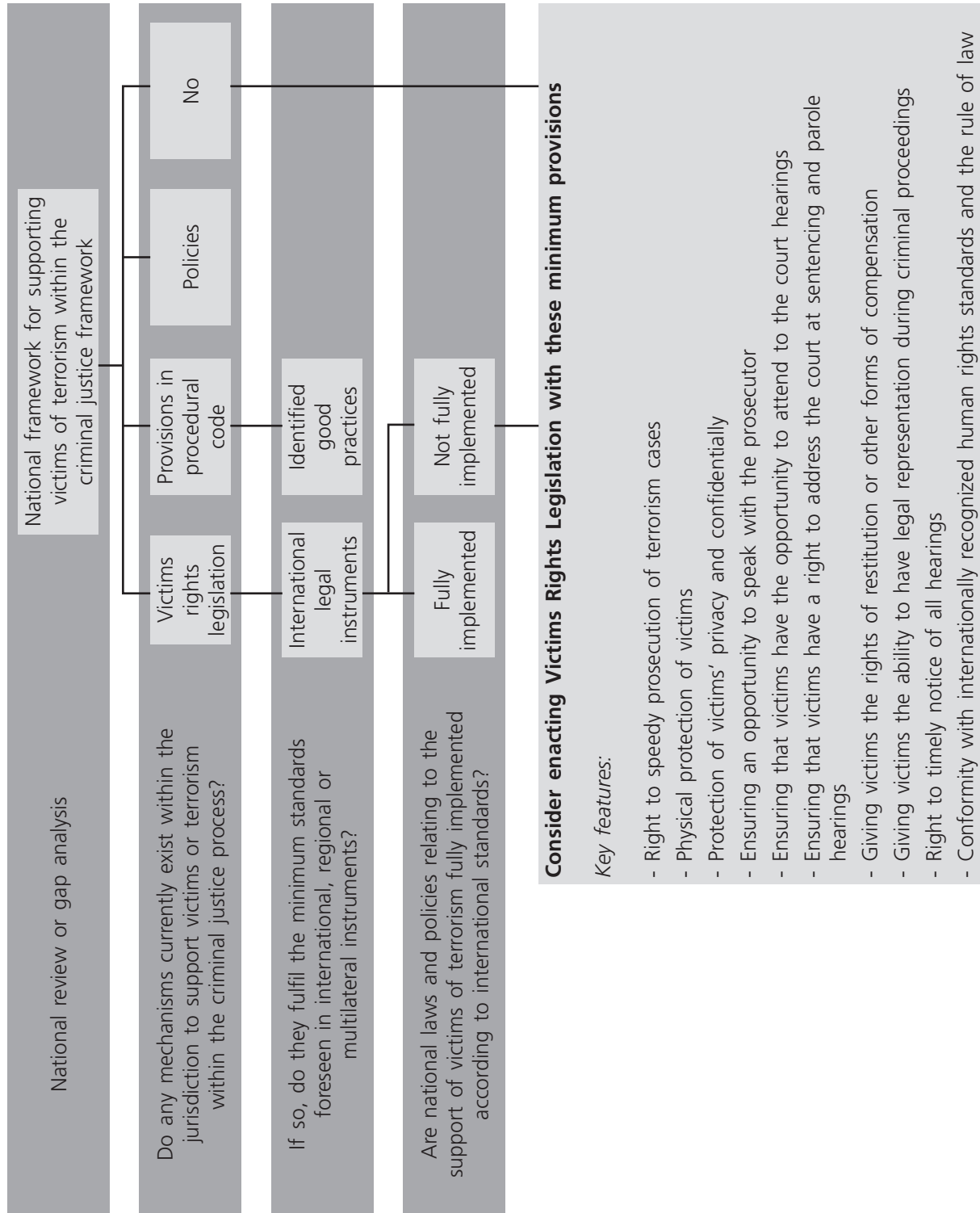
Good practices

- States should have measures in place to ensure that victims of terrorism who are foreign nationals have the same entitlements to assistance and support as local nationals and can access all relevant support services.

Good practices (cont.)

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

Annex I. Flow diagram for developing victim-centred criminal justice responses



Annex II. International, regional and multilateral instruments and arrangements on assistance to victims

The following documents and legislation are of relevance in considering good practices in supporting victims of terrorism within a criminal justice framework:

(a) Framework principles for securing the human rights of victims of terrorism, from the report of the special rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism, 2012 (A/HRC/20/14) (available from www.ohchr.org/Documents/HRBodies/HRCouncil/RegularSession/Session20/A-HRC-20-14_en.pdf);

(b) Madrid Memorandum on good practices for assistance to victims of terrorism immediately after the attack and in criminal proceedings (available from www.thegctf.org/documents/10162/72352/13Sep19_Madrid+Memorandum.pdf);

(c) Guidelines on the Protection of Victims of Terrorist Acts (adopted by the Committee of Ministers of the Council of Europe on 2 March 2005 at the 917th meeting of the Ministers' Deputies) (available from <https://wcd.coe.int/ViewDoc.jsp?id=829533>);

(d) Directive 2012/29/EU of the European Parliament and of the Council of 25 October 2012 establishing minimum standards on the rights, support and protection of victims of crime, and replacing Council Framework Decision 2001/220/JHA (available from http://ec.europa.eu/justice/criminal/files/victims/guidance_victims_rights_directive_en.pdf).

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