

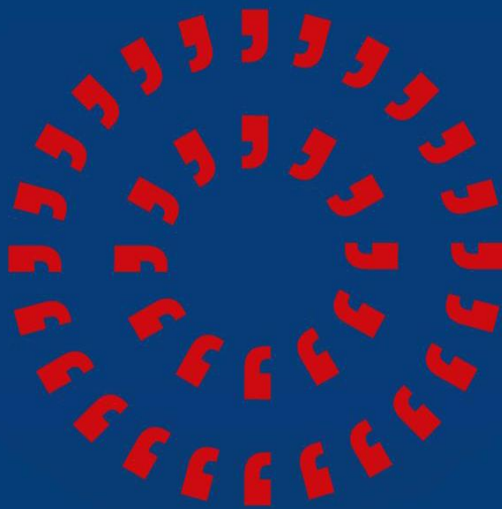


Survivors
against terror



A Survivors' Charter

A comparative analysis exploring the state provided support to survivors of terrorism across eight countries and a proposal for a new UK standard



Authors

Travis D. Frain

(Co-Founder of Survivors Against Terror and survivor of the Westminster Bridge Attack)

Brendan Cox

(Co-Founder of Survivors Against Terror and widower of Jo Cox MP)

Jo Dover

(Consultant on Victims of Terrorism)

Table of Contents

Introduction.....	4
About Survivors Against Terror.....	4
The Survivors' Charter.....	4
Research Format.....	5
The Survivors' Charter.....	6
Introduction.....	6
The Tenets.....	6
The Comparative Study.....	15
Australia.....	16
Context.....	16
Assistance and Support.....	16
Recognition and Remembrance.....	17
Financial Compensation.....	17
Access to Justice.....	19
Belgium.....	21
Context.....	21
Assistance and Support.....	21
Recognition and Remembrance.....	21
Financial Compensation.....	22
Access to Justice.....	22
Canada.....	24
Context.....	24
Assistance and Support.....	24
Recognition and Remembrance.....	25
Financial Compensation.....	25
Access to Justice.....	26
France.....	27
Context.....	27
Assistance and Support.....	27
Recognition and Remembrance.....	28
Financial Compensation.....	28
Access to Justice.....	29
New Zealand.....	31
Context.....	31
Assistance and Support.....	31
Recognition and Remembrance.....	31
Financial Compensation.....	32
Access to Justice.....	32
Spain.....	34
Context.....	34
Assistance and Support.....	34
Recognition and Remembrance.....	34
Financial Compensation.....	35
Access to Justice.....	36
United Kingdom.....	38
Context.....	38
Assistance and Support.....	38
Recognition and Remembrance.....	39

Financial Compensation.....40
Access to Justice.....41
United States of America.....45
Context.....45
 Assistance and Support.....45
 Recognition and Remembrance.....46
 Financial Compensation.....47
 Access to Justice.....48
Summary of Comparative Observations.....51
Conclusion.....54
Acknowledgements.....56

Introduction

Who we are and what we do

Survivors Against Terror (SAT) was set up by people injured or bereaved by terrorism to tackle terrorism and the harm that it causes. Our objectives are three-fold:

1. Pushing for better support for survivors.
2. Advocating for policies that make future attacks less likely.
3. Helping the public play an active role in tackling terrorism.

We started our work in 2018 with a landmark study surveying nearly 300 survivors who had been affected by acts of terrorism both at home and overseas. The survey detailed the current gaps in support and their collective priorities. This report has provided us with the mandate for our work since and the priorities it identified have become our key work strands, from compensation to mental health support.

All our work is led by survivors and ranges from policy and campaigning work to research and public engagement. This report is supported by several other research papers exploring specific aspects such as mental health.

The Survivor's Charter

The idea behind a Survivors' Charter stemmed from the work SAT has been doing with groups of survivors. Through those discussions it became clear that rather than advocating for incremental changes in specific policies, what was needed was a more fundamental paradigm shift that would:

- 1) Recognise the fact that the state has a particular responsibility for survivors of terror attacks (given that civilians attacked are targeted as a proxy for the state).
- 2) Provide a set of legally guaranteed and enforceable rights for those affected.

SAT began to research and advocate for the creation of such a charter, and in the aftermath of the Fishmongers' Hall attack, during the general election campaign in late 2019, over 70 survivors of terrorism wrote an open letter called on a newly elected administration to commit to implementing a charter to guarantee the rights of survivors.

In response, on the 4th of December both the Conservative and Labour parties pledged to consult on a "survivors' charter"¹. In a press release issued on the 4th of December 2019 the Conservative party stated:

"A Conservative Majority Government will ... consult on a Survivors' Charter to ensure fast access to mental health support and compensation."

¹ "Boris Johnson pledges new law to force venues to protect people from threat of terror attacks", *Evening Standard*, via: <https://www.standard.co.uk/news/politics/boris-johnson-pledges-new-law-to-force-venues-to-protect-people-from-threat-of-terror-attacks-a4303881.html>

Recently, the Home Secretary also committed to reviewing the wider support package available to victims of terrorism².

Research Format

To underpin the content of the Survivors' Charter, we have conducted research into the rights, guarantees and support available to survivors of terrorism across the world with the aim of comparing and contrasting different countries and different systems. The research was supported by the public through a crowdfunding drive, without which this report wouldn't have been possible.

This report compiles the research we have conducted in a condensed format, exploring the support provided to survivors by state authorities in eight different countries. We spoke to and consulted local experts and survivors in each respective country, and were assisted by international experts in the field from across the globe.

For ease of reviewing, support in each country is broadly categorised into four sections:

1. Assistance and Support
2. Recognition and Remembrance
3. Financial Compensation
4. Access to Justice

Based on this analysis we have incorporated the best practices from each example in order to propose a new standard for supporting those affected by terrorism, forming the "Survivors' Charter".

² "Government signals new funding to support victims of terrorism", *Security Matters*, available at: <https://securitymattersmagazine.com/government-signals-new-funding-to-support-victims-of-terrorism>

The Survivors' Charter

Introduction

Over the last fifty years, the United Kingdom has experienced 5,218 attacks. In the period of The Troubles alone (1969-1998), over 3,500 people were killed and an estimated 40,000 injured³. When we factor in those attacks which occurred after 1998, particularly with the rise in Islamist incidents, and overseas attacks which targeted or otherwise affected British citizens⁴, this number grows exponentially higher, and the changing nature of warfare in the 21st Century means that this is only likely to increase further in the years to come. Despite the UK signing up to several United Nations initiatives and resolutions seeking to establish a baseline for support for victims of terrorism across all its member states, the UK was identified by a landmark Council of Europe report in 2019 as providing “a mixed experience”, marred by “unsatisfactory” support⁵.

In the aftermath of the Fishmongers' Hall Attack in November 2019, over seventy British survivors of terrorism came together to pen a letter calling on whichever party won the election to commit to providing further support for those affected. Both major parties pledged to establish a “survivors' charter” if elected, and with the Conservatives re-elected this promise became a Government commitment⁶. Recently, the Home Secretary also committed to conducting a comprehensive review of “the wider support available to victims of terrorism, including families and loved ones”⁷.

The Charter's Tenets

This charter seeks to outline and codify the essential rights of survivors of terror attacks and the obligations of the state to them. The Charter should be adopted into law in order to set out the minimum legal guarantees to survivors of attacks.

³ "A Legal Framework For A Troubles-Related Incident Victims Payment Scheme - NI Direct - Citizen Space", *Consultations.Nidirect.Gov.Uk*, 2019 <<https://consultations.nidirect.gov.uk/nio-implementation-team/vpconsultation-1/>> [Accessed 4 February 2022].

⁴ *National Consortium for the Study of Terrorism and Responses to Terrorism*. (2016). Global Terrorism Database. Retrieved from: <https://www.start.umd.edu/gtd>, University of Maryland

⁵ “*Protecting and supporting the victims of terrorism*”, Council of Europe Committee on Political Affairs and Democracy, Report: Doc. 14957, 28 August 2019. Retrieved from: <https://assembly.coe.int/nw/xml/XRef/Xref-XML2HTML-en.asp?fileid=28104&lang=en>

⁶ “*Tories promise to improve security for areas 'too vulnerable' to attack*”, LBC, available at: <https://www.lbc.co.uk/news/tory-election-security-terrorism-promise/>

⁷ “*Tougher sentencing and monitoring in government overhaul of terrorism response*” (2020), Home Office, via gov.uk: <https://www.gov.uk/government/news/tougher-sentencing-and-monitoring-in-government-overhaul-of-terrorism-response>

The research conducted and outlined in the subsequent paragraphs has informed the drafting of this charter, as have direct consultations with over three hundred British survivors of terrorism, and expert input from lawyers, academics and UN experts.

The Charter is composed of good practices from each of the eight nations studied, and its adoption would put the UK at the cutting edge of survivor support, make a profound difference to the lives of all involved, and enable the state to effectively express its solidarity with those affected by terrorism.

The charter is composed of eight key guarantees:

I. Guaranteed proactive personal support

In order to better support those affected by acts of terrorism, the Government should help **create and resource a ‘Survivors of Terrorism Support Hub’**. An independent, arms’ length body operating to support survivors of attacks, connecting them to specific services, advocating for their rights and ensuring the commitments of the charter are upheld. The Hub would act as a single point of contact for all victims of an attack. This would also require the creation of a **centralised register of survivors of attacks**. Referrals would primarily be made by the emergency services responding to an incident, for example the Police, though for those victims who may have been missed during the chaos of the immediate aftermath of an attack, self-referrals may be made through application and provision of evidence. Once individuals have been registered with the database following an attack, staff from the Support Hub would then coordinate onward referrals to other supporting services as required in each individual case, whether for psychological provision, assistance with applying for financial assistance, or support with accessing legal services. This prevents survivors from having to submit repeated applications to access different services, and by proactively monitoring their longer term needs it will ensure that all guaranteed assessment and treatment deadlines are adhered to, providing fair, equal, and transparent access to support mechanisms. Whilst compensation and other financial mechanisms may understandably only apply to future victims, all practical support offered by the Support Hub should be open to survivors of terrorist incidents in previous years.

“There are a lot of different agencies who get involved after a terror event, as a survivor it’s confusing and totally overwhelming. For example, I only found out about the specialist NHS Mental Health support six months after the incident. From media handling, healthcare and support, through to managing processes and procedures, a dedicated survivors’ hub would make all the difference when we need it most.”

- Darryn, affected by the Fishmongers’ Hall Attack

[29.11.2019]

II. Guaranteed access to rapid psychological triage and services

Too often victims of terrorism face delays of several months or even years in their attempts to access treatment for the mental health impacts of terrorism. This is not acceptable. By **guaranteeing a six-week maximum wait** between a request for assistance (and initial screening) and the start of treatment, we can seek to better address and mitigate the aggravating factors which can lead an individual affected by an act of terrorism to require longer term psychiatric treatment. This guarantee would rectify the current problems where many survivors are left untreated on waiting lists for many months and in some cases years. This guarantee would be monitored by the support hub mentioned above. This need is particularly apparent in scenarios where children, adolescents and vulnerable people are affected by acts of terrorism. The UK should also consider following the French model of the creation of a specialist unit of trained psychologists and medics ready to deploy and provide specialist interventions to all affected within the first 24 hours of an incident occurring.

“We were pretty much left to fall through gaps in the system of the National Health Service. We were suffering so badly with survivors’ guilt, severe flashbacks, bereavement and lack of sleep. Most days, the anxiety was so overwhelming that we were unable to leave our home. I am ashamed to say that at my lowest point, I felt so unable to cope that it seemed almost easier to take my own life.”

- Ruth, injured in the Manchester Arena Attack

[22.05.2017]

III. Guaranteed immediate financial assistance

No one can prepare for the sudden, unexpected, and extreme trauma of being involved in an act of terrorism. The effects reverberate beyond those directly affected, and their families are often left to deal with the lowest point of their lives. The **establishment of an expedited financial relief scheme** would alleviate the immediate financial strife of having survived injury or having been bereaved as a result of terrorism, and allow those affected to focus upon their immediate recovery rather than the additional aggravating factors and worries which may hinder their long-term prospects. We propose that such a scheme should be considered separate to any long-term reimbursement or compensation, and centre directly upon providing a swift and agile service, paying monies to those in need within the guidelines set out below. These guidelines are broadly in line with the mechanisms utilised by the Red Cross Solidarity Fund and London Emergencies Trust in their civil society efforts, and in similar fashion to the French Guaranteed Fund:

Within the first week following an incident, £3,000 would be paid to:

- Bereaved families of deceased victims, and;
- Victims hospitalised for between 6 hours to 3 days due to their injuries.

A further £5,000 would be paid, within two weeks of an incident occurring, to:

- Bereaved families of deceased victims, and;

- Victims hospitalised for over 3 days due to their injuries.

These monies would be paid directly to the individual injured, or the immediate family/ next-of-kin to those deceased, with the aim of assisting those affected with the unexpected and upfront costs incurred, including but not limited to: hotel, travel, and subsistence to be with an injured person in hospital or to formally identify a deceased individual; costs of body repatriation and burial/ funeral costs, and; any other out of pocket expenses incurred by short term absence from work. Integral to the scheme's success, monies would not be means tested and would not need to be repaid; leading to an equitable environment that ensures a victims' most basic needs are secured at minimal cost to the state, long in advance of receipt of any monies awarded through compensation or future civil action. In exceptional cases where essential costs, such as repatriation, are substantially more than the amount covered by this scheme, the Foreign Office should cover the cost separately.

“When terrorism strikes out of the blue, both victims and families of the victims are left shattered, with long lasting, life changing effects. Immediate assistance both financially and emotionally is vital to help them cope during this extremely distressing and disturbing time. The last thing you need to be worrying about when your life has just been destroyed is how to pay to fly out to be at the bedside of your loved ones, or even worse how to finance the repatriation of their bodies home. There are so many costs associated with these terrible situations and families find themselves unable to work and cope. Immediate financial relief is a must.”

- Polly, affected by the Bali Bombing

[12.10.2002]

IV. Guaranteed State Compensation Fund

The current system of financial compensation within the United Kingdom has repeatedly proven inadequate in sufficiently responding to the needs of those affected by terrorist acts.

The comparative research in this document demonstrates the **need for a separate compensation fund that has a specific remit solely for terrorist acts**, constituted for those affected when an attack occurs. In our current situation, significant disparities have arisen between attacks in different parts of the country, or indeed overseas, and the methodologies utilised in each attack (whether involving bladed weapons, explosive devices, or vehicular attacks), resulting in inconsistent monetary sums available to individuals affected in each respective attack, thus creating an inequitable position for their recovery.

In any other violent crime it may be expected that the onus for restitution should lie primarily with the offender, acquiring means of compensation through fines and penalties levelled against the perpetrator. However such expectation is unrealistic of an act of terrorism given the very nature of the crime deems it to be an issue of national security, and the reality is that the perpetrator very often does not survive their crime, nor do they possess the necessary means to sufficiently compensate the many individuals affected by

their act. Thus the State must recognise its specific and unique role in compensating victims of terrorism, take responsibility for its' citizens, and ensure that all who are affected by these incidents are properly supported; financial compensation being an essential facet of this.

All victims should be able to access this specialised financial compensation, irrespective of their nationality, residency status, and regardless of the motive or methodology behind the attack which they were involved in, and where it occurred, at home or overseas. Compensation amounts should be commensurate to what a victim may receive should they be able to pursue civil action through the courts, thus eliminating the grossly unfair current situation where a victims' chance of receiving a sufficient compensation sum is dependent on the type of attack they endured; while victims of vehicular attacks may be able to commence civil action through the Motor Insurance Bureau, the same cannot always be replicated for those affected by attacks involving explosive devices or bladed weapons. This new specialised funding scheme should pay out compensation to victims whilst they may be concurrently applying for civil action through the courts, and not delayed as a result, though understandably there may be a requirement for the victim to pay back these monies should their civil action eventually succeed in delivering a financial award years later. While it would be expected that the scheme would be swift and rigorous in its activities, advance payments would not be required due to the Rapid Assistance Scheme proposed under Tenet III of the charter.

Survivors should still be able to claim benefits or any other disablement assistance available through the Department of Work and Pensions that a victim of any other crime or disability would receive, alongside any compensation they are awarded through this scheme; furthermore, the Survivors' Hub should assist a victim to understand what other supplementary support may be available through this, or other, government bodies. Ultimately, the Hub should be able to understand survivor's needs and, through the establishment of a single point of contact, proactively streamline their application for financial compensation under this scheme, eliminating the intense distress caused by the current CICA processes, standardised to victims of any and all crimes, which require terror survivors to fill out countless pages of application forms listing the details of their various injuries and retelling their experiences.

Finally, consideration should be given towards legislating to allow courts to award survivors exemplary (punitive) damages in civil claims. Such damages are awarded not to compensate the claimant, but to punish the defendant and deter others. This would also meet a need to ensure that survivors who do seek compensation receive a sum that is effectively commensurate to their suffering and fair in the context of the many years they are likely to have spent navigating the legal system.

“Months after the attack, Kris resides in Stoke Mandeville Hospital, Aylesbury, unable to return to his north London home as it is now inaccessible to him and unsuitable for his rehabilitation. The front step just to get in is a massive obstacle, all the doorways are too narrow, the kitchen is unsuitable, there's no toilet on the ground floor, there's no way he can get upstairs to put the kids to bed and the garden is totally out of bounds.

Without big changes, Kris can't get home, so that's where we stepped in, with hundreds of generous volunteers, to help this injured police officer get home to his loving family.”

- BBC Article on PC Kris Aves, injured in the Westminster Bridge Attack

[22.03.2017]

8

V. Guaranteed legal support

For far too long, barriers to access to justice have meant that many survivors either go unrepresented, or are forced to rely upon the goodwill of legal firms acting on a pro-bono basis. By the very nature of the incident in which they have been involved, survivors should receive guaranteed access to free legal assistance and representation, should they wish, throughout the resulting judicial processes; whether that be to assist in applications for financial assistance, in civil claims against the perpetrators or, perhaps ever more importantly, during inquests and inquiries to ensure that the voices of those directly affected are heard and listened to. All survivors should be afforded the opportunity to contribute and submit evidence at inquests and inquiries should they wish to do so, for a failure to incorporate such voices only serves to frustrate the legal process and prevent a victim's access to justice. Giving evidence is something that often proves a key part in the recovery of many involved, through providing a better understanding of the events which they were involved in, in addition to ascertaining what went wrong to ensure that lessons truly are learned in the aftermath of an attack.

“I was initially denied the right to give evidence at the inquest, even though I'd been told that my witness statement was relevant to the inquest. Giving evidence was fundamental to coming to terms with what had happened and hear from those who helped save my life. I challenged this decision, threatening judicial review, which resulted in a change of decision. Even with the opportunity to give evidence, many of us could not afford to pay for legal representation whilst the coroner had a team of lawyers.

The consequence of this inequality is that survivors and families of innocent people are further punished and victimised. The availability of legal support is for us a fundamental human right that we should not be denied as innocent victims of such atrocious and senseless attacks that change our lives forever.”

- Thelma Stober, lawyer injured in the 7/7 Attacks, London

[07.07.2005]

⁸ Kris received life-changing injuries in the Westminster attack, but was unable to return home to his family it was unsuitable for a wheelchair. He remained in hospital during his rehabilitation as the property did not meet his new accessibility needs, and nor was he provided with any support to make the necessary conversions. The BBC Programme DIY SOS transformed his home, installing various features to allow him to return to his family. For more on his story, the full episode can be accessed here: <https://www.bbc.co.uk/programmes/b09vm263>

VI. Guaranteed Recognition

In recognition of the gravity of the lifelong effects on the lives of those affected and as a way of reflecting the fact that survivors of terror attacks are targeted as proxies for the state, the state should find a way of publicly recognising what survivors have endured. In France they have created a National Medal of Recognition for Victims of Terrorism and in Spain they have created a Royal Order of Civil Recognition for Victims of Terrorism; in this country we propose an addition to the system of Queen's honours that would recognise the sacrifice of those injured or bereaved.

This would mark an important change in the way in which we as a society view those affected. Following the guidelines established as good practice in France and Spain, in the first instance these honours should be awarded posthumously to those who have been killed in an act of terrorism, demonstrating to their families a unshakeable solidarity expressed by the British state that exemplifies the nature of terrorism as an attack against a nation, rather than any single individual. In the second instance, these honours should be awarded to eligible persons endangered by the attack, such as those who received injury. As with the system operated by France and Spain, these honours should be awarded retroactively.

“Families are faced with a sudden, traumatic loss and have to learn to live every day without them - every day is a colossal struggle. Our loved ones were killed because they were from our country, but sometimes it feels like the state doesn't even acknowledge their loss. Recognition isn't much to ask.”

- *Cheryl, bereaved by the Attacks in Sousse, Tunisia*

[26.06.2015]

VII. Guaranteed Memorialisation

Commemoration and remembrance form a core, and often under-appreciated, aspect of survivor recovery. The extent to which we memorialise and commemorate these incidents also plays a role within our public memory, and serves as a collective expression of togetherness and resilience in the face of the threat in addition to raising awareness and educating future generations towards the risks of terrorism.. **A National Day of Remembrance and Tribute to Survivors of Terrorism** would mark an important change in the way in which we as a society view those affected. Marked by annual events the National Day would serve as a symbolic and long-lasting recognition of the fact that victims of terrorism are often targeted as emblematic of the British state, and not as individuals.

In addition, anniversaries provide a recurrent and repeated source of difficulty for many survivors. Too often the confusion over who is responsible for organising commemorations and memorials - whether national or local government, law

enforcement, or elected officials - and the disparities that therefore emerge between attacks in different areas, only leads to further distress for survivors, and a situation where some attacks, and those affected, have failed to be commemorated. By consulting on the **creation of a permanent physical monument or memorial in honour of all British victims of terrorism** we can ensure that all victims of terrorism receive formal recognition, regardless of the scale, motive, or methodology behind the attack which they were involved in. Furthermore, it would act as a physical focal point of remembrance for memorial events, fulfilling a purpose not dissimilar to a cenotaph.

“A British National Day of Remembrance for Victims of Terrorism would be extremely significant and purposeful not only for victims and survivors but also for the wider community.

For those affected by terrorism it would provide a vital opportunity to remember our loved ones and stand together in solidarity against terrorism, plus the importance of acknowledgement from the State - a dedicated National Day would serve to galvanize public attention on the importance of continuing to redouble our efforts at preventing future attacks.”

- *Zoe, bereaved by the Bataclan Attack, France*

[13.11.2015]

VIII. Guaranteed comprehensive long-term support

Victims can sometimes face a range of additional needs, depending upon their individual circumstances, which deserve due attention in order to provide a comprehensive measure of support. We believe the aforementioned Support Hub we have proposed would be best-placed to address and prepare for these needs. There must be **guarantees on minimum long-term provision** for these additional needs, particularly as many will only emerge several months or years following an attack. One significant example would be the need for custom orthopaedic prosthetics. The recovery of a survivor of terrorism must ultimately seek to facilitate their return to a function as close as possible to the position which they operated within before the material incident occurred. Thus survivors should not be forced to pay thousands of pounds of their own money to buy the correct silicone prosthetics, or C-Leg electronic mechanisms to aid in the further rehabilitation and independence of above-knee amputees.

Some other examples of auxiliary needs are outlined below:

- Recognition of labour and employment needs (thus, the Support Hub would facilitate referral to or advocacy with the Department for Work and Pensions),
- Consistent support requirements (such as extensive and proactive provision of physiotherapy services) stemming from resultant short and long-term health problems,
- Long-term educational needs of children directly and indirectly affected (such as guaranteed extenuating circumstances or altered examination conditions during

tests to suit their individual needs) or recognition of the immediate short-term interruption of studies.

- Recognition of potential exacerbating effects on those with additional vulnerabilities; adolescent victims and the children of survivors of terrorism (including those bereaved of a parent or guardian), specifically targeted cultural or religious communities, and additional difficulties faced by British survivors of terrorist attacks occurring overseas.

In order to address these problems with clarity and consistency, funding for the Support Hub must be permanent, rather than leaving victims to face uncertainty about whether they will get support based on yearly budgetary processes. By operating proactively before an attack occurs, the Support Hub would foster working relationships within each of the relevant public and private sector bodies in order to facilitate the ancillary support outlined above.

“My son was ten years old when he survived the Manchester Arena Attack. His support needs have, unsurprisingly, changed over time. As he has matured and gone through puberty, his understanding of what happened to him and the realities of terrorism has meant that he has required additional support. The support he received within the first year, post-attack was based around play and his understanding of the world as a younger child, but adolescence has brought new challenges and requires a different approach.”

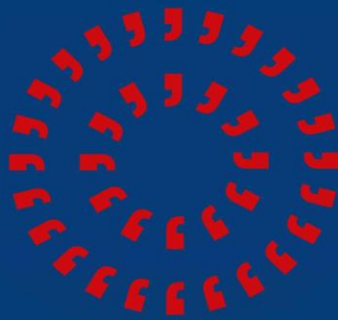
- *Cath, affected by the Manchester Arena Attack*

[22.05.2017]

The Comparative Study

A comparative analysis exploring the state provided support to survivors of terrorism across eight countries

**Australia • Belgium • Canada • France • New Zealand
Spain • United Kingdom • United States of America**



"When we respect the human rights of victims and provide them with support and information, we reduce the lasting damage done by terrorists to individuals, communities and societies."

- António Guterres GCC GCL, incumbent Secretary-General of the United Nations

⁹ Via United Nations Victims of Terrorism Support Portal, available here: <https://www.un.org/victimsofterrorism/en/node/4233>

Australia

Context

Australia's relative geographical isolation has meant that, despite being involved in many international diplomatic and military efforts at countering terrorism, it has suffered far less attacks on domestic soil than many of the other nations studied in this report. Nevertheless, at least 18 attacks have occurred between 1971-2020, including the 2014 Sydney Hostage Crisis and 2015 Parramatta Shooting¹⁰. Additionally, several Australian citizens have been murdered or maimed in attacks overseas, including 88 killed during the 2002 Bali Bombing and two who lost their lives in the 2017 London Bridge attack. Australia's current terror threat level remains at '*probable*', meaning intelligence indicates that extremists have developed both the intent and capability to conduct an attack in the near future. Whilst there are some federal initiatives, most matters of practical support and financial compensation are handled at the state and territorial level and this is reflected in the research brief below.

Assistance and Support

There are no specialised services specific to victims of terrorism in Australia. Federal support services traditionally relate primarily to Australian citizens affected by attacks overseas, rather than those injured or bereaved by domestic incidents (where state authorities take precedence), and nationwide guidelines have been produced to this effect. For example, the Australian Federal Government provides 24 hour consular assistance through its embassies when attacks occur abroad. Medical care within the country can often prove dependent upon an individual victim's insurance arrangements, however; if a victim is diagnosed with a mental disorder by a Doctor, the Federal Better Access Initiative may entitle them to Medicare rebates for up to 10 individual or group therapy sessions within selected medical services and over the course of a year.

The services provided by individual states vary greatly across the country due to differing budgets and priorities. In some states, for example, free counselling is made available to the primary victim (defined as the person directly injured or endangered by the attack), their family, caregivers and close friends (such as the Northern Territory and South Australia), whereas in other states only the primary victim may be entitled to such support (as seen in New South Wales). Attitudes towards providers and their training differs significantly also; for example in the Australian Capital Territory victims are given as much choice as possible in selecting a preferred counsellor for their treatment, whether a Victim Support staff member or private practitioner, whereas in New South Wales the Victims Support Scheme maintains a strict register of Approved Counsellors who have received specific terrorism related trauma training, in order to ensure that it is these who provide the specialised psychological support required by primary victims.

In some states the Victim Support services simply provide guidance with counselling, whereas in others the provision can be much farther reaching in assisting with the practicalities of referring victims to the necessary support they require, and helping to fill

¹⁰ [Australia: Extremism and Terrorism](#), Counter Extremism Project

out forms to apply for financial compensation (as seen in the Northern Territory and Queensland). Similarly, discrepancies and variation can be observed in other areas; for example, in South Australia there is specific reference to the provision of peer support specialised for adult and child victims of crime, while this is not necessarily replicated across Australia's other states.

Finally, of note, is the position taken by Victoria's state authorities to take a so-called "whole-of-government" approach. To this effect the State Department of Justice and Regulation coordinates all services to assist victims: operating a victims helpline, funding statewide programmes for practical assistance, counselling, and support to navigate the justice system. This is similar in many respects to the system utilised by Western Australia, where the Court System operates a Victim Support Service whose staff provide, amongst many other functions, counselling and assistance and guidance with legal, medical, and financial matters, all free of charge.

Recognition and Remembrance

While there does not appear to be any form of comprehensive federal scheme exploring commemoration of attacks, memorialisation seems common throughout Australia. When the Bali Bomb occurred in 2002 it caused the deaths of 88 Australians, a vastly higher figure than from any other one country affected. Within three years of the attack, several large physical memorials were gradually unveiled across the country, these included: Melbourne, Perth, Gold Coast, Sydney, Canberra. Additionally, plaques and memorials have been erected within many of the local communities which were bereaved, including Coogee Beach and Cronulla¹¹. Each year commemorative services are held at each of these sites to help those affected to remember those who lost their lives, without necessarily having to travel to the site of the bombing in Bali, Indonesia.

Of note, other forms of recognition have also been presented; in Ulladulla, for example, a youth centre has been built as a 'living memorial' to two of the Bali victims from the local community. Similarly, whilst a plaque was built to commemorate Curtis Cheng, the victim of the 2015 Parramatta Shooting in Sydney, more notably perhaps is the fact that the New South Wales Police Headquarters was renamed 'The Curtis Cheng Centre' in his honour. Whilst empirical data on other attacks that have occurred in Australia have proven more difficult to acquire, it appears that common practice is to erect both plaques and memorials wherever required to sufficiently mark the memory of those affected by terror.

Financial Compensation

There are several schemes at the federal and state level that seek to effectively support victims of terrorism through the financial difficulties which they may endure, and to compensate them for their loss. A nationwide terrorism insurance scheme was introduced in July 2003, designed as a temporary measure following the 9/11 Attacks to alleviate the wider economic impacts of terrorism, and to allow the emergence of a private reinsurance market for terrorism risk.

¹¹ Sutherland Shire Council:

<https://web.archive.org/web/20091029154418/http://www.sutherland.nsw.gov.au/SSC/home.nsf/Web%2BPages/24D33FF65161B10DCA256DB30009800A?OpenDocument>

Perhaps more pertinent however are the Australian Victim of Terrorism Overseas Payment and Disaster Recovery Payment schemes. The former provides financial assistance of up to \$75,000 to the close family of Australian citizens killed in terrorist acts overseas, and those injured as a direct result. On the other hand, the disaster recovery payment provides a single, swift, non-means tested, emergency payment to those affected by a major disaster or terrorist incident, whether it occurred at home or overseas; this seeks to alleviate the immediate costs incurred by those involved.

At the state level, schemes vary in detail and inclusion and often feature several caveats. For example in the Australian Capital Territory the Financial Assistance Scheme does not cover the costs of property damage, ‘assistance’, any items covered by Medicare, or private insurance emergency costs needed to help the victim. As such, emergency medical costs that would contribute to a victim’s recovery may be covered up to a maximum of \$10,000, but only if the applicant does not have the financial ability to pay for the treatment or service. Similarly, a victim may be entitled to coverage of counselling or other psychological support costs, but only if they were not able to access appropriate support under the victim services scheme. In other areas such as Victoria, these aspects are covered by the compensation scheme but with the addition that eligibility is dependent on a victim’s level of involvement. For example, if a victim has suffered a terrorist attack upon their property or place of work the person directly affected by this crime may be eligible for financial assistance to increase security and safety related expenses, however a witness to the crime or the family of someone affected would not be entitled to these same changes. Likewise, whilst all victims are eligible for assistance with funeral expenses, only primary and secondary victims may request reimbursement of lost earnings, up to a maximum of \$20,000. Other states such as New South Wales seek to complement federal initiatives by providing assistance with immediate needs, responding with awards of monies within a short amount of time, and many also make specific reference to a “recognition payment” – the idea that an unspecified additional sum should be levied in acknowledgement of the crime endured.

A final point of note is the distinction between different states and the eligibility of victims in those states to even access the funds available. In Western Australia victims are entitled to access a payment regardless of whether the perpetrator of the crime has been found, charged, or convicted of the offence, so long as the offence has been inscribed on official records. Similarly, while in South Australia the state has adopted a court-based scheme, if progress with an investigation has stalled or a prosecution fails to attain a guilty verdict, and the victim can prove injury or financial loss as a direct result of the crime, the Attorney-General has the authority to award ‘ex gratia’ payments to those suffering from the effects of the crime, in addition to other discretionary funds available on a case-by-case basis. Importantly, the Attorney-General can even make these payments to a person ordinarily resident in South Australia who becomes a victim of crime in another place, if certain criteria has been met. These initiatives are positive, but are not consistent throughout the country and whilst efforts have been made to align each state towards a common set of principles, amount, and eligibility, so far this has not been achieved; this

arguably leaves ground for potential disparity between victims of terrorism involved in attacks in different parts of the country, and indeed leaves a persistent question on the rights and protections afforded to those involved in attacks overseas, dependent upon their domestic place of residence¹².

Access to Justice

We have identified 6 key areas which are relevant to the access survivors of terrorism have to justice and which help to identify where a state's regime is comparatively generous, or otherwise, to such survivors who are seeking legal redress for their suffering:

i. *Free legal support in trials and inquests*

There is no specific provision for such support for survivors of terrorism in Australia. Instead, survivors must apply for legal aid through the usual process and must satisfy means and merits tests set by legal aid commissions which are individual to each state. When compared to other jurisdictions such as the United States, Canada and France, this can create additional hurdles for survivors of terrorism seeking necessary legal support, .

ii. *The law on limitation: civil proceedings*

Each Australian jurisdiction has its own law on limitation setting out the rules governing the period in which a plaintiff may bring civil proceedings. Limitation periods range from 3 to 6 years for claims such as those related to acts of terrorism brought by survivors. There are no exceptions to this period granted to survivors of terrorism. There may be credible reasons why a survivor of terrorism does not bring a claim within this period; meanwhile the law does not allow account for this. Further, inconsistent limitation periods across the country may lead to differential treatment, which could severely prejudice certain survivors.

iii. *Recognition of universal jurisdiction for terrorist crimes*

The principle of universal jurisdiction grants states jurisdiction over crimes in violation of international law (such as crimes of war, acts of terrorism and torture) even when the crimes did not occur on that state's territory, and neither the victim nor perpetrator is a national of that state. It allows national courts to hold perpetrators to account for their serious international crimes regardless of jurisdictional issues.

In Australia, a universal jurisdiction prosecution requires the consent of the attorney general (AG) to proceed. There are no guidelines for the AG to follow when providing or refusing this consent and it leaves the process vulnerable to uncertainty and inconsistency. Consequently, the access to justice that survivors of terrorism have is potentially limited.

iv. *The law governing exceptions to the general grant of state immunity in relation to terrorist related activities:*

States have immunity from all prosecutions related to terrorist acts other than, like in the

¹² Victim terminology in Australia differs to other nations: 'Primary' victims are defined as those directly suffering an act of violence; 'Secondary' refers to a close family member such as a parent of a child who suffers an act of violence, and; 'related' victims are those who were closely related to a person died in an act of violence.

UK, those that occurred in Australia and which caused personal injury or damage to property. This again limits the potential for survivors of justice to achieve justice where these conditions are not met.

v. *Punitive damages in civil proceedings*

Punitive damages may be awarded to victims in civil litigation but there is not sufficient case law to establish what these are likely to be in respect of terrorist related incidents. Therefore, it is not clear to what extent this remedy may benefit survivors of terrorism.

vi. *Assets of state and freezing orders*

Assets of all origins can be frozen in Australia, but there is no specific exception stating that these can be used to compensate survivors of terrorism as part of civil litigation or criminal prosecution brought against those who have committed acts of terrorism. This can raise additional barriers for survivors of terrorism seeking to be compensated for the loss and suffering that they have been caused.

Belgium

Context

Like many of its neighbours, Belgium has faced a long history with terrorism, often of vastly differing motive and methodology. Whilst discussion in recent years has been dominated by attacks of an Islamist nature, the country has previously been the target of Antisemitic, far-left, and Northern Ireland-related incidents. Like many western nations, Belgium also faces a threat from those returning from the Middle East, having fought for Islamic State-affiliated forces, with one report listing Belgium as having the highest per-capita foreign fighter number of any nation¹³.

Assistance and Support

The majority of the state-provided assistance available in Belgium is determined by the level of impact on the individual survivors. This is the basis on which their 'national victim solidarity status' is determined (further explained in the section below). Rights and entitlements vary dependant on which status an individual is assigned, but each broadly involves the awarding of financial support and medical assistance specific to their case and circumstances, as outlined below. Once an affected person has applied for solidarity status all future communication and updates are provided through a streamlined, single point of contact, with specially trained staff. To aid in the rehabilitation of victims, the Belgian state provides full reimbursement for all medical, paramedical, pharmaceutical, hospitalisation, and psychological care costs, in addition to assisting with the purchase of orthopaedic appliances and prostheses. To benefit, survivors must have Belgian nationality or live in Belgium at the time of the attack unless they cannot access equivalent support in their home country.

Recognition and Remembrance

People affected by an act of terrorism recognised by the Belgian federal government can, under legislation passed on 18th July 2017, apply for state recognition under one of three 'national victim solidarity statuses':

- Direct victims – in the area where the attack took place,
- Entitled persons (legally wedded spouse and dependent children or parents), and
- Indirect victims – an heir to a deceased victim, or bereaved family member.

Both foreign and national citizens can apply, and the granting of status gives rise to the issuance of a 'National Solidarity Status card'.

In addition to the official state recognition afforded through Nationality Solidarity Status, events commemorating the remembrance of attacks occurring in Belgium have proven the norm, with heritagisation and collective memory both emphasised. More than ten memorials have been built to mark the March 2016 Brussels Attacks with the first, a large sculpture, unveiled by King Philippe only a year following the attack.

¹³ [The Foreign Fighters Phenomenon in the EU – Profiles, Threats & Policies](#), International Centre for Counterterrorism – The Hague (ICCT)

Financial Compensation

In addition to the aforementioned reimbursement of costs, the Belgian National Solidarity Status provides direct victims with a recognised condition of at least 10% disablement with a ‘reparation pension’, whether that condition be physical or psychological. This is reviewed and reassessed every five years, and in the event of the direct victim’s death the funds can be granted to a rightful claimant.

Access to Justice

i. Free legal support in trials and inquests

There is no specific provision for survivors of terrorism in Belgium, rather survivors must apply for legal aid through the usual process and must satisfy the relevant means and merits tests¹⁴. The threshold in Belgium to be able to receive legal aid is considered high due to a strict means test with a low financial ceiling. This, therefore, can act as a barrier to survivors of terrorism achieving justice for the wrongdoing they have suffered as they may be left without legal support.

ii. The law on limitation: civil proceedings

There is no specific limitation period for claims related to survivors of terrorism. In general, claims in tort are time-barred five years after the day on which the plaintiff is aware of the injury and of the identity of the person liable for this injury, and in any event 20 years and one day after the date on which the fact, action or negligence that caused the prejudice occurred. This offers a relatively long limitation period compared to other jurisdictions (such as the UK) but is still of course not as helpful to survivors of terrorism seeking justice as it would be if limitation periods in such claims were disappplied entirely.

iii. Recognition of universal jurisdiction for terrorist crimes

Belgian courts only have jurisdiction over international crimes if the accused is Belgian or has his primary residence in Belgium; if the victim is Belgian or has lived in Belgium for at least three years at the time the crimes were committed; or if Belgium is required by treaty to exercise jurisdiction over the case.

iv. The law governing exceptions to the general grant of state immunity in relation to terrorist related activities

There are no specific exceptions related to terrorism to the general rule providing state immunity in Belgium. This, therefore, has the potential to be a considerable barrier to survivors seeking justice where states or state actors are perpetrators of such crimes.

v. Punitive damages in civil proceedings

Punitive damages are not available in Belgium. This clearly limits the remedies available to

¹⁴ <https://www.justiceinitiative.org/uploads/41ed2da7-a5b5-4bb7-b32d-83676c83f6ba/eu-legal-aid-belgium-20150427.pdf>

survivors of terrorism in this jurisdiction.

vi. *Assets of state and freezing orders*

Under the EU sanctions regime, assets of all sanctioned individuals (including those involved in crimes of terrorism) can be frozen and such frozen funds can be used to in certain circumstances relevant to victims of terrorism (including to facilitate humanitarian assistance). The exact way in which the frozen funds can be used will depend on the relevant sanctions regime ordered by the EU and the way in which it is specifically applied by the member state. This allows survivors of terrorism the possibility (if the relevant criteria are satisfied) to access funds belonging to those who have been sanctioned by the state and held liable for these crimes, to compensate said survivors for their suffering and losses.

Canada

Context

Canada has long been the target of numerous terrorist attacks of both international and domestic nature, and has often participated in international military efforts and counter terrorism around the globe. Motives have often differed vastly between incidents spanning the past forty years, from separatist movements and anarchist groups to Islamists and political extremists. In addition to attacks on their own soil, Canadian citizens have been victim to atrocities around the globe with 268 dying as a result of the Air India Flight 182 Bombing and 24 losing their lives in the September 11th Attacks.

Assistance and Support

Support provision in Canada is mixed. Survivors can contact the Office of the Federal Ombudsman for Victims of Crime, an independent resource, for information on their rights or to make a complaint about the way they have been treated. However, assistance for survivors in both the short and long term is provided by provincial and territorial authorities, rather than at federal level. This has led to disparities across attacks in different parts of the country. Survivors of terrorism are not treated as a separate entity to other victims of crime, and much of the specific current legislation is centred on the financial aspects as outlined in the section below.

Of final note, the Anti-Terrorism Act passed in the aftermath of the 9/11 Attacks brought sweeping changes towards influencing Canada's security measures, but only dealt with the perpetrators or those planning to perpetrate acts of terrorism – it contained no guarantees for victims, at home or abroad, to receive any form of assistance or aftercare¹⁵.

Recognition and Remembrance

Since 2005, the Canadian Government has proclaimed the 23rd of June each year to be the National Day of Remembrance for Victims of Terrorism. This was initially met with some criticism from victims of the Flight 182 Bombing in 1985, on which date the event coincided with, but has ultimately continued to be observed by the country every year. Additionally in 2007, the Canadian Government announced the creation of the Air India Memorials Program which would lead to the construction of four monuments in four different cities¹⁶.

Furthermore, in 2011 the Canadian Government declared September 11th the National Day of Service in tribute to the victims of the 9/11 Attack, after the Canadian victims' association C-CAT proposed a bill for recognition¹⁷. The date aims to inspire Canadians to partake in volunteering, charitable activities, and community service.

Financial Compensation

¹⁵ *Victim support in the aftermath of terrorism*, Liselotte Van Rooy, KU Leuven, pp. 16-30.

¹⁶ *National Day of Remembrance for Victims of Terrorism*, News Release, Government of Canada, available at: <https://www.canada.ca/en/news/archive/2011/06/national-day-remembrance-victims-terrorism.html>

¹⁷ *The National Day of Service*, via: <https://www.serviceday.ca/>

In Canada, the provinces are responsible for the compensation for victims of violent crimes, including terrorism. These regional programmes vary vastly across Canada and often only cover victims injured within that specific province. For example, in Ontario compensation is offered to victims through the Criminal Injuries Compensation Board – the maximum lump sum award for a crime where more than one person is impacted under this provincial scheme is capped at \$150,000, shared among all of the claimants. In the case of terrorism, such a figure would be far too small to reach the broad scope of harm and number of victims in need that is likely to result from such an incident.

For Canadians who are affected by acts of terrorism occurring overseas, the federal government set up the Financial Assistance for Canadians Victimized Abroad Fund. However there are several caveats to the programme. For example, the maximum available per victim is \$10,000 CA. Furthermore a claim can only be made when all other options have been exhausted and no other financial assistance is available.

In 2012, Canada passed the *Justice for Victims of Terrorism Act*, allowing victims of terrorism to sue the perpetrators and those that support them, including listed foreign states, for loss or damage that occurred as a result of an attack committed anywhere in the world. Despite the good intentions of this act, it is still very difficult for victims to obtain legal counsel at their own expense to sue offenders, and there is the very real possibility that the other party simply does not have sufficient assets to refund the survivors.

Access to Justice

i. *Free legal support in trials and inquests*

There is significant funding for legal aid in anti-terrorism cases in Canada¹⁸.

The Federal Victims Strategy (**FVS**) gives victims of crime, including terrorism, a more effective voice in the criminal justice system. Within the FVS, the Victims Fund provides grants and contributions to support, among other things, victims access to justice¹⁹. This is a significant advantage of the Canadian system as it ensures that sufficient funding is available for survivors of terrorism seeking justice.

ii. *The law on limitation: civil proceedings*

Normal limitation periods (which vary between state in Canada) are suspended if the victim of terrorism is incapable of beginning the action because of any physical, mental, or psychological condition; or is unable to ascertain the identity of the listed entity, person or foreign state responsible (§3 of JUSTICE FOR VICTIMS OF TERRORISM ACT 2012²⁰). This is a significant accommodation for survivors who understandably may not be able to initiate a legal action in the ordinary limitation period.

iii. *Recognition of universal jurisdiction for terrorist crimes*

Canada has universal jurisdiction to prosecute crimes of terrorism. §9(1) of CRIMES AGAINST

¹⁸ <https://www.justice.gc.ca/eng/fund-fina/gov-gouv/aid-aide.html>

¹⁹ <https://www.un.org/victimsofterrorism/en/node/593>

²⁰ <https://laws-lois.justice.gc.ca/eng/acts/j-2.5/FullText.html>

HUMANITY AND WAR CRIMES ACT OF 2000 provides that proceedings may commence in any territorial division in Canada for those offenses “alleged to have been committed outside Canada for which a person may be prosecuted under this Act [...], whether or not the person is in Canada.”

Canada has also established universal jurisdiction in civil claims related to crimes of terrorism and other crimes against humanity.

In 2012, Canada passed the JUSTICE FOR VICTIMS OF TERRORISM ACT, allowing survivors of terrorism to sue the perpetrators and those that support them, including listed foreign states, for loss or damage that occurred because of an attack committed anywhere in the world. In this regard, Canada provides a positive legal framework that enables survivors of terrorism to hold perpetrators of acts of terrorism to account.

However, Canada refuses to accept jurisdictions for civil cases in certain circumstances even when it is not possible for foreign victims to seek justice in their national courts due to practical constraints (including inadequate court processes and other technical restrictions such as a ban on class actions). This again limits survivors’ access to justice.

iv. *The law governing exceptions to the general grant of state immunity in relation to terrorist related activities*

There is no state immunity for acts of terrorism. THE JUSTICE FOR VICTIMS OF TERRORISM ACT amended CANADA’S STATE IMMUNITY ACT to allow for civil claims to be brought against a foreign state for injuries, death, or damages from an act of domestic and international terrorism.

The US and Canada are the only states to have introduced exceptions to state immunity (where such immunity has been generally legislated for) for acts of terrorism. This provides significant benefit to survivors of terrorism who have suffered due to the actions of state entities compared to countries such as the UK where such survivors are unable to achieve justice regardless of the level of harm they have suffered, or the nature of the wrongdoing done by the relevant state entity.

v. *Punitive damages in civil proceedings*

Yes, these are allowed. While there is no firm guidance on what level of award for punitive damages is to be expected, and this will depend greatly on the individual circumstances, the level of award is genuinely lower than that in the United States. However, the possibility of punitive damages (at any level) being awarded further increases the available compensation for survivors of terrorism.

vi. *Assets of state and freezing orders*

Assets of all terrorist financiers can be frozen in Canada. The FROZEN ASSETS REPURPOSING ACT (BILL-S259) has been introduced²¹ to enable the Canadian government to repurpose frozen assets as the courts see fit, although it is not explicit that this can include directly compensating survivors of terrorism.

²¹ And is currently at the second reading in the Senate - <https://www.parl.ca/LegisInfo/en/bill/42-1/S-259>

France

Context

The phrase *terrorism* as we understand it today was born in France during the 18th Century. Historically the country has faced a variety of terror threats from regional nationalists in Corsica and Algeria, to both extreme left and right, and Islamist extremists.

Possessing one of the longest histories of terrorism of any single nation throughout the world, nearly 500 French citizens have been murdered and over 1,700 injured in acts of terrorism since 1970. The French state is actively involved in countering terrorist activities internationally, with ongoing operations of note in the Sahel region of Northwest Africa.

Assistance and Support

France operates a comprehensive system of support similar to Belgium, providing for all medical, psychological, social, and economic needs of survivors of terrorism. This support is provided through several key avenues. At the state level, the Inter-ministerial delegate for Victim Assistance (DIAV) coordinates the various Government ministries involved in the immediate response to an attack (and indeed any other form of ‘collective accident’ or natural disaster), supporting and steering local committees. The DIAV works with other bodies such as the Inter-ministerial Victim Assistance Unit (CIAV), a committee falling under the direct authority of the Prime Minister tasked with providing a single point of contact and reception for all immediate needs incurred by those affected, from psycho-trauma support to forensic and coroner’s processes. The CIAV also liaises with victims’ associations and prosecutors.

On the ground, practicalities of healthcare are handled by the National Health System; people injured in an act of terrorism, and close relatives of those who have died or suffered injury benefit from full coverage of medical care and psychiatric treatment, and follow-up consultations, without any costs incurred to the individual. Furthermore, each regional unit has a dedicated interlocutor who coordinates this support at regional level for victims who may have been affected by an attack in one region but who reside in another part of the country. Rapid deployment of specifically trained Medical and Psychological Emergency Units (Cellules d’Urgence Médico-Psychologique – CUMP) consisting of psychiatrists and nurses provide specialist interventions to all affected within the first 24 hours of an incident occurring, with the aim to prevent the development of long-term post traumatic stress disorders. These units are dispatched immediately upon being notified by Emergency Medical Services (Service d’Aide Médicale Urgente – SAMU) of an emergency. Finally, the longer term support provided by the French state is assured by regional and local offices known as Comités locaux d’aide aux victimes (CLAV) which monitor victims’ needs. Additionally, a range of professionals known as ‘referred citizens’ are trained through an initiative endorsed by the State Secretary for Victim Support to provide voluntary surge assistance to victims during a crisis, ranging from lawyers to psychologists.

There are no nationality requirements for any of these services, and support is provided to anyone with a relationship to France. Further information on each of these services is

outlined through a dedicated government website.

Recognition and Remembrance

Victims of terrorism are officially recognised by the French state in several ways. Under Presidential Decree No. 2016-949, the National Medal of Recognition for Victims of Terrorism was created to recognise and pay respects to the sacrifices endured by those killed, wounded, or held hostage during acts of terrorism; acts which intrinsically targeted these individuals as representative of the French Republic, and the fundamental values which it holds at its' core. Both French Nationals and foreigners injured in attacks on French soil or interests may apply. The medal is conferred upon a victim, or their bereaved family, upon their request and is rewarded retroactively to 1974. Requests are made directly and are decided by the Grand Chancellor of the Legion of Honour; individuals must be recognised officially as victims of terrorism by either the Prosecutor's Office or under the Guarantee Fund outlined in the following section, in order to prove their eligibility²².

More recent developments within the sphere of remembrance have united victims' associations in praise. Designated in 2019, President Macron announced 11th March each year to be observed as the National Day for Victims of Terrorism, marked by high profile events across the country; additionally, the French Government covers the travel costs of foreign victims to attend the Remembrance Day, ensuring inclusivity.

Financial Compensation

Created by law in 1986, the *Guarantee Fund for Victims of Terrorism and Other Criminal Acts* (FGTI) provides extensive compensation in both the short and long-term to those injured, bereaved, or otherwise affected by an act of terrorism or 'breach in national security'. Victims of any nationality, those affected overseas, and the beneficiaries of deceased victims (including grandparents, parents, children, siblings, and grandchildren), can all be compensated. French Law operates under the principle of full compensation, intended to 'put the involved party in the position in which it would have been had the act that gave rise to the damage not occurred'²³. These rules are legally binding on the fund, though additional compensation may also be provided in respect of the specific nature of terrorist acts and the additional difficulties endured by victims.

Compensation from the French State is proactive, with the Public Prosecutor holding responsibility for informing the Fund of the identity of survivors and facilitating their direct contact and outreach with those affected. However survivors can also self-refer themselves to the Fund by completing an application form. Furthermore, by decree in 2019 a specialist *Judge of Compensation for Victims of Acts of Terrorism* was established with the power to decide on all disputes related to compensation, and as a result criminal courts can no longer hear civil action for damages caused by terrorist offences. An independent Ombudsman has also been appointed by the FGTI to provide a point of contact and advocacy for survivors who feel their rights have not been respected, and full legal aid is available to all victims regardless of income to assist in their application under

²² The National Medal of Recognition for Victims of Terrorism, *Grande Chancellerie de la Légion d'honneur*, via: <https://www.legiond'honneur.fr/en/page/national-medal-recognition-victims-terrorism/980>

²³ <https://www.whitecase.com/publications/article/compensatory-damages-principles-civil-and-common-law-jurisdictions-requirements>

Article 9-2 of Law No. 91-647.

On a practical level, the compensation process provided by the Fund prioritises transparency and procedure. Survivors must apply within 10 years of the incident they were involved in, though appeals may be made for acceptance after this limit if sufficient evidence is provided as to why they could not submit it before this date. Within the first month of a claim being submitted, an immediate advance payment is provided to cover the initial costs incurred from the event; with further advances available if warranted. This is followed in due time by a full medical-legal examination taking into account all losses resulting from the act, including exploration of both physical and psychological injuries in addition to other factors. Survivors are spared from enduring multiple exhausting assessments through the use of a ‘consolidation’ classification, where the Doctor involved in the examination decides whether or not their health has stabilised or is likely to worsen. Once medico-legal consolidation has been reached, the Fund is required to make a final offer of compensation within three months of receipt of losses²⁴.

Finally, two other initiatives aim to ensure support is provided to those in need. Direct victims of terrorist acts committed in France since 1982 can take advantage of provisions under the ‘Armed Services Invalidity Pension and Victims of War Code’ established by the National Office for Veterans and Victims of War (ONACVG). ‘Civilian Victim of War status’ entitles those affected to a range of support mechanisms, including financial assistance and support for career change expenses resulting from the incident – administratively, this is provided by 103 local branch offices of the ONACVG spread across the country. Similarly, children bereaved by an act of terrorism or those directly affected who are under the age of 21 years old can receive “pupille de la nation” status, allowing for specialised material and non-material support, including upkeep of family resources and full coverage of educational costs²⁵.

Access to Justice

i. *Free legal support in trials and inquests*

In France victims of terrorism, and their families, are automatically eligible for state-funded legal representation (and can be re-imbursed for any costs incurred in attending a hearing)²⁶.

ii. *The law on limitation: civil proceedings*

There is a 10-year limitation period for bringing a personal injury claim in France²⁷. This is significantly longer than the 3-year equivalent limitation period in the UK and so provides survivors of terrorism much greater opportunities to achieve justice through legal proceedings.

iii. *Recognition of universal jurisdiction for terrorist crimes*

²⁴ <https://www.fondsdegarantie.fr/en/act-of-terrorism-in-france/>

²⁵ <https://www.gouvernement.fr/guide-victimes/en-victime-civile-de-guerre>

²⁶ [https://www.europarl.europa.eu/RegData/etudes/STUD/2017/596805/IPOL_STU\(2017\)596805_EN.pdf](https://www.europarl.europa.eu/RegData/etudes/STUD/2017/596805/IPOL_STU(2017)596805_EN.pdf)

²⁷ <https://www.outertemple.com/2020/06/otc-travel-talks-a-vlog-on-limitation-in-spain-france-the-netherlands/>

Universal jurisdiction is recognised in France in the criminal courts in cases of terrorism²⁸ which provides at least the possibility of survivors of terrorism achieving access to justice regardless of where the acts of terrorism occurred. However, further legislation could be passed (as it has been in the United States and Canada) to ensure that survivors of terrorism are also able to achieve justice in the civil courts in such cases where universal jurisdiction applies.

iv. *The law governing exceptions to the general grant of state immunity in relation to terrorist related activities:*

There are no exceptions to state immunity related to acts of terrorism in France²⁹. This, therefore, has the potential to be a considerable barrier to achieving justice for survivors of terrorism where states or state actors are perpetrators of such crimes.

v. *Punitive damages in civil proceedings*

There are no punitive damages available to victims in France. This clearly limits the remedies available to survivors of terrorism in this jurisdiction.

vi. *Assets of state and freezing orders*

Under the EU sanctions regime, assets of all sanctioned individuals (including those involved in crimes of terrorism) can be frozen and such frozen funds can be used to in certain circumstances relevant to survivors of terrorism (including to facilitate humanitarian assistance). The exact way in which the frozen funds can be used will depend on the relevant sanctions regime ordered by the EU and the way in which it is specifically applied by the member state. This allows survivors of terrorism the possibility (if the relevant criteria are satisfied) to access funds belonging to those sanctioned by the state and held liable for these crimes to compensate said survivors for their harm and losses.

²⁸ <https://www.justiceinitiative.org/uploads/b264bc4f-053f-4e52-9bb8-fccc0a52816a/universal-jurisdiction-law-and-practice-france.pdf>

²⁹ <https://www.lexology.com/library/detail.aspx?g=d5ec5d21-d652-49cd-a95d-14a1c8af6a5c>

New Zealand

Context

New Zealand has experienced very few terrorist incidents throughout its history and, despite a recent increase to medium by Security Services, the threat level is generally regarded as low³⁰. One of the country's most significant acts of terrorism suffered in recent years occurred in March 2019, when a far-right gunman committed a mass shooting at two mosques in Christchurch, on the South Island. The attack killed 51 and injured 40, and led Prime Minister Ardern to initiate the "Christchurch Call" aimed at combatting terrorists' use of social media for organising and promoting their cause.

Assistance and Support

Shortly after the Christchurch Attack in 2019, the New Zealand Ministry of Health produced and published a "National Response and Recovery Plan" to support those affected through an integrated support plan. The plan coordinates cooperation between national and district bodies through several key provisions, these include:

- A centralised psychological support hotline available 24/7 to provide mental health services to those affected, through call or text, manned by specially trained counsellors. Long-term primary psychological needs are met by General Practice.
- Trauma support directly within schools, provided by the Ministry of Education.
- Practical victims' services and emotional support, such as assisting with the completing of forms and applications for grants and emergency financial support needs emerging as a result of the incident.
- A clear point of contact to hear victims' concerns and queries, provide information and advice, and facilitate referral to counselling or other government and community services where required.

Of particular note are the specific provisions included within the plan to engage with specialist services within the community affected (in the case of Christchurch, primarily Muslim due to the Mosques targeted) to directly understand their needs. This led to the New Zealand Muslim Psychologists Collective being tasked with providing cultural competence training, clinical supervision, and peer support to responders.

Recognition and Remembrance

Given that the 2019 Christchurch Attacks acted as the catalyst for much of the initiatives outlined in this chapter, and the comparatively short amount of time that has passed since then, it is hard to provide a definitive assessment of how the state will meet the needs of recognition and remembrance for the victims of terrorism affected, in the longer term. This is further complicated by the fact that in the two years following the attack, both anniversaries occurred during the coronavirus pandemic, thus reducing capabilities.

Despite this, it is worth noting that in 2019, two weeks following the attack, a National

³⁰ [National terrorism threat level](#), New Zealand Security Intelligence Service

Memorial Remembrance Service was held and attended by over 20,000 people. Even more significantly, in September 2020 (1 ½ years following the incident) a full memorial was created at the scene of the attacks, unveiled in person by Prime Minister Ardern³¹.

Financial Compensation

Most matters involving compensation for injuries to the person in New Zealand are covered by the *Accident Compensation Act of 2001*. The act legislated for the creation of the Accident Compensation Corporation (ACC), a crown entity tasked at Ministerial level (currently lead by Labour MP, Hon. Carmel Sepuloni) with the handling of all claims³². The introduction of the act took away the right to sue in the courts for injuries covered by the scheme, though if an injury isn't covered by the ACC and was caused by someone else's actions, a civil case can be brought for damages. Both psychological and physical injuries can be claimed for and non-residents can also apply if they were injured during their time in New Zealand, though victims of terrorist acts are not afforded any additional or separate protections or assistance to victims of other crimes. Beneficiaries of direct victims, however, are not automatically entitled to funding for psychological care.

In addition to the ACC, the Support Plan mentioned in the section prior also initiated several other forms of financial support for those affected by the Christchurch attack. For example, victims can apply for assistance with childcare and support to cover the costs of travel for families of the victims who are flying in from overseas, whether visiting to support injured relatives or to arrange the affairs of those deceased. Finally, as part of the plan's cultural engagement, specific psychosocial responses were provided to the community affected, personalised and in recognition of the additional complexities afforded to refugees and migrants affected; from April 2019 onwards, this included the creation of a fast-tracked special permanent resident visa for those present during the attacks and their immediate family.

Access to Justice

i. *Free legal support in trials and inquests*

There is no specific provision for survivors of terrorism in New Zealand, rather such victims must apply for legal aid through the usual process and must satisfy the relevant means and merits tests³³. This can raise additional hurdles for survivors of terrorism seeking necessary legal support and means that there is scope for inconsistency in the granting of such support, which risks prejudice to certain victims.

ii. *The law on limitation: civil proceedings*

Civil proceedings brought by survivors of terrorism must be brought within 6 years of the act occurring. This is significantly more beneficial for survivors of terrorism than the 3-year equivalent limitation period in the UK and so provides such victims greater opportunities to achieve justice through civil proceedings.

³¹ <https://www.rnz.co.nz/news/national/426822/christchurch-terror-attack-victims-remembered-with-plaque-unveiling>

³² <https://legislation.govt.nz/act/public/2001/0049/153.0/DLM99494.html>

³³ <https://www.justice.govt.nz/courts/going-to-court/legal-aid/>

iii. *Recognition of universal jurisdiction for terrorist crimes*

New Zealand has universal jurisdiction to hear criminal claims brought in relation to crimes of terrorism³⁴.

§8.1 of the INTERNATIONAL CRIMES AND INTERNATIONAL CRIMINAL COURT ACT 2000 provides that individuals may be prosecuted in New Zealand for these crimes regardless of “(i) the nationality or citizenship of the person accused; or (ii) whether or not any act forming part of the offence occurred in New Zealand; or (iii) whether or not the person accused was in New Zealand at the time that the act constituting the offence occurred or at the time a decision was made to charge the person with an offence.” This provides survivors of terrorism with at least the possibility of access to justice regardless of where the acts of terrorism occurred. However, further legislation could be passed (as it has been in the United States and Canada) to ensure that survivors of terrorism are also able to achieve justice in the civil courts in such cases where universal jurisdiction applies.

iv. *The law governing exceptions to the general grant of state immunity in relation to terrorist related activities*

There is no exemption to state immunity for acts of terrorism. This has the potential to be a considerable barrier to achieving justice for survivors of terrorism where states or state actors are involved in such atrocities.

v. *Punitive damages in civil proceedings*

New Zealand case law on punitive damages is otherwise derived from English law but is less restrictive regarding the circumstances in which an award may be made. Although less restrictive in approach than English law and practice, awards of punitive damages are relatively small and New Zealand courts have shown a determination to keep them modest. The highest amount of punitive damages awarded by a New Zealand court is NZ\$85,000, although settlements for higher sums have occurred³⁵.

vi. *Assets of state and freezing orders*

Assets of state and non-state actors can be frozen in New Zealand but there is no provision allowing these funds to be used to compensate survivors of terrorism. This can raise additional barriers to survivors of terrorism being compensated for their harm and losses.

³⁴ https://www.un.org/en/ga/sixth/73/pdfs/statements/universal_jurisdiction/canz.pdf

³⁵ <https://www.wilsonharle.com/legal-information/nz-legal-guides/new-zealand-legal-environment>

Spain

Context

Like France, Spain has experienced several phases of terrorism since the 19th Century. Facing a long period of threats from anarchist terrorism, Spain has also been the target of far-right terrorist groups opposed to the democratisation process initiated after the death of dictator Francisco Franco. In more recent years, the Basque separatist group *ETA* infamously carried out more than 3,300 attacks between 1961-2011 which resulted in the deaths of hundreds. Spain has not been immune to the rise of Islamist terrorism, and suffered its' single deadliest peacetime incident in the 2004 Madrid Bombings that murdered 193 and injured over 2,000.

Assistance and Support

The Spanish state operates a system of support for survivors of terrorist acts not too dissimilar to France, covering all physical, psychological, social, and labour needs. Legislated through Law 29/2011, "Recognition and Integral Protection for victims of terrorism", services are coordinated by the *General Directorate for Terrorism Victims Support* at the Ministry of the Interior and ensures a "rapid, efficient and transparent access to services"³⁶. Provision of immediate psychiatric and medical care is coordinated across different emergency services at the Ministerial level, and mechanisms include a network of psychologists across the country who receive specialist training in care for victims of terrorism. A broad range of programmes are provided to support victims in the medium and long-term, aimed at meeting their psychological, social, and labour (employment) needs. In the legislation, no reference to or differentiation is made between Spanish or foreign victims of terrorist acts that occur in Spain, and support is provided to all irrespective of their nationality, residence status (or legality thereof). Spaniards abroad, impacted by events outside of Spain, are also entitled to assistance and support.

In order to build resilience before an attack occurs and better prepare support for those who may become victims of terrorist attacks in future, healthcare personnel are provided with specific training centred on how to care for survivors of terrorism and the Government subsidises survivors' associations and foundations, participating in their events to understand and raise awareness of victims' needs and strengthening the civil society response.

Recognition and Remembrance

The issue of how best to memorialise the survivors of terrorist atrocities in the public sphere has proven the source of several debates in recent years in Spain, amongst both political figures and victims' associations. Under *Act 29/2011 on the Recognition and Comprehensive Protection of Victims of Terrorism*, official state recognition is seen as an integral instrument towards supporting and defending victims' dignity, achieved through a system of public honours, decorations, and events. The act also commissioned the

³⁶ "Law 29/2011, of September 22, on Recognition and Protection Comprehensive to Victims of Terrorism", see more via *The Boletín Oficial del Estado*: <https://www.boe.es/buscar/pdf/2011/BOE-A-2011-15039-consolidado.pdf>

creation of the National Centre for the Remembrance of Victims of Terrorism, aimed at forging a collective national memory for the victims. Perhaps the most significant development, Title VI of Act 29/2011 saw the establishment of a *Royal Order of Recognition for the victims of terrorism*; a posthumous decoration of the rank *Grand Cross* is given to those killed in a terror attack, *Commander* for those injured or kidnapped, and *Badge* to those threatened or involved in an attack that did not result in their injury, as well as any family members to the second degree of consanguinity.

The same piece of legislation declared June 27th as the Spanish National Day for Tribute to the Victims of Terrorism, and officially calls for the country to mark the commemoration of the European Day in Remembrance of Victims of Terrorism on March 11th. Whilst these events have been broadly well-received, they have often been accused of politicisation, generating tension amongst civil society. For example, in June 2020 the Spanish association for the victims of terrorism refused to participate, citing their condemnation of what they termed the “political spotlight and recognition given by the Government to ETA’s political branch”³⁷. Other criticism has also been levelled at a purported lack of involvement of survivors within the planning of these commemoration events.

Regarding the establishment of physical acts of memorialisation, there have been several monuments and plaques created to remember incidents occurring across the country. However, in some cases these memorials have also drawn fierce criticism from victims and civil society organisations. Notably, in 2007 the Spanish memorial for the victims of the 2004 bombings in Madrid was inaugurated – its creation was without the involvement and consultation of those affected, and the responsibility for its maintenance shared between the central Government and the City of Madrid. Despite this, by 2015 a report revealed that both entities had failed to carry out maintenance for 6 years, leading to “real risks” for visitors and total abandonment. Additionally, family members reported they could not lay flowers at the site and that the state of general disarray was viewed as a sign of “great disrespect”³⁸. Sadly, there are several monuments to the victims of both Islamist and ETA attacks that are in severe disrepair throughout the country, and it remains an issue of political discussions amongst legislators – with some proposing to tear down monuments, and others promising to renovate³⁹.

Financial Compensation

Under the aforementioned legislation, Act 29/2011, those who have died, suffered physical or mental injury coming as the consequence of terrorist activity, and the close relatives of those affected, are entitled to both compensation and other forms of financial assistance. In order to be eligible for compensation, individualised reports are produced by a team looking at the classification of a victim’s injuries and assessment of their disabilities; this team is often composed of medical consults and representatives from the Ministry of Interior, amongst other experts. Survivors must make their own application for compensation and must do so within a maximum of one year following the attack.

³⁷ “The AVT refuses to attend the event for the victims of Congress amid harsh criticism of the Government”, *El Correo*, available at: <https://www.elcorreo.com/politica/rechaza-acto-victimas-20200615131038-nt.html>

³⁸ Spain’s forgotten terrorism memorials, *El Pais*, available at: https://english.elpais.com/elpais/2015/11/24/inenglish/1448359320_074883.html

³⁹ Forgetting the monuments in memory of the victims, *El Pais*, available at: https://elpais.com/elpais/2015/11/17/album/1447761748_812524.html?rel=mas#foto_gal_1

There are several similarities between the Spanish system and the French Guarantee Fund. For example, the Spanish system also operates upon the principle of compensating to the fullest recovery and consolidation of sequelae, including both physical and psychological injury (and additional provisions recognise the potential for delayed onset of symptoms and diagnosis in the latter). Advance payments are also possible, though unlike France these are often only awarded in the most serious of cases, where it is reasonable to presume a subsequent declaration of great disability or absolute permanent incapacity for work. Compensation figures can range from a maximum of \$750,000 for serious invalidity, to \$100,000 for non-disabling injuries. These monies can cover a range of different potential expenditure, including:

- Tuition fee exemptions and scholarship schemes;
- All medical treatment, prosthesis and surgical interventions, and expenses that may not be covered by the existing welfare systems;
- Funeral and burial expenses;
- Temporary housing in case of a forced displacement caused by an attack, and;
- Provision of various psychological treatments.

However unlike the French system, there are nationality requirements imposed upon the compensation available. The incorporation of a citizenship principle affords assistance and compensation to Spaniards affected by attacks overseas, regardless of whether these attacks specifically targeted Spanish interests or were carried out by groups not active in Spain – albeit in practice, the awarding of these monies has often been in inferior amounts to those affected by an attack on Spanish soil. If the citizen is a resident of the country in which the attack occurred, they will only be allowed up to 50% of the compensation they would otherwise be entitled to.

Access to Justice

i. Free legal support in trials and inquests

In Spain, the right to free legal aid is ensured, and shall be provided immediately to survivors of terrorism in any prosecutions that are linked to, arise from or are the consequence of their status as victims. Such victims also have the right to reimbursement of their expenses and any court fees⁴⁰.

Both safeguards can provide survivors of terrorism security and reassurance that they will not be burdened with what can be excessive costs associated with attempting to achieve justice through legal means, as can be the case in the UK.

ii. The law on limitation: civil proceedings

There is generally only a one-year limitation period for personal injury claims to be brought in Spain⁴¹. This can limit the ability of survivors to bring claims who may have credible reasons why they are not able to initiate a claim within prescribed period.

⁴⁰ [https://www.europarl.europa.eu/RegData/etudes/STUD/2017/596805/IPOL_STU\(2017\)596805_EN.pdf](https://www.europarl.europa.eu/RegData/etudes/STUD/2017/596805/IPOL_STU(2017)596805_EN.pdf)

⁴¹ <https://www.outertemple.com/2020/06/otc-travel-talks-a-vlog-on-limitation-in-spain-france-the-netherlands/>.

iii. *Recognition of universal jurisdiction for terrorist crimes*

Universal jurisdiction is recognised in Spain by criminal courts in cases of terrorism through the JUDICIAL POWER ORGANIZATION ACT 1985. This allows for convictions to be sought against terrorist actors regardless of where the acts of terrorism occurred, although it is not clear that civil claims will be able to be brought in the same circumstances by survivors.

iv. *The law governing exceptions to the general grant of state immunity in relation to terrorist related activities*

In practice, there are no exceptions to the general grant of state immunity even when acts of terrorism are committed by state entities or authorities.

Although there is a provision (Article 29 of 16/2015 ORGANIC LAW) which waives state immunity for international crimes, Spanish courts have never recognised this provision and frequently dismiss claims brought against state actors for international crimes⁴².

v. *Punitive damages in civil proceedings*

Punitive damages are not available in Spain. This clearly limits the remedies available to survivors of terrorism in this jurisdiction.

vi. *Assets of state and freezing orders*

Under the EU sanctions regime, assets of all sanctioned individuals (including those involved in crimes of terrorism) can be frozen and such frozen funds can be used to in certain circumstances relevant to survivors of terrorism (including to facilitate humanitarian assistance). The exact way in which the frozen funds can be used will depend on the relevant sanctions regime ordered by the EU and the way in which it is specifically applied by the member state. This allows survivors of terrorism the opportunity (if the relevant criteria are satisfied) to access funds belonging to those who have been sanctioned by the state and held liable for these crimes to compensate said survivors for their suffering and losses.

⁴² <https://www.legal-tools.org/doc/c7e015/pdf/#:~:text=Spanish%20courts%20readily%20recognize%20the,the%20jurisdiction%20of%20national%20courts.>

United Kingdom

Context

The UK and its allies have often been at the forefront of countering terrorist activities around the world. The country has faced a vast and varied historical experience in dealing with terrorism, both domestic and international; whether the victim of Zionist, Islamist, far-left and right, or Northern Ireland-related attacks, Britain's long history with terrorism has cost the lives of 3,447 people and resulted in injury to at least 5,937, between 1970-2020. In that same period the country suffered 5,218 different attacks⁴³. As of 2019, the Police have stated that while Islamist extremism remains the greatest current threat, the fastest growing concern comes from the far-right. In 2020 the Government announced the creation of a historic, purpose-built National Counter-Terrorism Operations Centre to better integrate the prevention of attacks across agencies and improve response efficiency⁴⁴.

Assistance and Support

Support within the UK is mixed, and spread across several different departments of state. Survivors of terror attacks are not provided with any specialist status that allows for prioritised access to healthcare. The immediate response provided after terror attacks has been frequently praised by many of those affected, however the long-term support provided is often dependent upon where the individual affected resides within the UK, and the levels of funding, capacity, and expertise, available in that region. In 2017, the Home Office established a specific Victims of Terrorism Unit within the department with the aim of better coordinating inter-governmental support provision for victims and to better understand their needs. The VTU hosts a specialised website to direct victims to where they can seek support⁴⁵. Whilst the VTU's establishment was a welcome development, there still remains no singular point of contact for victims of terrorist acts and the assistance they are provided with can often require coordination between many of the following agencies:

- Ministry of Justice
- Home Office
- Counter Terrorism Policing
- National Health Service
- Department of Health
- Department of Work and Pensions
- Foreign and Commonwealth Office
- Department of Communities and Local Government
- Local Councils and Regional Policing Hubs
- Police and Crime Commissioners

⁴³ Global Terrorism Database, National Consortium for the Study of Terrorism and Responses to Terrorism, retrieved from: <https://www.start.umd.edu/gtd/>

⁴⁴ Press Release: "CTP receive funding for historic new counter terrorism operations centre", *Counter Terrorism Policing*, read more: <https://www.counterterrorism.police.uk/ctp-receive-funding-for-historic-new-counter-terrorism-operations-centre/>

⁴⁵ "Support for victims of terrorism", *gov.uk*, via: <https://victimsofterrorism.campaign.gov.uk/>

- Department for Culture, Media, and Sport

This lack of formal standardisation is further exacerbated by other issues which victims face, such as a lack of Police Liaison Officer provision which means only a selection of those affected, either the worst injured or those bereaved, will receive a point of contact within the Police to provide updates on the case. Similarly, victims are expected to self-coordinate their follow-up medical support within regional NHS Trusts, personally contacting their GP in order to request assistance. Due to this localised approach, different levels of psychological and physiotherapy support are available in different parts of the country – our survey of nearly 300 victims of terrorism in 2018 found a shocking 76% of survivors deemed the mental health services they received as requiring improvement⁴⁶.

In addition to the medical support provided by the NHS, the Home Office currently funds four organisations to provide further emotional and holistic support to victims of terrorism through a competitive bidding process known as the “victim and survivor pathway”. The four organisations selected were awarded £125,000 each (for a total of £500,000) to provide the following services⁴⁷:

- Victim Support – to develop a virtual casework model that is stood up to provide immediate support in the event of an attack. These virtual caseworkers work from a National Contact Centre, assisted by local support teams providing consistency in practical and emotional support.
- Tim Parry Johnathan Ball Peace Foundation – to develop long term peer to peer support networks.
- Cruse Bereavement Care – to provide bereavement support for those not eligible under the Homicide Service.
- South London and Maudsley NHS Trust – to enable screening, outreach, assessment, and onward referrals, for psychological symptoms.

Funding for these charities is only provided on a year-to-year basis, with no long-term guarantees given, which may lead to a situation where staff and beneficiaries of these organisations are left in a position of vulnerability or uncertainty⁴⁸.

Recognition and Remembrance

Acts of recognition and remembrance for victims of terrorism within the UK are often highly dependent upon the individual circumstances of each attack, with the impetus on organising such events and initiatives falling at a very localised level, usually with the Council district in question. As a result there has been great disparity across the board with some attacks receiving a great deal of recognition, and others quite the opposite. Positive examples include the intricate 7/7 Memorial constructed in Hyde Park, the 9/11 Memorial Garden in Grosvenor Square, and Bali Bomb Memorial on Horse Guards Road. Additionally, in May 2018 a memorial was unveiled to commemorate and remember

⁴⁶ “Giving Voice to Survivors: A survey of the views of survivors of Terrorist attacks”, *Survivors Against Terror and Kantar*, 14th November 2018.

⁴⁷ “Helpline and support: victims of terrorism”, *Home Office*, via: <https://www.gov.uk/government/publications/helplines-and-support-victims-of-terrorist-attacks/helplines-and-support-victims-of-terrorist-attacks>

⁴⁸ “PM ‘failing to keep Peace Foundation charity pledge’”, *BBC News*, see more: <https://www.bbc.co.uk/news/uk-england-merseyside-53696906>

British victims of overseas terrorism, and is situated in the National Memorial Arboretum near Lichfield⁴⁹.

However on the other hand, other attacks have sometimes gone without recognition due to this lack of standardisation. Those affected by the Westminster Bridge attack, for example, were repeatedly denied a commemorative or memorial service of any kind by regional and local governance to mark the anniversary of their incident each year, and this was only eventually rectified after four years of campaigning by those affected.

Financial Compensation

Financial support for survivors of terrorism is provided in several different ways by the British state. Firstly, the Criminal Injuries Compensation Authority (CICA) provides compensation to victims of any violent crime, including terrorism. CICA, an agency of the Ministry of Justice, pays out under strict criteria for both physical and mental injuries. No separate distinction is made for victims of terrorist violence, to other crimes. The scheme has faced harsh and intense criticism for many years, with applicants citing several issues, including: long delays, uncertainty, and poor communication; insufficient amounts of compensation paid, and; distress and re-traumatisation caused by insensitive application processes.

Our survey of terror survivors' views conducted with Kantar in 2018, interviewing nearly 300 British citizens affected by terrorism at home and abroad, found that many had been forced to wait years before receiving any form of compensation, with little assistance provided in the interim where financial difficulties were most felt⁵⁰. These concerns were confirmed by the UK Victims' Commissioner in 2019 who called for wholesale reform of the system⁵¹.

Fortunately, shortly before the several vehicular attacks suffered in 2017, the Motor Insurer's Bureau (MIB) changed the rules to allow for the victims of terrorist attacks involving a vehicle to make a civil claim for damages incurred, and private compensation. This was re-confirmed in 2018, and has allowed many victims of those attacks to submit claims for compensation through the civil legal system⁵². However only those injured or bereaved through a vehicular attack may apply, leaving the victims of other types of attacks, such as explosive devices or marauding knife and firearms, unable to make a claim and reliant upon the individual circumstances of their attack – such as public fundraising or the CICA. The availability of such claims may also be dependent upon a victim's financial circumstances, and whether they are able to acquire legal support on either a paid or pro bono basis.

Finally, there are two separate and specialised financial schemes that have been set up to assist survivors of terrorism on an ad hoc basis. These are the *Troubles Disablement*

⁴⁹ "National Memorial to British Victims of Overseas Terrorism", *gov.uk*, view more:

<https://www.gov.uk/government/collections/national-memorial-to-british-victims-of-overseas-terrorism>

⁵⁰ "The Criminal Injuries Compensation Authority's Role In Supporting Victims Of Terrorism", *Oakwood Solicitors*, available at: <https://www.oakwoodsolicitors.co.uk/news/victims-of-terrorism/>

⁵¹ Press Release: "Claiming Criminal Injuries Compensation re-triggers trauma", *Victims' Commissioner*, via: <https://victimscommissioner.org.uk/news/claiming-criminal-injuries-compensation-retriggers-trauma/>

⁵² "UK motor insurers vote to mutualise risks for terrorism claims", *Motor Insurers' Bureau*, via: <https://www.mib.org.uk/media-centre/news/2018/july/uk-motor-insurers-vote-to-mutualise-risks-for-terrorism-claims/>

Payment Scheme and *Victims of Overseas Terrorism scheme*. The former, set up in 2020, provides innocent victims of the Troubles in Northern Ireland with annual payments of between £2,000-10,000 for the rest of their lives. Claimants need to have suffered a permanent disability assessed to have been of at least 14% disablement in order to qualify, with the injury sustained in an attack occurring between January 1966-April 2010⁵³. The payment can be transferred to a spouse, partner, or registered carer for at least 10 years following the victim's death, and close relatives can submit an application on their behalf posthumously. Applicants must be a British citizen, have unrestricted access to residence in Northern Ireland (such as holding Irish citizenship or having one parent who has British citizenship), or was outside the UK in service of the Crown, in order to be eligible. After disputes caused delays in awarding payments for over a year since the legislation was passed, on the 12th April 2021 it was reported that the Northern Ireland Executive had agreed to make the funding available and authorise payments to victims in the near future⁵⁴.

The earlier Victims of Overseas Terrorism Scheme is administered by CICA, and in order to be eligible an applicant must be a British, EU, or Swiss Citizen, a member of the UK Armed Forces, or have lived in the UK for three years immediately before the attack occurred⁵⁵. The amount of payment awarded depends on the nature of the injury, the loss of earnings resulting from the injury, and expenses that have or will be incurred as a result. Those who have suffered physical or mental injury, witnessed an act of terrorism, or were bereaved of a partner or close family member, may apply. Only those affected by an attack happening overseas that is formally recognised by the Government may apply, and the scheme does not apply to victims of domestic incidents. As with all other forms of state provided compensation in the UK, the victim must personally submit an application for support and, if a civil claim is pursued, the payments will be placed on hold until such a point where the court case is resolved. This has proven of significant frustration to some of those affected by the 2015 Sousse Attacks in Tunisia which claimed the lives of 30 British citizens, where slow progress in legal action brought against the tour operator TUI has meant that many continue to go without financial aid⁵⁶⁵⁷.

Access to Justice

i. Free legal support in trials and inquests

There is a notable lack of any legislative provision guaranteeing survivors of terrorism any legal aid. There have been several high-profile campaigns seeking to support survivors of terrorist attacks with legal aid and/or other financial support, but these have generally been unsuccessful and survivors of terrorism are often left with no state support for any legal actions or processes that are involved in. For example, victims were not given legal aid for

⁵³ "The Victims' Payments Regulations 2020", *legislation.gov.uk*, read more: <https://www.legislation.gov.uk/uksi/2020/103/contents>

⁵⁴ "Stormont's Executive Office to pay for Troubles pension scheme", *BBC News*, available at: <https://www.bbc.co.uk/news/uk-northern-ireland-56718930>

⁵⁵ "Compensation for victims of terrorist attacks abroad", *gov.uk*, see more: <https://www.gov.uk/compensation-victim-terrorist-attack>

⁵⁶ "Tunisia attack: Families claiming damages against TUI", *BBC News*, available at: <https://www.bbc.co.uk/news/uk-england-45836622>

⁵⁷ "Tunisia attack survivor: 'We've had no support financially'", *BBC News*, available at: <https://www.bbc.co.uk/news/av/uk-44577570>

the inquests into the 2017 London Bridge terrorist attacks⁵⁸ or the bombing of the Manchester Arena⁵⁹. Similarly, it took years of campaigning (and 5 official formal applications for legal aid and a judicial review of the Legal Aid Agency) before any state support was provided to enable the families of the victims of the 1982 IRA terrorist bombing of Hyde Park to seek justice in civil proceedings. This situation has resulted in victims often being represented by law firms or barristers acting pro bono or incurring thousands of pounds in legal fees. This is a significant failing of the UK system to protect and support survivors of terrorism; especially when compared to countries like the United States, Canada, France and Spain where significantly more financial support is available to survivors seeking justice.

There is also no provision for class actions in the UK, unlike in the United States, which means that each survivor must fund their own civil proceedings rather than being able to be represented in a class of victims who have suffered in the same way. This, coupled with the unfavourable legislative framework which makes it difficult for third-party litigation funders to finance such claims (even when to do so would be commercially viable and in the victim's best interest), means it is very difficult for potential claimants to seek redress in the UK Courts.

ii. *The law on limitation: civil proceedings*

Generally, there is a 3-year limitation period for victims who have suffered personal injury or death to bring civil proceedings. There are some limited exceptions to this time limit which are dependent on the facts of the case. However, these do not always adequately account for the pain and suffering inflicted upon survivors of terrorism (which can of course lead to understandable delay in bringing complicated and emotionally draining legal proceedings).

This means that individuals usually only have 3-years (compared to much longer limitation periods in countries such as France and the United States) from when they become victims of a terrorist act to bring and file a claim against the relevant culpable individual or entity. This can limit the access to justice survivors of terrorism have who do not (for very understandable reasons) bring a claim within this deadline.

iii. *Recognition of universal jurisdiction for terrorist crimes*

The UK courts and legal systems do recognise universal jurisdiction for crimes of terrorism.

Criminal prosecutions for acts of terrorism can be brought in the UK regardless of where the relevant acts occurred (ss. 59, 62–63 of the TERRORISM ACT 2000).

While civil claims could technically be brought following a criminal conviction based on universal jurisdiction as listed above, there is no direct legislation allowing for victims of terrorism to seek civil redress regardless of where the crimes of terrorism were committed as there is in the USA and Canada. Further, victims who do wish to bring civil claims for acts of terrorism that have occurred in a different jurisdiction will likely need to establish that the UK is a more appropriate forum than that where the acts occurred. This can be a

⁵⁸ <https://www.bbc.co.uk/news/uk-49251211>

⁵⁹ <https://www.theguardian.com/uk-news/2019/jul/29/manchester-arena-bereaved-families-struggle-to-get-legal-aid>

high bar to overcome and can require a survivor to produce significant evidence (at great cost) to show that there is a cogent reason why this is so (which may be due to lack of access to justice or lack of judicial independence in the relevant other country).

While the residence of survivors of terrorism is considered, it is by no means guaranteed that the UK courts will hear legal claims brought by UK citizens or residents where the terrorist acts occurred overseas. This can lead to a situation where it is often impractical for victims to have their cases heard and to achieve justice. The UK could pass legislation to make it easier for victims of terrorism to seek justice in their courts, using the globally respected British rule of law to ensure that perpetrators of terrorism can be held to account regardless of where they are based.

iv. *The law governing exceptions to the general grant of state immunity in relation to terrorist related activities*

There are very limited exceptions to the grant of state immunity for acts of foreign states provided through the STATE IMMUNITY ACT 1978.

The exceptions to this general rule include where the act of the state complained of occurred in the UK, or where the state voluntarily submits to the UK's jurisdiction. As such, it is generally not possible (as it is in the United States and Canada where they have legislated for such) to hold state entities to account in the UK when they have committed crimes of terrorism abroad. This can act as a significant barrier to survivors seeking justice in the UK where states or state actors have been the perpetrators of acts of terrorism.

v. *Punitive damages in civil proceedings*

Punitive damages are not generally available in the UK and, unlike in the US, are only awarded in the following limited and exceptional three circumstances:

- i. Where there has been oppressive, arbitrary or unconstitutional actions by the servants of government;
- ii. Where the defendant's conduct was calculated to make a profit (not limited to financial profit but can include other benefits)
- iii. Where a statute expressly authorises the same.

To secure punitive damages, it is necessary to establish that the relevant defendant's conduct falls into any of these three categories. Although, given the nature of the wrongdoing, punitive damages should arguably apply to all cases where the defendant has been found liable for acts of terrorism, the UK Courts have refused to extend the three categories above to account for this. As such, victims cannot generally expect to receive as substantial damages awards as those that are available in other jurisdictions.

In the few UK cases that have resulted in compensation being awarded to survivors of terrorism, the damages awarded have been comparatively (compared to, for example, the US) low which can be a deterrent for victims contemplating lengthy and potentially distressing legal proceedings.

vi. *Assets of state and freezing orders*

The UK has recently severely restricted the ability of victims of terrorism to access frozen funds (although assets of all terrorist financiers may be frozen by the state). When the UK left the EU on 30 December 2020 the country implemented a new sanctions regime that has made it more difficult to access these funds to compensate the victims of terrorism.

Overall, there are significant inadequacies in the UK's legal framework which mean that victims of terrorism are too often unable to secure justice and compensation. Especially when compared to their counterparts in United States and Canada, victims of terrorism face onerous legal obstacles and a notable lack of support.

United States of America

Context

Extremism and terrorism are issues long ingrained within discussion in American society, and between 1970-2017 the country experienced close to 3,000 different terrorist incidents. In that same period 3,781 people are thought to have been killed, and at least 21,707 injured in these attacks⁶⁰. Threats have persisted across an array of motives, most notably including White supremacists and those acting out of anti-government sentiment, in addition to Islamist-inspired attacks by supporters of Al-Qaeda and Daesh. American citizens and servicemen holidaying or working overseas have also been repeatedly targeted in attacks and kidnappings for ransom or leverage, and American forces have proactively engaged in anti-terrorist operations around the globe. Newly-inaugurated President Biden has assigned domestic extremism as his Administration's top priority following events at the US Capitol Building on January 6th 2021.

Assistance and Support

There are many differences in how victims are supported in the US versus other nations around the globe, emerging primarily due to their existing healthcare system and insurance regulation. This means that the onus for providing support to victims is often expected to be delivered by their insurance provider, rather than the state directly. This said, there are still a number of instances where we can note existing federal and state government provisions to make a comparative assessment.

Created in 1988, the Office for Victims of Crime (OVC) is based in the US Department of Justice. This federal office provides dedicated resources for victims of terrorism and mass violence, including crisis counselling and information about the investigation. The OVC awards grants to states, local government, and occasionally other entities (such as individuals and charities) for initiatives aimed at supporting victims; these initiatives are funded by fines and fees that convicted offenders must pay. Additionally, the US Department of Health and Human Services hosts a "Disaster Distress Hotline" available 24/7 for victims of any natural or human-caused disaster to seek support. Similar support is offered by US Embassies and Consulates around the world, providing 24/7 emergency assistance of American overseas victims.

One significant point of interest to be garnered from the American federal response to terrorism, is the establishment of a Victim Assistance Rapid Deployment Team by the Federal Bureau of Investigation (FBI). This highly specialised team of FBI Victim Specialists, composed of clinical and medical social workers, forensic affairs family liaison, and operational psychologists with expertise in hostage victim recovery and reintegration, provides emergency assistance to injured victims and families of victims murdered in terrorist attacks within the U.S. and outside the country and serves as a permanent single point-of-contact for all concerns raised by victims. The team expands capacity and supports victims and operations in the aftermath of an attack occurring anywhere, helping to ensure equitable treatment regardless of geographic location. Survivors of terrorism

⁶⁰ [Global Terrorism Database](#), The National Consortium for the Study of Terrorism and Responses to Terrorism

specifically are not provided any separate legal status to victims of other mass casualty events, and this is due in part to an ongoing debate within the country about whether or not to designate school shootings and other types of mass shootings as acts of domestic terrorism. Almost all other support services are coordinated at state and local level, and are not considered to fall under the jurisdiction of the federal government, leading to some concerns of a ‘zipcode lottery’ emerging dependent on where a victim of terrorism resides, and the amount of resources afforded to terrorism by their local authorities.

Recognition and Remembrance

Acts of recognition and remembrance vary in consistency across different attacks, dependent on the scale, nature, and methodology involved in the incident. Ad hoc instances of good practice emerge in particular from the commemoration of the September 11th Attacks, which led to the establishment of the following initiatives:

- *9/11 Heroes Medal of Valor* – initially established to honour the first responders who perished during the 9/11 Attacks, these medals were awarded to the families of the deceased. It also now includes those responders who have since passed away in the years following due to the long-lasting medical effects incurred.
- *Public Safety Office Medal of Valor* – an award similar in nature to the above, this decoration can be bestowed upon any Officer believed to have gone above and beyond in the line of duty, and has been awarded to numerous first responders to terror attacks and mass shootings since its creation.
- *Congressional Gold Medal* – a symbolic gesture, 3 unique Congressional Gold Medals (one of two of the highest civilians decorations available in the US, alongside the Presidential Medal of Freedom) were struck and awarded in memory of the three attacks on September 11th: the World Trade Center, the Pentagon, and Flight 93⁶¹.

Over the years following the 9/11 Attacks there have been several museums and institutes founded to preserve the memory of the deceased, in addition to around 700 physical memorials built across the country to remember the attacks and those affected. Whilst such a response is ad hoc and specific to this attack, not necessarily consistent across the board, similar initiatives were founded in the aftermath of the 1995 Oklahoma City Bombing where Public Law 105-58 sought the creation of a memorial which included a Museum and an Institute for the Prevention of Terrorism, built mostly through private donations.

Finally, since December 18th 2001 an amendment was made to the United States Code to establish the date of September 11th as “Patriot Day”, as per Public Law 107-89⁶². This law requires the President to issue a proclamation each year that calls for the date to be marked with appropriate programmes, and events, display the flag at half-mast, and observe a moment of silence. This was further expanded in the Serve America Act (Public Law 111-13⁶³) of 2009 to further develop activities and grants available to mark the date,

⁶¹ <https://www.prnewswire.com/news-releases/congressional-gold-medal-awarded-to-the-fallen-heroes-of-september-11-2001-274630241.html>

⁶² Public Law 107-89 107th Congress, *United States Government Information*, see more: <https://www.congress.gov/107/plaws/publ89/PLAW-107publ89.pdf>

⁶³ Public Law 111-13 111th Congress, *United States Government Information*, see more: <https://www.congress.gov/111/plaws/publ13/PLAW-111publ13.pdf>

and officially annually recognise it as the “National Day of Service and Remembrance” for victims of terrorism.

Financial Compensation

As mentioned in the section on support, financial assistance provided by the American government often differs greatly to the other nations researched in this study. The US system primarily focuses upon reimbursement, not compensation, and relies heavily upon the individual insurance arrangements made by victims. Compensation is usually only available after all other avenues have been exhausted, for example if private insurance and offender restitution do not yield the required coverage of losses. If compensation is required, the OVC supports federal programmes through its grants schemes to facilitate reimbursement of various expenditures⁶⁴. The expenditures covered vary across state lines, but typically include medical costs, psychological counselling, funeral costs, and lost wages; most programmes do not include cover monies lost through theft or property loss. Crucially, state programmes typically cover attacks which have occurred within that state, and have a set limit on the amount of funding a victim can receive irrespective of individual circumstances.

The OVC also administers a programme of financial assistance known as the *International Terrorism Victim Expense Reimbursement Program* for American citizens targeted in terrorist attacks occurring overseas. Victims must be an American citizen or working for the US Government at the time of the incident in order to be eligible, and can receive reimbursement for out of pocket expenses such as medical and mental health care, burial, repatriation of remains, property loss, and other miscellaneous costs such as emergency travel. Initiated in 2000, the scheme is backdated and applies to any victim of an attack occurring in a foreign country since 1983, regardless of their legal state of residence. However, the scheme provides reimbursement only, not compensation, and is limited to a maximum of \$150,000. Furthermore, it is financed fines, penalties, and donations, not tax money⁶⁵.

Several ad hoc programmes of financial assistance have also been set up to respond to exceptional circumstances. These include the *September 11th Victim Compensation Fund of 2001*, an act intended to protect airline companies the possible thousands of civil litigation suits brought against them for compensation following the 9/11 Attacks. It provided a mega-grant of \$15 billion in loans and guarantees to the airline industry, including a no-fault compensation programme of around \$3-4 billion for the victims and their families⁶⁶. Not part of any federal or state structure, compensation was paid directly from the National Treasury to legitimate claimants without requiring them to demonstrate liability or causation, only providing proof of damages (whether economic or non-economic) associated with their death or physical injury. In return, successful claimants to the fund waived their rights to sue potential tortfeasors other than the actual terrorist actors⁶⁷. The *James Zadroga 9/11 Health and Compensation Act of 2010* also fulfils a

⁶⁴ 42 USC 10601: Crime Victims Fund, *United States Code of Laws*, available at:

<https://uscode.house.gov/view.xhtml?req=granuleid:USC-2000-title42-section10601&num=0&edition=2000>

⁶⁵ International Terrorism Victim Expense Reimbursement Program (ITVERP), *Office for Victims of Crime*, via: <https://ovc.ojp.gov/program/international-terrorism-victim-expense-reimbursement-program-itverp/about-itverp>

⁶⁶ September 11th Victim Compensation Fund of 2001, via:

<https://www.justice.gov/archive/victimcompensation/>

⁶⁷ University Module Series: Counter-Terrorism, Module 14: Victims of Terrorism, National approaches, *United*

similar purpose by funding and establishing long-term medical treatment for first responders, volunteers, and survivors, recognising a need emerging from the lifelong effects, both carcinogenic and psychological, of having been involved and specifically in the inhalation of contaminated air. These acts resulted from significant campaigning efforts from those affected, only culminating in the permanent funding of these initiatives in the passing of the *Never Forget the Heroes Act of 2020* which authorised a maintained level of funding until the year 2090⁶⁸.

Access to Justice

i. *Free legal support in trials and inquests*

There is no automatic entitlement to free legal services for victims of terrorism but there are significant sums of money and other support from the U.S. Government for such victims including through the *Crime Victims Fund*⁶⁹. While survivors of terrorism should automatically receive legal assistance with any claims or actions they choose to take, the US system should receive credit for providing far greater support for such survivors than many other jurisdictions, such as the UK.

ii. *The law on limitation: civil proceedings*

In criminal proceedings, there is no limitation period for an act of terrorism that ‘transcends borders’ if the commission of such offense resulted in, or created a foreseeable risk of, death or serious bodily injury to another person (§3286 of the U.S. CODE).

Meanwhile for civil claims brought under the ANTI-TERRORISM ACT 1990 the amount of time an individual injured as a result of terrorist attacks has to file their claim is ten years. Further, those injured in the terrorist attacks of 9/11 also benefited from a “special rule” which allowed these victims up to 18 years to bring their claims (and other extensions on the general rules of limitation have also been legislated for in certain circumstances)⁷⁰.

This provides survivors of terrorism far greater access to justice than in jurisdictions such as the UK which have much more restrictive and shorter general limitation periods and which have not historically shown the flexibility that the United States government has to adequately provide access to justice for such individuals.

iii. *Recognition of universal jurisdiction for terrorist crimes*

US courts can bring both civil and criminal charges against those committing acts anywhere in the world.

The ANTITERRORISM ACT 1990 gives US citizens who are the victims of terrorist acts the right to bring civil claims against the perpetrators of such offences regardless of where the acts

Nations Office of Drugs and Crime, via: <https://www.unodc.org/e4j/en/terrorism/module-14/key-issues/legal-framework/national-approaches.html>

⁶⁸ The battle over extending the September 11th Victim Compensation Fund, explained, *Vox*, available at: <https://www.vox.com/2019/6/20/18691670/jon-stewart-9-11-september-11th-victim-compensation-fund-explained>

⁶⁹ <https://fas.org/sgp/crs/terror/R44579.pdf>

⁷⁰ https://www.dlapiper.com/en/us/insights/publications/2013/01/congress-expands-antiterrorism-act-liability-exp___/

occurred.

The ALIEN TORT STATUTE (**ATS**) gives federal courts jurisdiction over civil lawsuits filed by foreign nationals for torts committed in violation of international law, where there is a sufficient connection to the US.

Where there is no sufficient connection to the US, claims can be brought by victims of acts of terrorism that occurred in any country through the TORTURE VICTIM PROTECTION ACT OF 1991.

As such survivors of terrorism are able to bring claims against the perpetrators of such crimes in any of these broad range of circumstances.

Further, the USA PATRIOT ACT allows for the criminal prosecutions of those who commit terrorist offences domestically and internationally.

While other countries, such as the UK, have recognised universal jurisdiction for acts of terrorism, the legislative clarity of this recognition in the US provides survivors of terrorism with a greater degree of certainty when contemplating legal action to achieve justice.

iv. *The law governing exceptions to the general grant of state immunity in relation to terrorist related activities*

There is no state immunity for acts of terrorism. THE JUSTICE AGAINST SPONSORS OF TERRORISM ACT amends the relevant domestic legislation to allow for civil claims to be brought against a foreign state for injuries, death, or damages from an act of domestic and international terrorism.

The US and Canada are the only states to have introduced exceptions to state immunity (where such immunity has been generally legislated for) for acts of terrorism. This provides significant benefit to survivors of terrorism who have suffered due to the actions of state entities compared to countries such as the UK where victims are unable to achieve justice regardless of the level of harm they have suffered, or the nature of the wrongdoing done by the relevant state entity.

v. *Punitive damages in civil proceedings*

Yes (and the recent U.S. Supreme Court decision of *Opati v. Republic of Sudan* affirmed this right). Awards made against defendants can be substantial with total damages awards often being in the hundreds of millions, or billions, of U.S. Dollars⁷¹.

US Congress has also passed legislation to create the United States Victims of State Sponsored Terrorism Fund (**USVSST Fund**) to provide compensation to victims who have been harmed by state-sponsored terrorism and who have secured final judgments in a United States district court against a state sponsor of terrorism. This greatly assists the relevant victims with the enforcement of awards against state entities⁷².

The USVSST was established in 2015 and has so far been reported to have allocated about

⁷¹ <https://www.skadden.com/insights/publications/2020/05/the-potential-impact-of-terrorism-lawsuits>

⁷² <http://www.usvsst.com/>

\$3.3 billion in payments across three rounds—in 2017, 2019, and 2020 (including to victims of the 9/11 attacks and their families).

Compared to the UK, these higher levels of potential damages available to victims of terrorism both acts as a deterrent to those who may commit acts of terrorism and ensures that victims are more fairly compensated for the hardship they have been through.

The higher damages awards in the US coupled with the fact that the national legislative framework readily allows for class actions and third-party litigation funding means that victims based in the US have, from a practical standpoint, much greater opportunities to bring civil claims in their jurisdiction.

vi. *Assets of state and freezing orders*

Assets of all financiers of terrorism can be frozen by the state and these frozen funds can be used to compensate victims of terrorism through the ANTI-TERRORISM ACT 1990. The USVSST Fund can also be used to compensate victims where that is relevant and where states are found liable for the losses of victims.

This is a significant benefit to victims of terrorism compared to equivalent victims in the UK, and ensures that such victims can be properly compensated when the identity of the wrongdoer has been proven and when there are appropriate assets under the control of the state.

Summary of Comparative Observations

	Assistance & Support	Recognition & Remembrance
Australia	<ul style="list-style-type: none"> No specialised services specific to victims of terrorist attacks Support is handled primarily at state level, and varies greatly dependent on where the attack occurred, where the victim resides, and their involvement. Usually involves state-run Victim Support Services and helplines that aim to coordinate victims' needs and facilitate referrals. 	<ul style="list-style-type: none"> Memorialisation is commonplace throughout, with several memorials marking the Bali Bombing in particular, across Australia. Usually includes plaques and physical monuments, and commemorations held at each site on the individual anniversaries of each attack. 'Living memorials' also instituted; community centres and renaming of public sites in honour.
Belgium	<ul style="list-style-type: none"> Full reimbursement for all medical, paramedical, pharmaceutical, hospitalisation, and psychological care costs. Belgian and foreign nationals are eligible Single point of contact with specially trained staff. 	<ul style="list-style-type: none"> State recognition under 'national victim solidarity statuses'. Commemorative events are very commonplace. 10+ memorials have been built to mark the 2016 Brussels Attacks, the first constructed only a year after.
Canada	<ul style="list-style-type: none"> Assistance is provided by territorial authorities, potentially causing regional disparities- no guarantee on aftercare in federal terror legislation. Survivors are not treated as a separate entity to victims of other crimes. 	<ul style="list-style-type: none"> National Remembrance Day for Victims of Terrorism observed annually. State Memorials Program constructed four monuments to mark Air India Bombing. National Day of Service observed in specific tribute to the 9/11 Attack.
France	<ul style="list-style-type: none"> All medical, psychological, social, and economic needs are provided by the state, irrespective of nationality. Rapid deployment of specially trained units to support those affected. Support falls under direct authority & responsibility of Prime Minister's Office. 	<ul style="list-style-type: none"> National Medal of Recognition for Victims of Terrorism for those killed, wounded, or held hostage during acts of terrorism. French Nationals and foreigners injured in attacks on French soil are eligible. National Day for Victims of Terrorism observed annually.
New Zealand	<ul style="list-style-type: none"> 24/7 support hotline provides psychological services over call & text. Trauma support in schools and cultural engagement in affected communities. State provides single point of contact, and referral to counselling or other government services. 	<ul style="list-style-type: none"> National Memorial Service held two weeks after the Christchurch attack, attended by 20,000+ people. In September 2020 (1 ½ years following the incident), a full memorial was created at the scene of the attacks, unveiled in person by Prime Minister Ardern.
Spain	<ul style="list-style-type: none"> All care is coordinated at Ministerial level, and physical, mental, social and labour support needs are provided to all irrespective of nationality. Government subsidises victims' associations to better understand the needs of those affected. 	<ul style="list-style-type: none"> Royal Order of Recognition for terror victims; only available to Spaniards. National Day of Tribute to Victims of Terrorism observed annually. Physical memorials less certain, in disrepair and source of ongoing political dispute.
UK	<ul style="list-style-type: none"> Support provided by several Ministries, while VTU seeks to coordinate cooperation. The NHS provides medical care, though regional disparities can often arise. NGOs can bid competitively, sharing funding to provide support. 	<ul style="list-style-type: none"> Impetus for organising acts of recognition falls to a local level, often leading to vastly varied experiences between different attacks, with some not commemorated. Several permanent memorials installed following campaigning from those affected.

USA	<ul style="list-style-type: none"> DOJ provides counselling and information about investigations, while HHS hosts 24/7 “Disaster Distress Hotline” for victims to seek support. Support provided first through insurance providers, private healthcare, or at state level, before federal. FBI deploys Rapid teams to respond to an attack anywhere in the world to support specialist needs specific to terror victims, and provide a single point of contact. 	<ul style="list-style-type: none"> Acts of recognition vary across attacks, dependent on scale, nature, and motive. 9/11 Heroes Medal of Valor, Public Safety Officer Medal of Valor, and three Congressional Gold Medals specific to 9/11, where all created and awarded to responders due to the attack. National Day of Service for terror victims (Patriot Day) observed annually on 9/11. Around 700 physical memorials built just to remember those affected by 9/11.
-----	---	---

	Financial Compensation	Access to Justice
Australia	<ul style="list-style-type: none"> Victims of Terrorism Overseas scheme provides up to \$75,000 to close family of citizens killed in terrorist attacks overseas. Disaster Recovery scheme provides non-means tested emergency payment to victims of major disasters. Most compensation matters are handled primarily at state levels, and can vary significantly on amount, eligibility, and process. 	<ul style="list-style-type: none"> Means tested legal aid available, but not specific or guaranteed to victims of terrorism. Limitation periods vary from state to state jurisdiction, ranging from 3-6 years. Punitive damages can be awarded to victims in civil litigation, but not enough case law to establish precedent for terrorism. Assets can be frozen, but cannot be used to compensate victims of terrorism through civil litigation or criminal prosecution.
Belgium	<ul style="list-style-type: none"> Solidarity Status provides direct victims of at least 10% disablement with a ‘reparation pension’. Review and reassessment every five years, and in the event of the victim’s death the funds can be granted to a rightful claimant. 	<ul style="list-style-type: none"> No specific provision for victims of terrorism, but victims can apply through traditional legal aid processes, means and merit tested. Under the EU Sanctions Scheme, assets can be frozen and used for victims of terrorism in some certain circumstances. Punitive damages are not awarded.
Canada	<ul style="list-style-type: none"> Provinces are responsible for compensating all victims. Programmes vary vastly and often only cover victims injured within that region, at a set lump-sum. Ad hoc programmes provide limited amounts when all other options are exhausted. 	<ul style="list-style-type: none"> Federal Victims Fund provides significant funding for legal aid during anti-terrorism cases to enable victims’ access to justice. Limitation periods vary between states but are suspended if a victim of terrorism is incapable of starting action due to physical or psychological injury. Punitive damages are awarded.
France	<ul style="list-style-type: none"> Extensive compensation through a Guaranteed Fund specific to terror victims. ‘Civilian Victim of War’ status entitles a range of additional financial support. “Pupille de la nation” status provides specialist support to affected children; upkeep, educational costs covered. 	<ul style="list-style-type: none"> Victims and their families are automatically eligible for state-funded representation and/ or reimbursement. Limitation period of 10 years. No punitive damages are awarded. Under the EU Sanction Scheme, assets can be frozen and used for victims of terrorism in some certain circumstances.
New Zealand	<ul style="list-style-type: none"> Crown entity handles compensation for all crimes. If an injury isn’t covered, a civil case may be brought. Indirect victims are not automatically entitled. Assistance with childcare, travel costs, and fast-track residency visas for those present during attacks. 	<ul style="list-style-type: none"> Means and merit tested legal aid, not specific to terrorism. Limitation period of 6 years. Punitive damages technically available in certain circumstances, but are largely modest in sum. Assets can be frozen, but there is no provision for allowing these to be used to compensate victims of terrorism.
Spain	<ul style="list-style-type: none"> Full compensation provided, and advance payments possible. Monies cover varied needs, including treatment, labour support, and tuition fees. Only Spanish citizens may apply and those injured in attacks on domestic soil are prioritised. 	<ul style="list-style-type: none"> Right to free legal aid is automatically applied to all victims of terrorism, and full reimbursement of any costs or court fees is provided. Limitation period of only 1 year. Punitive damages are not available. Under the EU Sanction Scheme, assets can be frozen and used for victims of

		terrorism in some certain circumstances.
UK	<ul style="list-style-type: none"> ▪ CICA compensates victims of any crime, though not specific to terrorism. ▪ Ad hoc schemes provided for: victims of overseas attacks, and; annual pensions for disabled Troubles victims. ▪ All have received varied, but significant, criticism. 	<ul style="list-style-type: none"> ▪ Legal aid is not guaranteed for victims of terrorism, and representation is often provided on a pro bono basis by law firms or by survivors themselves. ▪ Limitation period of only 3 years. ▪ Punitive damages are not generally available.
USA	<ul style="list-style-type: none"> ▪ Focus upon reimbursement, not compensation, and reliance on individual insurance arrangements; federal assistance seen as a last resort. Programmes vary state-to-state, typically only covering attacks within that state, with a set limit on monies available. ▪ Ad hoc schemes reimburse out-of-pocket expenses for citizens targeted overseas and assist healthcare costs for 9/11 responders. Both have proved the source of continued political and budgetary struggle however. 	<ul style="list-style-type: none"> ▪ No automatic entitlement to free legal services, but significant funding available through the Federal Crime Victims Fund. ▪ No limitation period for criminal charges for acts of terrorism that ‘transcend borders’. ▪ No state immunity against prosecution – civil claims can be brought against foreign states for injury or death caused by their wrongdoing. ▪ Punitive damages can be awarded, and often number in the hundreds of millions. ▪ Antiterrorism Act 1990 dictates that assets may be frozen and these funds can be used to compensate victims of terrorism.

Conclusion

During the many months of research we have spent exploring the support services available to victims of terrorism in each of the eight nations studied, one theme has run strong throughout – a lack of standardisation and consistency. Not one of the countries we have studied has been without its faults or concerns, some more than others, and yet there is still much we can learn and take from each instance. By observing the advantages and disadvantages of each case study, and making note of best practices where relevant, we can craft a system which sets the United Kingdom apart from the rest of the world, putting us at the forefront of provision of care for survivors of all terrorist attacks.

By learning from Spain and Belgium we could seek to establish a permanent centre of support offers services specific to, and specialised for, victims of terrorism, providing a single point of contact to reduce the repeated, additional trauma of forcing victims to retell their story each time they seek support across different faculties. This would help to coordinate the many services available to victims in a manner not too dissimilar to the French system, whereby we dedicate ourselves to ensuring that not even one victim of terrorism who needs support, is denied it, and nor do they ‘fall through the gaps’.

The United States and Canada have adopted legal frameworks that are more likely to facilitate survivors of terrorism securing justice and adequate compensation for the harm and losses they have suffered. They do this through ensuring both that higher damages awards are available and that there are less barriers to accountability behind which offenders can hide (such as by disapplying state immunity and legislating for universal jurisdiction in cases concerning acts of terrorism). In comparison, the UK system fails survivors of terrorism in several ways including, inter alia: its failure to provide adequate legal aid; allowing state actors to hide behind a shield of state immunity; restrictive limitation periods; and, failure to extend punitive damages to claims concerning acts of terrorism. As well as from the US and Canada, lessons should also be learnt from countries such as France and Spain, where sanctions regimes allow for assets of perpetrators of acts of terrorism that have been frozen by the relevant state to be used to compensate their victims more readily than in the United Kingdom.

To follow New Zealand’s lead in taking a comprehensive, whole-of-society approach to addressing the trauma inflicted by terrorism, we can mitigate its effects on those impacted, and provide a guarantee that they will receive the proper support that they deserve within those crucial immediate few weeks following a request for assistance. Indeed none of us would ever have envisaged being involved in an act of terrorism, and no one can prepare for the violently sudden and extreme effects incurred upon those who are unfortunate enough to be targeted. We can, and should, explore how the state can better facilitate their recovery and recompense – something developed to great detail within a European context by France, Belgium, and Spain.

However there are also many issues that can affect a victim of terrorism that are often not paid as much attention as they perhaps require. For example, many victims will endure months and years of painful court cases, inquiries, and inquests as they navigate an uncertain and alien justice system which few are likely to have extensive knowledge of. By gaining inspiration from Canada, where significant funding for legal aid during anti-terrorism cases helps enable victims’ access to justice, or France, where limitation periods can reach up to 10 years, the state can aim to assist in equity amongst victims throughout

a thorough and fair judicial process.

Ultimately, the threat from terrorism shows little sign of recession and, in tandem, nor do its effects upon society and those directly affected, for whom lifelong psychological or physical injury may permanently prevent the normal functions of life, altering their trajectory far beyond the initial attack. We need to learn from countries like the United States, where funding to support those affected by long-term '9/11 related illness' is now enshrined within law, and where victims of terrorism are shown the full solidarity of the state, demonstrated through honours to recognise the victims' unique nature, targeted as representative of the country as a whole – a practice also conducted with great success much closer to home by France and Spain. Finally, to mark the pain endured and ensure the memory of those we have lost is remembered, we should take the lead in commemorating these incidents through physical memorials and annual events, as demonstrated to varying degrees by each of the nations studied.

Acknowledgements

We would like to take this opportunity to thank all of those individuals and organisations whose cooperation and assistance contributed to this research, and without which the producing of this report would not have been possible. We would also like to thank all of those who responded during the external consultation phase, enabling us to make further improvements to the document before public release.

Michael O’Connell AM APM - Victims’ Commissioner for South Australia, (2006-2018)

Trevor Lakin - Campaigner, bereaved by the 2005 Sharm El Sheikh Attack

Thelma Stober - Lawyer, injured in the 2005 7/7 London Attack

McCue Jury & Partners LLP

V-Europe

Canadian Coalition Against Terror

Association Française des Victimes du Terrorisme

Fédération Nationale des victimes d’attentats et d’accidents collectifs

Asociación de Víctimas del Terrorismo

Victim Support

National Emergencies Trust

The many survivors of terrorism who kindly offered to share their story to be quoted in the Survivors’ Charter and to the many dedicated members of the Survivors Against Terror network who offered their time and assistance to consult on the development of the document.